

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, APRIL 27, 2017

7:00 p.m.

in

Senior Center

806 Massachusetts Avenue

First Floor

Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Brendan Sullivan, Vice Chair

Janet Green, Member

Slater W. Anderson, Associate Member

Laura Wernick, Associate Member

George S. Best, Associate Member

Maria Pacheco, Zoning Secretary

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(7:00 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Janet Green, Slater W. Anderson, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will call the meeting of the Zoning Board of Appeals to order. At the outset I'm going to read a statement.

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

And I wish to advise those of you in the audience that a recording is being made. Actually two that I know about. There is a citizen of the city who is recording. He's got a tape recorder right there. And in addition, our stenographer also makes a recording to assist her when she types up the minutes of our meeting. So be apprised.

With that I will -- we usually start with our continued cases. These

are cases that were supposed to be heard at an earlier date and for one reason or another were called to this evening. And then after that we will go to our regular agenda provided it's at least 7:30.

* * * * *

(7:00 p.m.)

(Sitting Members Case BZA-011944-2016: Constantine Alexander, Brendan Sullivan, Janet Green, Slater W. Anderson, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will first call 8 Brattle Street. Case No. 011944.

Anyone wishing to be heard on this matter?

ATTORNEY MICHAEL FORD: We have a slide presentation.

CONSTANTINE ALEXANDER: Are these new?

ATTORNEY MICHAEL FORD: They're just to -- they were just going to be visual aids that I was gonna use, but not part of the --

CONSTANTINE ALEXANDER: We're going to have a discussion about that in a short while.

Why don't you give your name and address to the stenographer,

please.

ATTORNEY MICHAEL FORD: Absolutely. Good evening.

My name is Michael Ford from Ford Law, PC. I represent &Pizza. To my immediate left is Drew Murphy design and development with &Pizza. And to my immediate right -- is it on? And to my immediate right is Louis Carter, the architect for this project. And I've just handed out just some visual aids to assist you as we go through and take a tour. And I just want to go over just briefly, last Wednesday --

CONSTANTINE ALEXANDER: Yeah, I want you to go through that more than briefly.

ATTORNEY MICHAEL FORD: Okay.

CONSTANTINE ALEXANDER: You have not complied with our rules.

You have not complied with the requirements of our continuance which said you have to have plans in by no later than five p.m. on the Monday before the hearing. You gave us plans on Tuesday. You gave us new plans again on Thursday. That's a flagrant disobedience -- disregard of our rules.

ATTORNEY MICHAEL FORD: I understand and I hear your ire,

and if I just may be heard on that, that nothing was done to be intentional. And I also new to the -- new to the matter.

Last Wednesday we had the meeting with the Harvard Square Advisory. Did the meeting. They voted in favor, four to one, and they requested several changes. We got the draft resolution. I know that they were working as fastly -- as fast as possible to get it to us. And that was late on Friday. My client immediately got it over to the architect. Of course, that gives them the Saturday and the Sunday. And on Monday they feverishly went to work to make every one of these changes.

CONSTANTINE ALEXANDER: What happened Saturday and Sunday?

ATTORNEY MICHAEL FORD: It's the architect, it's professionals that we hire. It's not something that's not under our control.

CONSTANTINE ALEXANDER: You didn't tell them that we have to have these in by five o'clock --

CAROL O'HARE: Mics.

CONSTANTINE ALEXANDER: You want me to put the mic on? I thought they could hear me. I'm sorry.

You didn't tell your architect that we have to have these plans
in -- hello? Is it on?

JOHN HAWKINSON: It is now, yes.

CONSTANTINE ALEXANDER: It is now. Okay.

Anyway, what I was saying is you didn't tell your architect we've
got a deadline of five p.m. on Monday and you have to have those plans ready to
be filed?

ATTORNEY MICHAEL FORD: It is my understanding that they
were asked, and I didn't deal with the direct communications with the architect,
but it was communicated to them that it had to be done immediately and they did
the best that they could because there were multiple changes to the exterior. And
they were being done in good faith to give you, to give you the best possible
product.

CONSTANTINE ALEXANDER: The issue is not faith or good
faith. The issue we have deadlines. You were told the deadlines as early as
January when we continued the case the first time and you disregarded. This is
twice. New plans came in this afternoon.

ATTORNEY MICHAEL FORD: And I can speak to that.

What ended up happening is when we brought those plans in, the set was sent concurrently to the Historical Commission, sent to Sarah Burks, she gave her input, which was with respect to removing a portion of the awning which we were originally -- we thought this was going to be part of a good design. We removed that after we got that input from the plans that were concurrently filed with your Board, and we then got those subsequent revisions filed. And now I'll note we did receive the final advisory committee resolution last night.

All that I can put before you is this: I certainly wouldn't do anything that was flagrant. I know how valuable the time of the Board is. I know that as this is entered before you since January, I hope that I can tell you professionally that what we're trying -- what we're trying to do is get you the best possible product. And we'd never do anything to flagrant disregard. And all that I can say is apologize profusely and we just --

CONSTANTINE ALEXANDER: Thank you. Apology accepted.

ATTORNEY MICHAEL FORD: And we just ask for your consideration.

CONSTANTINE ALEXANDER: Apology accepted.

We have three choices it seems to me, my fellow board members.

We can continue this case one more time.

We can deny, turn the request for the Special Permit down on the ground as a failure to comply with our rules.

Or we can waive this failure to comply with our rules and proceed on the merits of the case.

My recommendation to the Board is the third. I do so for several reasons:

One is that many citizens of the city have come down tonight with regard to this matter, and I think it would be a great inconvenience to them if they had to come back at least one more time.

Two, I don't think the plans that are in here are that relevant to the case before us tonight. Plans are more important when we have construction cases, when we need to put a new building up or an addition to a building. So I don't think the plans in this situation are as important.

And third, I think there are some very serious issues on the merits, irrespective -- in my opinions anyway, irrespective of the plans. And so for those three reasons, I would suggest we waive the failure to comply with the rules and proceed with the case.

What's the views of other members of the Board?

BRENDAN SULLIVAN: No, I would agree. That I don't think that the late submissions, and I haven't seen them because they were late, I don't think that's crucial.

CAROL O'HARE: We can't hear you.

BRENDAN SULLIVAN: I don't think that the late submissions, I believe are probably a tweaking of something that was already in there, are not crucial to the issue before us. The case before us. That would be mine. So I would agree with your No. 3.

CONSTANTINE ALEXANDER: Anyone else have a view?

JANET GREEN: I agree with the Chair.

CONSTANTINE ALEXANDER: Okay, then we'll proceed with the case. And let me just say a few introductory words on the merits of the case.

You're seeking a Special Permit for something which our Zoning Ordinance defines as a fast order food establishment. Under our Ordinance all Special Permits have to meet certain criteria that are laid out in 10.43 of our Ordinance. But in addition, in 11.30 of our Ordinance we have a whole special set of rules, specific rules for fast order food establishments. So I would suggest

that we proceed tonight. Let's hit those -- let's go to 11.30 first and go through those specific items and then we can return, turn to 10.43.

ATTORNEY MICHAEL FORD: All right. So, then, just by way of orientation, the pages 1 through -- actually through 9 you can skip. That was just a background on &Pizza and the place and the localized design.

CONSTANTINE ALEXANDER: I'm sorry, what pages?

ATTORNEY MICHAEL FORD: Oh, just in my the visual aids. And what I did is I hand-numbered the right index corner just for ease of flipping through. And let's just get right into the heart of the matter into Section 11.3. What we all I think have come to well known as A through G. Is that fair? And if I could have you go to page 10, that's really just the title. But then if you move over to page 11, the first requirement:

A, that the operation of the establishment shall not create traffic problems, reduce available parking, threaten the public safety in the streets and sidewalks, or encourage or produce double parking on the adjacent public streets.

And I want to address in point by point.

This -- &Pizza is designed strictly as the walk-in, pick up, sit down, and dine purveyor of artisan pizza. It is set up to attract the local pedestrian

traffic and to serve that. It has 48 seats of seating. It even has this long table of communal seating. It's designed to bring in the pedestrian traffic. Part of the design is also that we look at this locale, it's the very heart of Harvard Square where the pedestrian traffic is high and street parking is rare, and that's how we have designed what we're trying to do here. It's not designed to -- as a destination location, unlikely to generate additional traffic, and it's catering to the people of Harvard Square.

I'll also mention, this is very, very important, what was there before was Tory Row, as you all know, and we've committed that all deliveries, all deliveries just like Tory Row, they'll be off of Palmer Street, into the alley, not Brattle. And that's to be cognizant to make sure that we absolutely fully comply with Section A of the Ordinance.

If I may I'll move to B.

CONSTANTINE ALEXANDER: Sure.

ATTORNEY MICHAEL FORD: Moving to B. And that is --

CONSTANTINE ALEXANDER: If we have questions or anybody, we'll interrupt you.

JANET GREEN: Can the people in the back hear?

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Not very well.

JANET GREEN: Just get a little bit closer.

CONSTANTINE ALEXANDER: If you like, you can come behind us or to the side to hear better.

JANET GREEN: I think if the microphone is just a little closer, it works better.

ATTORNEY MICHAEL FORD: Is that a little better?

JANET GREEN: Yes.

ATTORNEY MICHAEL FORD: Okay. On slide 12, page 12, let's go to Requirement B. The physical design, including color and use of materials of the establishment shall be compatible with and sensitive to the visual and physical characteristics of other buildings, public space, and use in the particular location. We're going to spend sometime on that and with these gentleman that are with me. And just as a precursor to say, the design of &Pizza and I want to say the Harvard Square &Pizza has undergone countless revisions to meet the requests of, you know, officials, groups, commissions, to hear what -- and literally attempt to make every one of the changes so it fits in with the

fabric. And at this point I have Louis Carter who is going to go through what you have, but most importantly I would direct your attention to look at the evolution and why it is what it is and why I believe it's the best possible design.

CONSTANTINE ALEXANDER: Move the mic over to you.

And, you know, these things you're describing people in the audience do not have. So take that into account giving your comments. Okay? Educate them as to what you're talking about.

LOUIS CARTER: My name is Louis Carter from McMahon Architects and I'll speak a little bit, touch on the location of the &Pizza. And it is located at the old Tory Row space and at the old Crimson Corner.

It will have -- it's located, situated on the corner of Brattle Street where it converges with J.F.K. Street. Harvard --

CONSTANTINE ALEXANDER: It's really more than the old Tory Row.

LOUIS CARTER: And it's he the old Crimson Corner.

CONSTANTINE ALEXANDER: Crimson Corner.

LOUIS CARTER: Crimson Corner, exactly.

CONSTANTINE ALEXANDER: I know it as Nini's Corner, but

anyway, I'm older than you are.

LOUIS CARTER: It has -- to the east it has Harvard Red Line station. To the north of it just adjacent is the Harvard COOP Bookstore. To the west and south is an expanse or a stretch of various eating and retail establishments.

If we go to slide 15 in the packet, that's where we have this board to my right. On the lower right-hand corner is where our design started. We have -- since we're taking over the two spaces, the Tory Row and the Crimson Corner, initially we created a trellis that stretched over the existing seating area and wrapped it with, to bring some earth and some greenery into the area, planters to sort of set the outside dining and the street so you can define that space. However, we did get some feedback from the committee on that. And, again, since this -- I'm speaking on sort of the evolution of the elevations and the design for the exterior, we did initially have large plate glass windows or storefront to sort of make it create a cohesive storefront and the two bays where Crimson Corner and Tory Row. We repositioned the entry on the corner right next to Harvard COOP Bookstore, but the reactions that we got from the Board were -- they suggested that we not put the entry on that corner and instead change

the entry to the Brattle Street side.

The second rendition of --

CONSTANTINE ALEXANDER: Just one entry at the Brattle Street side?

LOUIS CARTER: Actually there's two entries. We're keeping the old Tory Row entrance.

CONSTANTINE ALEXANDER: Right.

LOUIS CARTER: And that that would be the secondary entrance to form to means of egress. So we're repositioning that to that facade. And that would be around the same area as the old Crimson Corner entry. So we're maintaining that.

We're changing that to the double doors. The second version of our design was a hard canopy and it contained graphics. So we kept the large plate glass windows on the storefront rather, to sort of bring this entire facade into one sort of cohesive facade.

Again, that was -- there were comments that we -- feedback that we got back from the committee, and also I believe from the ZBA that we couldn't wrap our hard canopy around the marble and we wanted to emphasize the marble

and we'll leave that untouched.

So in our third rendition of it we removed the hard canopy and went with an awning. This initially was designed to be a hard awning. So a solid, metal awning. And we still again kept the cohesiveness of the storefront so it feels like a single establishment, and the two bays.

DREW MURPHY: Drew Murphy from &Pizza.

So that is how we went into advisory committee a week ago. This right here.

In conversations with Professor Blier and others in her group, they asked that we consider opening up the transom from the original building. They asked us to consider specifically increasing the baseboard from the original design. This is all after last week's meeting. So -- and there's a -- if you go to page 36 of your slides, you'll see an image that professor Blier very nicely -- and her group, very nicely sent to us. And it is an image of a restaurant called Toscano. And the request, I believe, professor was headed to class, but she took this shot and she said, this is -- this transom and this baseboard is what we would like to see brought back in to the language of the architecture here. So not to steal Louis's thunder, in addition to a couple of other components that came out

of, again, last week's meeting, they wanted us to make it look more like small shop space. They wanted a -- a separate group wanted us to add the transom. And one of the overall requests was add some umbrellas there. And so that's -- that's sort of this one evolved in the last four or five days to this one. And, again, if you look at Toscano, that was where the original idea emanated from.

CONSTANTINE ALEXANDER: Of course Toscano was a restaurant and not a fast order food establishment.

DREW MURPHY: Understood. I guess my point here is we were trying to be reactive to some of the --

CONSTANTINE ALEXANDER: I just wanted to make it clear for the record. And also forgive my ignorance, who is professor Blier? Is she a citizen of the city?

SUZANNE BLIER: I am.

CONSTANTINE ALEXANDER: Okay. Are you speaking on behalf of member of a board of any sort? Who are you?

SUZANNE BLIER: I'm a member of our Harvard Square. I'm a professor at Harvard. And a founding member of the Harvard Square

Neighborhood Association.

CONSTANTINE ALEXANDER: Okay.

DREW MURPHY: There was a group of folks that requested our CEO Michael Lastoria and myself and Louis and Michael come to the Cambridge Savings Bank and meet there. We met with about 40 people perhaps. And they wanted to give us some of the ideas. That ended up with this design. And then after last week's meeting, it evolved into this design.

CONSTANTINE ALEXANDER: Okay.

DREW MURPHY: I'll get back to that. Hopefully that helps with the evolution.

CONSTANTINE ALEXANDER: Although there is an unspoken assumption is that because evolution that's good, and in terms of what our Board is -- the relief you're seeking from our Board.

DREW MURPHY: Understood.

CONSTANTINE ALEXANDER: Not necessarily the case.

DREW MURPHY: Understood.

CONSTANTINE ALEXANDER: You're satisfying the needs of other constituents of a community, the Harvard Square Advisory Committee, for

example, and although they have their field of expertise and we have ours. And often they don't overlap.

DREW MURPHY: Understood. I was just really trying to relate to the visual evolution.

LOUIS CARTER: And to continue my sort of description of this facade, and again reactions to some of the board members, we are creating the awning -- basically maintaining the same Crimson Corner awning on the corner right here with the same dimensions, the same projection. And it's going to be a retractile awning just to keep with the original design.

So the awning extension is going to be the same as well. Drew spoke to the raised bases all around. Now to make it not look as, I want to say as standard traditional storefront, to give it a little bit more emphasis and a little nicer look.

And the splitting up of removing the awning over the Tory Row facade creates what's sort of portrayed or asked of us to create a boutique sort of row of stores in the front instead of one massive entity.

CONSTANTINE ALEXANDER: I understand.

ATTORNEY MICHAEL FORD: And so I just want to -- unless

you have any questions with respect to that prong, I'd like to move to C.

BRENDAN SULLIVAN: Well, just back up a second. In reading the Harvard Square Advisory opinion, they supported the application, not unanimously, but I know they supported it. But there is in two or three instances ask that you minimize the corporate black. And then there was some additional comments by other members who were not at that hearing and they sort of decried the use of the black. And I was just wondering if in fact it has been minimized.

DREW MURPHY: We -- if you -- we'll go to this one, actually. If you go to page 13 of the slides. What we -- if you take this visual as not an absolute for our direction, in the far left you see Origins which is -- has black with white letters. And there's Cardullo's. And then there's Black Ink just to the right of the door now we are pulling in, if you look at our current version, we too are opening up the transoms there. We have removed that awning and put in umbrellas. And then, again, going further to the right we originally had the Crimson Corner, we replicated that awning, but then we heard from Historic that they prefer that we not have an awning there. So we have a look that's a little bit more like Origins if you will. So it's -- what -- the specific -- I have the resolution from the Advisory Committee in front of us. And in fact the long

storefront should be broken up into smaller sections. And also they talked about using umbrellas to preserve the smaller storefronts. So we feel like we've reduced the amount of black. I guess it's all subjective ultimately.

CONSTANTINE ALEXANDER: To be sure.

DREW MURPHY: We did try and make it more small storefronts. If I could articulate that well. So we worked from there.

BRENDAN SULLIVAN: I mean black is the corporate color?

DREW MURPHY: Yes.

BRENDAN SULLIVAN: Much like green is Citizens green type thing, something like that.

DREW MURPHY: Yes, sir.

BRENDAN SULLIVAN: It's just that, you know, I mean to me, and again this is just a commentary, it's a very prominent corner and to me the black is stark. It doesn't accentuate the corner. It's cold. I mean, that's just my -- and in reading some of the other commentaries from other members of the Harvard Square Advisory Committee who sent in letters and what have you, and reading their -- and also going back to the Harvard Square asking you to minimize it, I would tend to agree, that would not be my first choice anyhow. So that's my

editorializing of the black anyhow.

DREW MURPHY: Okay. And to go, just one second to touch on Mr. Alexander's point, we did work with a lot of groups, and I'll touch on that in a few minutes, because that was the avenue that was -- we, you know, we're able to --

CONSTANTINE ALEXANDER: You have to. That's part of the process in Cambridge. Each group has its own jurisdiction, its own special interest. And often they never meet. That's my point I was trying to make.

BRENDAN SULLIVAN: And the committee started designing a horse and wound up with a zebra.

ATTORNEY MICHAEL FORD: What I think we'll would do right now is move to prong C as outlined. It's on -- you all know it, but it's on page 18. Seeing the establishment fulfills the need for such a service in the neighborhood or in the city. And there's gonna be -- there's a lot to talk about on that prong.

CONSTANTINE ALEXANDER: Or maybe very little to talk about. But let's move.

ATTORNEY MICHAEL FORD: Well, on this Tory Row actually was a location, they served pizza. So this location actually had served pizzas.

It's not bringing new, it is replacing. There's been a lot --

CONSTANTINE ALEXANDER: Wait, stop. That Tory Row was a restaurant. It was not a fast order food establishment. There was no requirement for them to get any kind of approvals from us as long as they complied with our Ordinance. This is different. You're a fast order food establishment and you've got special rules, and one of them is that you fulfill a need for the neighborhood of the city. And you've got to tell us and convince us why your pizza offering fulfills a need in the city or in the neighborhood when there are five fast order food establishments offering pizza in a very short walking distance of your proposed location, and there's at least six other restaurants or other kinds of establishments that offer pizza. So there are 11 pizza offerings in a very short area, very narrow area of the city. So why do you feel that your establishment will fulfill a need for the neighborhood?

ATTORNEY MICHAEL FORD: Well, as we go into that, this is a great segue to page 19 to talk about those five that you, that you spoke of and talk about why we fulfill this need.

If you take a look at the -- what we tried to put together here, it's a map showing those five locations and where &Pizza would fit in with it. It's not

clumping in or next to another one. It's equidistant from those other, those other locations by way of looking at the map. It's the lowest price point. The highest Yelp rating. It has the highest Yelp rating of those. It provides a unique niche where it's bringing artisan pizza which -- and I was going to go into this at the beginning of -- the beginning of the presentation with -- it's whatever you can dream up as far as a pizza as a consumer, &Pizza can do it. With 30 toppings and from the breakfast pizzas to late night offering, it's gonna be unique anything that you can dream up.

CONSTANTINE ALEXANDER: You've got to tell me -- that's an opinion on your part to the extent PR. Let me give you a different point of view, my point of view. To paraphrase Gertrude Stein, A pizza is a pizza is a pizza. Okay? You may offer more toppings than somebody else. You may even offer, in some people's opinion, a better quality pizza. But at the end of the day, a pizza is a pizza is a pizza. And we have eleven pizza places that are offer pizza in the Harvard Square and why is there a need for twelve?

DREW MURPHY: May I touch on that?

ATTORNEY MICHAEL FORD: I think Drew can hit on and touch upon a pizza is a pizza.

DREW MURPHY: Point understood. No doubt about it.

When you --

CONSTANTINE ALEXANDER: Turn the mic on. Some people in the audience can't hear you.

DREW MURPHY: Okay, sorry. At &Pizza, when you go into order a pizza -- we have our signature pizzas. We have 10, 12 of them. And you rattle them off by name and they know what to do. In addition to that, we have call it 30 toppings. You can -- for those first nine pizzas, you pay about \$11. For any other pizza you make, you pay \$11. You can go in and put all 30 toppings on, you pay \$11. So when you look at -- this is not just a throwaway chart. When you look at the price point value, there are a lot of people who currently go quick service places and get a price point of food that's not nutritional. For that price point they are now coming to &Pizza in our various communities where there is non-GMO, where there is gluten-free dough. There is actually a nutritional value to what we serve. It's on our website.

CONSTANTINE ALEXANDER: And you said the other joints -- I'm going to call them joints, that's a bad expression. The other five places don't meet these requirements?

DREW MURPHY: Just based on price point --

CONSTANTINE ALEXANDER: Price point is price point.

There's not a need for a cheap pizza or an expensive pizza in the Harvard Square neighborhood. People who buy pizza, buy pizza they can munch as they walk down the street or they can sit outside as they do in front of Otto's which is right around the corner from you.

DREW MURPHY: One of the requests -- and it's a summary, I'll tell you all of the requests that have been made of us that we've agreed to. But one of the requests was we would like to see additional offerings at this location. We're partnering with a group that many people may have heard of, David Chang Momofuku has a group called Milk Bar. It's a dessert orientation. We are now partnering with them to have a dessert program. We have been asked to serve breakfast pizzas here. I'm not aware of anyone else doing breakfast pizzas. There's actually a menu in your slides showing the actual breakfast pizzas and the names of them and the ingredients. And they're on slide 32.

JANET GREEN: So you're not commenting on whether other pizza places have breakfast pizzas or not? They may or they may not?

DREW MURPHY: Right. We've been asked to replicate Crimson

Corner's offering of periodicals. Specifically the Wall Street Journal and New

York Times. We don't do that anywhere else. We're gonna do that here.

Crimson Corner no longer --

CONSTANTINE ALEXANDER: You can walk across the street and get a Wall Street Journal at the kiosk in the middle of Harvard Square.

DREW MURPHY: This is a request made of us and we've agreed to do that. So at the end I'm gonna talk about other issues that we've -- we've spent a lot of time with various people on design elements, but we've also done that on operational issues which I can run through, which I don't believe other pizza places are willing to do. We're going to open up at 7:30 in the morning and we're going to stay open until 2:00 a.m. at night because we've been asked for the late night hours by the community.

CONSTANTINE ALEXANDER: Okay. I still would suggest to you that that doesn't fulfill a need in the city. We have plenty -- in Harvard Square there are plenty of places, down the street to iHop. There are plenty of places where they're open late at night. I think the Tasty Burger is open late at night. And there are plenty of places where you can get breakfast items.

DREW MURPHY: If you ask why our landlord chose us for this

location, because he could have chosen many other concepts that were gonna pay a lot more money than us, he drove all the way down to Washington, D.C. to find out about us. He spent time with the management team. He went to our locations. He could have put a bank in there, and there are plenty to are willing to pay more than us. He actually feels like it's going to enliven this part of Harvard Square. He actually feels like it's going to add a lot of positive activity to this part of Harvard Square. That's when he introduced some of the constituents. One of the requests made of us on page 22 was to add a community table, and we're --

CONSTANTINE ALEXANDER: What page is that? I'm sorry.

DREW MURPHY: 22. That was not in our original design. It came from one of the advocacy groups and we've agreed to have a community table. So the idea is to have a place to spend time. Our patio will be open to anyone that wants to sit there. It's not exclusionary.

CONSTANTINE ALEXANDER: Where is the patio anyway?

DREW MURPHY: The exact same patio that Tory Row has.

CONSTANTINE ALEXANDER: Okay, right in front of the store?

DREW MURPHY: Yeah. It doesn't change at all.

CONSTANTINE ALEXANDER: When I hear patio, I think of something in the back. I was trying to figure out where it would be.

DREW MURPHY: Probably the wrong terminology. But -- so hopefully that gives you a couple of hints.

At the very end of the presentation there are some other things that have been asked of us and I'll get back to that.

ATTORNEY MICHAEL FORD: And I know there were other slides and examples that show the interior and sort of stress each one of these, this is localized. This is the Harvard Square & Pizza. It's the design -- this is one of a kind to fit in with right here and be a part of the fabric.

At this point I would move to the D provision. It's actually -- and I've outlined it, you all know it on page 3 -- 23 rather. But D, the establishment will attract patrons primarily from walk-in trade as opposed to drive-in or automobile-related trade. And it goes on. And point of -- and I know you know this, that due to the nature of Harvard Square, traffic generally in the presence of large number of visitors to the historic square, students, parents, visitors, university faculty and staff, visitors from all around the world, they're coming through here on daily, daily basis. & Pizza will be relying almost exclusively on

the foot traffic for its business.

Moving to E, section.

LAURA WERNICK: Can I ask a question about that?

ATTORNEY MICHAEL FORD: Yes.

LAURA WERNICK: So there's takeout; is that right?

ATTORNEY MICHAEL FORD: Well, it's the takeout element on it. And I think -- I'll have Drew speak to the breakdown of what the dine-in ratio and how the, how the takeout actually -- actually works with respect to just the pedestrian traffic.

DREW MURPHY: I'm sorry, but could you repeat, what's the exact question?

LAURA WERNICK: Well, my concern is the double parking, cars parking, waiting and, you know, people call up on-line, order the pizza --

DREW MURPHY: Yeah, I know the --

LAURA WERNICK: -- run in, and there are car's lined up in the square.

DREW MURPHY: So, we have --

LAURA WERNICK: -- how do you know that no one's going to

do that?

DREW MURPHY: We have five locations that are university locations. We have Gallaudet University. We have Georgetown University. We have GW University. American University. If any of you have been to any of those locations, it is -- it is sit down business. On an aggregate our percentages are 65 percent eat in. The remainder is takeout. But those are university locations. If anyone knows Georgetown or GW, it's very similar in terms of it's all footfall. So does that help?

LAURA WERNICK: Well, I mean I don't know exactly where they are, but this is -- it's an easy location to drive up, hop out of the car, run in, get your pizza, and jam up --

DREW MURPHY: So I can only talk from experience. I can't look into the future. But I understand the question. Based on our experience that it's people coming to the restaurant walking. We're typically an urban as opposed to suburban type of food.

CONSTANTINE ALEXANDER: Just to follow up and maybe elaborate a little bit on Laura's question. You have to keep in mind that Harvard Square is rather unique in terms of the traffic and in terms -- and as you all know

and why you're here I think, there's an awful lot of traffic, foot traffic, and automobile traffic in Harvard Square. One of the concerns we would have, I would have certainly, is whether, and that's where Laura is going with her question, whether you're going to exacerbate the traffic issues, and even with your offerings. I mean that's a concern. You can't answer that I don't suppose other than your best judgment as to what you think is going to result. But you, there is a risk that despite your best judgment, there's going to be loads of cars driving up to pick up your wonderful -- using your words, wonderful pizza and that's something we have to worry about.

ATTORNEY MICHAEL FORD: Well, one of the things I think and to touch upon on what Drew was saying in not knowing what the future will how old is this -- and I was gonna go through sort of the culture and the -- and the fabric of &Pizza and who they are, to incorporate a, you know, a policing by management and by employees that it -- we can't -- we don't want double, we don't want doubling parking.

CONSTANTINE ALEXANDER: I understand.

ATTORNEY MICHAEL FORD: This -- everyone here, everyone in this room doesn't want the double parking. And as part of that and just in

working with &Pizza and working Drew, that that's not something -- and we'll do what it takes to prevent. You know, I could speak to Michael, the CEO of -- I mean, he does, and I know it's a trite saying we think out of the box to come up with things to prevent that. And I don't think I'm speaking out of turn when I say we're not -- we will do what it takes to make sure that there is no double parking. It is imperative that we, that we do the right thing and with the right kind of operator.

DREW MURPHY: Yes.

BRENDAN SULLIVAN: Do you offer delivery service?

DREW MURPHY: Well, we are not currently delivering, no.

CONSTANTINE ALEXANDER: What are your plans?

DREW MURPHY: We have no plans for delivering here. This store based on --

CONSTANTINE ALEXANDER: Will you represent to this Board and make it part of the position that there will be no delivery service from this restaurant?

DREW MURPHY: Yes, that's fine.

CONSTANTINE ALEXANDER: Okay. End of story. No

delivery service.

LAURA WERNICK: But people do order, call in to order out?

DREW MURPHY: They can order ahead and come by and pick it up and then leave.

CONSTANTINE ALEXANDER: And if they come by car, there's a double parking issue that Laura's worried about.

ATTORNEY MICHAEL FORD: We will police.

Now moving on to, as I get my train of thought, over to page 24.

This is subsection E, that the establishment shall, to the greatest extent feasible, utilize biodegradable materials and packaging the food and the utensils and other items provided for consumption thereof. And to touch -- there's a few supporting slides, pictures in the presentation.

The boxes, they are cardboard, they are recyclable. And what's unique about this, it's oblong shaped pizzas which is a result go into rectangular, long rectangular boxes. And what that does, and you'll see when we show you some of the receptacles, it does two things: When you're dealing with recyclable, you know -- for lack of a better word, you know, trash, but recyclable, it fits right in there. How many of you tried to -- you can't stick a pizza box into

the -- boom, it's gone. That defeats the purpose. Not these boxes.

The platters and the dishes, they're fully washable and reusable.

We do use plastic forks and knives, but they're compostable. And if I can invite you to look briefly at page 25, you'll see some of that, and you'll actually get to see the washable and reusable platters that are used for the, for the pizzas.

Also -- and then I'm going to defer to Drew because he could speak quite a bit on this. If we could put you -- draw your attention to page 26 with the EOMS recycling. We have a plan and a vendor.

And, Drew, if you could speak to that.

DREW MURPHY: Well, yeah, just briefly. This, our Vice President of Operations was the Vice President of Operations for Sweetcream. And so he set up that particular location with EOMS. He put me in touch with them. We've received a proposal from them, but subsequently I've met with and talked with Steve Nutter, Steven Nutter, sorry, and he has advised me that there are a couple of other alternatives that we ought to look at as well. He heads up Green Cambridge as you know. We're more than open to that. This is just a group that we had familiarity with.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY MICHAEL FORD: And then moving on to, it's a page 27-F, the establishment shall provide convenient, suitable, and well-marked waste receptacles to encourage patrons properly to dispose of all packaging materials, utensils, and all other items provided with the sale of food. We use a well-marked, organized receptacle system. I'm gonna have Louis point right now to where those -- before we show you those receptacles, where those receptacles are going to be located.

LOUIS CARTER: We have one receptacle on the interior of the building. Another one by the storefront. This is an operable storefront so sliding. And this is going to be the one for the exterior. So three receptacles.

ATTORNEY MICHAEL FORD: And that's the -- and maybe one more thing that Drew wants to pick up on.

DREW MURPHY: On page 28 this is -- we have actually interestingly manufactured in the Boston area by a company called Party By Design and they take them to all our various locations, a great partner of ours. This is a, this is a medium trash. We would actually have three containers here as opposed to just the two that you see. But you can see that there would be recycling for the cardboard, composting, trash. And then on the top is where you

put your platters on the left and your cardboard boxes on the right.

ATTORNEY MICHAEL FORD: And then just moving to the last element, prong if you will, G, the establishment complies with all state and local requirements applicable to ingress, egress, and use of all facilities on the premises for handicapped and disabled persons. And so I turn to our architect, Louis, and just say what's the answer on that?

LOUIS CARTER: That is correct. It's 100 percent accessible.

ATTORNEY MICHAEL FORD: 100 percent fully compliant.

CONSTANTINE ALEXANDER: Well, it's at street level, right?

There's no steps to walk up or down?

LOUIS CARTER: No, there's not. Actually, we're raising this area right here to allow for clean transition between this space.

CONSTANTINE ALEXANDER: What about the restrooms?

LOUIS CARTER: That will be ramped up.

CONSTANTINE ALEXANDER: It will be what?

LOUIS CARTER: It will be a handicapped ramp and it will be accessible, yes.

ATTORNEY MICHAEL FORD: Now even though we've hit G,

there's -- what we have planned in the presentation, there are a few other slides, pages, we want to take you through that I think will also sort of support those A through G elements. And just talking to you, both the community process and the changes as we try to, you know, really engage in cross-collaboration. And with that, if I could have you turn to page 30, and I'm gonna turn it over to Drew to --

CONSTANTINE ALEXANDER: That's fine and make your presentation. But I want to reiterate is that just because other groups have approved, it doesn't mean that we will approve it.

ATTORNEY MICHAEL FORD: Absolutely.

CONSTANTINE ALEXANDER: We have different issues to deal with.

ATTORNEY MICHAEL FORD: Absolutely.

DREW MURPHY: Understood.

And I would just say that in some jurisdictions there are working sessions where we could come in and roll up our sleeves and massage things. So here we started to meet with various people in the community in various settings. Some of which we were invited to come into, some of which we initiated. Just to

run through this quickly, not to eat up much more time. But the first meeting we had was with historical review, and that was actually when I met many of you. That was when we had the first version which led to many of the other meetings in the evolution of the design that we've come up with as of tonight.

Moving forward from there, we actually had a public meeting on January 5th.

On March 9th we were asked to come into the advisory conference room, the advisory office of Harvard Square Advisory and we met with some citizens who represented some of the advocacy groups in a conference room. That then led to a much larger meeting where the CEO Michael Lastoria was invited to come in and give a presentation as well as the three of us. From that we got further ideas on the design and we presented those at the April 19th meeting.

From the April 19th meeting last week, we got a list of changes that were requested of us prior to tonight, and that's how ultimately we came up with the design that we had in concert with, again, not having your input per se, but in concert with slides such as 36 that we received from one of the groups that talked about the opening up the transom, increasing the width of the board --

CONSTANTINE ALEXANDER: Oh, yeah.

DREW MURPHY: -- etcetera.

And so just sort of segueing that to So what have you done for me lately? On page 31 there were several requests to increase the activity, enliven the former Crimson Corner and Tory Row space, and to also carry over some of the traditions that had been there initially. So we were asked to open for breakfast, and we provided a breakfast menu, which will have other additions to it. But you can see some of the breakfast pizza that we have been making for some of the GW University at that particular location.

We've also been asked to stay open late until 2:00 a.m. The request was made that the university libraries are open I believe it was 24/7, and there really is no place to go at the end of the night. So we have agreed -- Michael Lastoria has agreed to stay open until 2:00 a.m. in the morning.

We've been asked to sell newspapers which fair point, other people -- but we've been asked to do that.

We were asked to take the awning off Tory Row, put in umbrellas, expose the transom windows.

Tonight we've been asked to stipulate we will not deliver, and we've

agreed to do that.

And finally, Ms. Wernick brought up the issue with cars, and to as large as an extent as we can, we will work with our managers to police that issue. We have -- we haven't had it at other places, but point well taken, we could in fact have that here.

The next page 32 is just simply the breakfast pizzas that we are selling down there.

And the last one really is just the evolution of what's occurred there. Greenhouse, as you know was owned by Nini's as well as Crimson Corner. This is just the architecture of what had preceded Tory Row. The next evolution in that design is on page 35. And then 36 we've already talked about.

ATTORNEY MICHAEL FORD: So what I think might be a good segue, it was to the first part of my presentation which I think really, you really got to understand what &Pizza is, because as you sit up here and we hear you, and we've heard the community. I just want -- I just have to tell you more about this great -- tell you about Michael, tell you about, you know, who they are and what it's all about. And I hear you that is a pizza, a pizza, a pizza, we humbly say we don't think so. And we most certainly say what &Pizza is about, what the

experience is about. Because you can, you know, you can sell something, but it's about the experience. It's about the feel. It's about what -- why do people go to -- get some of the same things over and over again? It's the feel. And if I could just bring you through very briefly.

CONSTANTINE ALEXANDER: Before you do that --

ATTORNEY MICHAEL FORD: Yes.

CONSTANTINE ALEXANDER: -- and before we leave the 11.30 items you went through, do members of the Board want to have any questions that we haven't asked before or do you want to move on to the next part of the presentation?

LAURA WERNICK: Well, just a comment. The umbrellas look great in the rendering, but the umbrellas are only up for maybe six months out of the year. So then you have the open storefront there, and too, so you lose the texture, the scale of the umbrellas. In addition, it's kind of south facing. I don't think it's directly south. So you have the solar gate on the inside which concerns me.

DREW MURPHY: So two things. No. 1, we film all of our restaurants -- well, I shouldn't say all of them. All of the windows that require

because of the particular exposure to the sun, and we've been unusually successful in reducing the heat on the interior. The technology is just amazing. So we've already said we will be doing that up here.

The umbrellas, we certainly hadn't anticipated that in the initial design, but out of this -- there's six places in the Harvard Advisory Committee resolution where it says: Umbrellas rather than one single awning is a suggested option. When it came up six times, we sort of thought we should listen. It's come up from other people, too.

CONSTANTINE ALEXANDER: I'm sorry, one other question. Signage. As you know, I hope you know, our Zoning Ordinance has requirements for signs.

DREW MURPHY: Yes.

CONSTANTINE ALEXANDER: Height, location, illumination. I made it very clear at one of the continuance hearings we continued that I wanted to know, or this Board needs to know are you planning to seek signage relief --

DREW MURPHY: No.

CONSTANTINE ALEXANDER: You're going to comply with our -- not seek a Variance, you're going to comply with the sign provisions

of our Ordinance.

DREW MURPHY: Yes. We -- actually, yes.

CONSTANTINE ALEXANDER: Okay.

DREW MURPHY: Bottom line, yes.

CONSTANTINE ALEXANDER: I just wanted to make sure.

SLATER ANDERSON: That's an interior illuminated sign.

DREW MURPHY: That's not for this location.

ATTORNEY MICHAEL FORD: Description of the sign?

DREW MURPHY: No.

ATTORNEY MICHAEL FORD: Okay. And just going back to this tonight, and to lead off of page 2 of the slides, we call them slides, the pages. You know, one of the things in so taking it back when you meet Michael, the passion --

CONSTANTINE ALEXANDER: I'm sorry, we have a long night ahead of us. Michael may not be here next week. He may have moved on to some bigger and better job, and the person who succeeds him may not be as good as you are. So to sell this place on the basis of Michael, it doesn't go anywhere with me.

ATTORNEY MICHAEL FORD: Okay. I just wanted to -- just
the personal touch is engrained to be in Harvard Square.

You know, we've tried -- what we've really tried to do is do -- and
we know that it comes down, it comes down to this Board. But what we've tried
to do with it because we don't have the benefit of the working sessions, what
we've really tried to do is bring what we honestly and truly believe is a unique
experience to liven up, to provide the answer. I mean, to sort of sum up of what
really brings it home is the fact that, you know, the landlord, he wants what's best
for Harvard Square. And you've heard this, that you could, you could rent this to
a bank for, you know, a higher rent. You could rent it to something else, a
traditional retail merchandising. There's no influence or input on it. And I
would look at it like this, this is, this is humbly saying this is an opportunity.

This is an opportunity for everyone together, because we at the end of the day,
you know, if we're -- if we get the benefit of you voting in this, we're all in this
together. It all has, we have to work together.

And, you know, Gary Doyle wanted to bring us in because we're
gonna liven up the square and we're going to do the right thing. We're gonna be
the right citizen. So, you know, we've put it before you. We've tried to give you

the absolute best that we can. We could just say that &Pizza will become part of the fabric of Harvard Square and we hope to make you proud.

CONSTANTINE ALEXANDER: You haven't touched on 10.43.

ATTORNEY MICHAEL FORD: Briefly we can do that.

JANET GREEN: And then we have people who want to speak I'm sure.

CONSTANTINE ALEXANDER: Oh, we're going to have time for that. I'm not finished.

ATTORNEY MICHAEL FORD: With respect to 10-point -- and of all the things, I know why you want to leave with 11.3, because that picks up on --

CONSTANTINE ALEXANDER: Those are the key.

ATTORNEY MICHAEL FORD: And it hits and it just go through -- you just want to go 10.4 -- 10.43?

CONSTANTINE ALEXANDER: Quickly.

ATTORNEY MICHAEL FORD: Really quickly. Special Permits will normally be granted where specific provisions of this Ordinance are met except when particulars of the location are used not generally true of the district

or of the uses permitted in it would cause granting of such permit to be to the detriment, to the detriment of the public interest, because -- and we'll take them one at a time.

That specific A, it appears that requirements of the Ordinance --

CONSTANTINE ALEXANDER: That you have -- that's clear, you have to get -- you can't do it without our permission.

ATTORNEY MICHAEL FORD: Without your approval. And that was your element 3.

Traffic -- B, traffic generated or patterns of access or egress would cause congestion, hazard, or substantial change in established neighborhood character.

CONSTANTINE ALEXANDER: That's the issue that Laura has raised basically. I mean, the double parking issue. And could cause congestion or substantial change in established neighborhood character. And you've talked about it.

ATTORNEY MICHAEL FORD: And we've talked about it. I mean, this, this is a growing thing. And it's a growing thing that if there's an issue it gets addressed. Because if it's, if it's bad for you, it's bad for us, it's bad

for all of us and it will be addressed.

C, the continued operation of, or the development of adjacent uses, as permitted in the Zoning Ordinance, would be adversely affected by the nature of the proposed use. And then that I hope you saw that in how much effort and time went to design, and also with the fact of being open early in the morning and then staying open until two so it can serve the, you know, the patrons and the surrounding customers.

D, nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant of the proposed use or the citizens of the city. I suggest that there's nothing --

CONSTANTINE ALEXANDER: Move on.

ATTORNEY MICHAEL FORD: -- in here.

And E -- two more. For other reasons the proposed use would impair the integrity of the district or adjoining district or otherwise denigrate from the intent and purpose of this Ordinance, and the new use or building construction is inconsistent with the urban design objective. We have tried to do everything --

CONSTANTINE ALEXANDER: You have.

JANET GREEN: Yeah.

ATTORNEY MICHAEL FORD: -- to fulfill that.

CONSTANTINE ALEXANDER: Okay. That concludes your presentation?

ATTORNEY MICHAEL FORD: It does. Thank you very much.

CONSTANTINE ALEXANDER: You'll have an opportunity -- we're going to open it up to public testimony. You'll have an opportunity to make a final -- to speak one more time if you wish.

ATTORNEY MICHAEL FORD: Thank you.

CONSTANTINE ALEXANDER: Before we do that, any members of the Board want any comments or questions at this point beyond what we've done already?

(No Response.)

CONSTANTINE ALEXANDER: Okay. I'm going to open the matter up to public testimony. Judging from the number of letters and e-mails and the like we have received, obviously there is a considerable public interest in this -- the petition -- the relief the petitioner is seeking. So my question -- I'm going to ask for comments. Please don't repeat something that someone else has said before, because that just prolongs the evening. And you folks will be able to

go home after this case is over, we have to stay around for many more cases. So please don't repeat things that other people have said. Please try to be brief.

With that, and I know people are not going to pay attention to it, I'll open the matter up for public testimony. Who would like to speak first? Everybody will have a chance.

Ma'am you go first.

ADRIENNE: Okay I'll come over here. So my name is Adrienne. I'm a longtime neighbor. However, I'm speaking in my role. I thought the novel approach is to speak in my role as a longtime, very part owner, and longtime member of the Harvard COOP, and also in my professional capacity as a government documents librarian. Because I went to the primary source to back up what I say. But before I address the article of -- the part of the Zoning Ordinance. I just want to say that I think that this business just happened into the location by a stroke of bad timing, and I think that they showed up as a client of a real estate broker at the very time that this property became vacant. And I think that the broker probably told them great foot traffic, the heart of the square. But those are the reasons why I oppose the location. I also think that a conscientious broker could have told them, one, Otto's is around the corner.

Two, I'll address this point, the foot traffic makes it our most congested area. And we, we the 109,000 residents need that sidewalk.

And lastly, the Pizzeria Uno has been, that site has been vacant for a year now, and it's set up as a nice restaurant for all kinds of food downstairs, bring it up. It's a two level restaurant so you really should still try to get that moved to the whole endeavor to that location.

Okay, now about congestion. This corner, and I brought some visual aids. This corner is right at what Harvard Square, what the city has in previous years designated as the --

JANET GREEN: The microphone?

ADRIENNE: -- as the super crosswalk. I did some research on it, the super crosswalk was renovated in 2007. And that's, that info is courtesy of the Traffic and Parking Department.

THE STENOGRAPHER: Could you just keep your voice up, please.

JANET GREEN: Pick it up. There you go.

ADRIENNE: All right. The super crosswalk is the roadway and also pedestrian crossway between Out of Town News and the Harvard COOP.

At the time of the 2007 reconstruction of the path, which had been worn down, the bricks had been -- the bricks had been worn because of the great traffic. They were replaced with pavers. And at the same time, and shortly after that, the sidewalk was of course widened.

Now, as I've said in previous hearing, the super crosswalk, the many pedestrians, the thousands of pedestrians don't just go back and forth and back and forth like on a clothesline pulley or like swimmers swimming laps, touch on one side and go back to the other side. When they land on the side of the street that has the Harvard COOP and formerly Crimson Corner, they're going someplace. They're not just gonna end up from crossing the street, they'll end up on that corner. Plus going in the other direction everyone who walks up Brattle Street is waiting on that corner for the light to change to cross the street. Then in addition, we have -- not only do we have the 109,000 of us, but we also have whole busloads of visitors from China -- not that they came from China on the bus, but once they are here they come by busloads of however many those -- 50 or 60 the bus can hold. And they move as a group. They have to stay with the group. They're following the leader who is giving them information in their language. Please, I'm going to give out my visual aid if you don't mind one for the

committee, the Board. And one to the petitioner. And one to the....

Okay, when you look, when you look the page with print shows how to find it. If you type in those words, you'll find it in full glorious color which shows the picture much better. Look at the part that says Crimson Corner. You'll see how narrow the sidewalk used to be. It was subsequently widened because the 109,000 of us use that sidewalk. We are always going someplace. It's the, it's the major congestion point of the square. And now I'm going to quote the law. Administrative law has the same force as statutory law according to the Ordinance. And so I'm now quoting the Zoning Ordinance 11.31(a)(3). Shall not -- shall not threaten the public safety in the streets and sidewalks.

Well, in Harvard Square it's all about the sidewalks. And I can't say this frequently enough or loudly enough. There are 109,000 of us who use that sidewalk and need to use it. It was widened in recent years because of the need for -- to accommodate all of us. And we can't share it 50/50 with street furniture. It's not half for you and the other half for the 109,000 of us.

And now I'd like to give a personal account to something that happened to me when -- as a result of sidewalk congestion. At the further entrance of the subway, the entrance to the Liquiteria.

I wish to relate personal account of an injury resulting from congestion -- sidewalk congestion. Okay. At the corner that has Liquiteria. And at one point just a few months ago I was approaching it at the same time that a huge crowd of people that had, left the train were coming up the stairs to the street. However, the man who begs for money was at the corner going across, across where the people were coming up. And so in fact he was herding them H-E-R-D, herding them. And so they all moved to one side. And at the same time I had to move to that side even though I would have preferred to hold on to the railing on first sight. And at the very same time that this crowd's coming up and I was approaching, a tourist who was about my age, decided to walk backward to talk to the people he was with. And he bumped into me. And because of this congestion, I was knocked over on to the brick sidewalk. And I just want to say that our sidewalks belong to the residents, the travellers on foot, the busloads of visitors, and we just can't share it 50/50 for all of us and the other half for you.

Also --

CONSTANTINE ALEXANDER: Okay, could you bring this to a conclusion? Because we have many other speakers.

ADRIENNE: Okay. And I just want to say that block is the mouse capital of Harvard Square. Tory Row had mice, the Harvard COOP has mice. And just yesterday I walked into the CVS that's on that block on the other side of the bank and I approached the (inaudible) and I backed away immediately when a mouse got there first. And so that's another reason why there should not be a pizza parlor.

CONSTANTINE ALEXANDER: Thank you very much for taking the time to come down. And I'll get the professor next.

SUZANNE BLIER: Thank you, and if I could pass these around as well.

CONSTANTINE ALEXANDER: Make sure you give a copy to the petitioner, too.

SUZANNE BLIER: Thank you very much. My name is Suzanne Blier B-L-I-E-R, Five Tory Place. And I hope that -- well, I want to thank you for taking this seriously. This is a very important meeting, and I wanted to convey something of the history of our group and relationship to this. Many of us came together over the summer with deep concerns about historic preservation and all that's happening in Harvard Square and move to landmark and kiosk and

put in place a landmark proposal for the Abbott building, and we've been working together on these various things and even have a petition that we haven't submitted on 1-8 Brattle. It's important by the same architect as the Abbott.

The reason that we became engaged with &Pizza is obviously it's an important moment in time, and there was a Cambridge Historical Commission meeting and in which they were declined, and we learned through the CHC that they would not have to go back for a public meeting. And because many of us are professionals in the field of architectural history and preservation, we really wanted to see these plans and have input in them. And so I spoke with Drew, thank you. And he asked Michael to come up and we had an engagement. I'm not sure why I'm using that word, but there you have it.

Now, what I would like to say at this point is that the process has been very tough for us in many respects. This is on a continuation, so we didn't really know about it. Getting the plans was very difficult. If I hadn't been on Twitter and read John Hawkinson's announcement and gotten the URL from them, I would not have seen the plan. And from my vantage point the issue of failure to comply is not simply about this meeting, it goes way back and this is in part what I want to address. We are activists. We are professionals, and we care

deeply about the square. And one of the problems for us in the Harvard Square Advisory is that we were supposed to get the plans beforehand, and not just the facade but also the interior. And I was supposed to meet the architect before the meeting to look at them. I brought another member, also an architect and the architect did not show up. When he did show up, there were no plans. And so for a couple of people they passed around a cellphone. Now if you're looking at plans, you can't see plans on a cellphone, and nobody was zooming in to see what was there. So from my vantage point that never should have been done anything other than a continuance, because people really could not discuss the plans or anything having to do with them.

So I passed over the plans today, and I haven't seen the ones that were just submitted. But I was concerned about, among other things, the last time that I spoke at the CHC, it was about safety. So you asked us not to repeat so I won't. But absolutely what she was talking about. And I think that this is in part here. But let's begin with the interior.

I had a look at it and it looks as if the bathrooms, the area of flow and even out to the terraces are not ADA accessible.

CONSTANTINE ALEXANDER: Now, I asked that question of

the architect here and he said they are.

SUZANNE BLIER: It could be. But they did measurements.

CONSTANTINE ALEXANDER: Okay, we have a disagreement here.

SUZANNE BLIER: Right.

CONSTANTINE ALEXANDER: I want to get it on the record.

If you have any rebuttal, not now, but at the end when the remarks are made.

SUZANNE BLIER: This is why it's important to get the plans beforehand.

CONSTANTINE ALEXANDER: To be sure. Nobody is going to argue that.

SUZANNE BLIER: Looking at the umbrellas and looking at the stand it looks very clear to me that it would be very hard to actually sit adjacent to that stand and these tables because the foot -- feet at the chairs and the people would make that more difficult. So I think that that is potentially either potential problems.

To an advantage point of the City, so if you flip it over, just so for

you to now the sidewalk curves back, and right as the door is coming in it really is in a very narrow bandwidth for traffic on the sidewalk. And it cant down toward the street right there. So just imagine you're in a wheelchair, whether you're moving around we're talking about lots of takeout, etcetera, inside you're gonna have people waiting for groups of six of seven. Where are they going to meet? How are they going to go? And so I think there are serious issues having to do certainly with the numbers, certainly with people who are handicapped with many other issues as well. So that would be my point except to say also that the signage has not been passed, and there are certain problems with the signage from the vantage point of CDD directives.

Thank you.

CONSTANTINE ALEXANDER: Thank you very much for taking the time to come down. So I take it, if I may, the bottom line is you're not in favor of us granting relief tonight?

SUZANNE BLIER: Yes, I am not in favor.

CONSTANTINE ALEXANDER: Thank you.

Sir, you have your hand up.

DANIEL PENRICE: I'll try to be brief.

CONSTANTINE ALEXANDER: Please.

DANIEL PENRICE: My name Daniel Penrice P-E-N-R-I-C-E. I live on Rindgefield Street in North Cambridge. I try like a good Cantabrigian to walk as much as possible, but I find myself driving to the square sometimes. On the issue of double parking, it's hard for me to imagine a worse place in the square for potential double parking from, you're talking about maybe 35 percent of your business takeout. You're coming down, let's say you're coming down Mass. Ave. and you're going around there by Crimson Corner and, you know, there's the pedestrians -- the street narrows quickly as you go up there passed Hidden Sweets and Primo Cafe and so on. And then you've got drivers trying to figure out whether -- how to get in the right lane if they're turning right on to Brattle Street or left on to Mount Auburn or going straight ahead. And it's kind of a mess. And then you have people that come down JFK Street. It's hard for me as someone who drives in Cambridge to imagine a worse place for the possibility of congestion from double parking. That's all I have to say.

CONSTANTINE ALEXANDER: And as a result, you're opposed?

DANIEL PENRICE: As a result, I'm opposed to relief.

CONSTANTINE ALEXANDER: A bunch of hands I'm going to

start this way and move right. Ma'am.

MARILEE MEYER: I'm Marilee Meyer, Ten Dana Street, and I don't want to -- I'm gonna try not to repeat.

CONSTANTINE ALEXANDER: Please.

MARILEE MEYER: My statement will probably sound like chopped liver because I'm editing as I go. But I was also very frustrated that we did not have a chance to see the plans before tonight, and which would also kind of make some of the points in my letter moot way. But I'm an architectural historian and I very much want to help to preserve the character of Harvard Square. And the whole point of this, of this interest is that this is the heart of Harvard Square. This is the key corner. It is a significant historical building that creates the sense of place for Harvard Square. And we already have a sourced organic and community-conscious pizza establishments as mentioned before, and some of them are even oblong and not round. And the lights, the internal lit lights are joining the corporate Starbucks and CVS logos, to mention local establishments, and really do not add anything to the square. And the glass panels and the sterile black trim is your corporate branding, I know, but it is jarring and cliche and passe in Europe. And how are the big expanses of glass

windows going to be lit at night? Are we going to have reflections and the complete extent of that glass. They are going to be tinted, there's, you know, the modern treatment. It does not fit the context of where it is located. And as a design note, the short end wall next to the COOP needs to be treated more distinctly and not with a modern full panel and needs to be proportional because in the context of Mass Ave. you have two different vantage points; coming down Mass. Ave. and Brattle Street. Those are two different sight lines.

And then the current design is not compatible to that kind of flavor. How are you going to keep the beer and wine on the premises in an underaged population? Are people going to be hanging out at the bottleneck of the master crosswalk? Are you going to have restroom issues with non-customers?

The stats of 65 percent sit down and 35 percent takeout is based on other locations.

What about the computer users who hog the tables and camp out for hours?

Will the business hours match the subway schedule? The developer is bent on Harvard Square conforming to its corporate branding, ignoring the culture of its location in one of the square's most

significant historical buildings. It is not our responsibility to help the owner make a profit. It is, it is in our purview to protect the square's character which doesn't include sterile corporate branding of a business that is not needed in a crucial location. With the Equity One development of the Abbott building across the street with its in-fill roof deck and tall pavilion, please don't contribute to the malling of Harvard Square. With its approval you're contributing to death by a thousand cuts.

Thank you.

CONSTANTINE ALEXANDER: I take it you're opposed?

MARILEE MEYER: Yes.

CONSTANTINE ALEXANDER: Thank you. I'm going to try to go this way. So there's someone in orange I think. Right behind the speaker now had her hand up. I can't see who it is.

JOHN HAWKINSON: Pebble Gifford.

CONSTANTINE ALEXANDER: Miss Gifford.

PEBBLE GIFFORD: Good evening. My name is Pebble Gifford and I live at 15 Hilliard Street, a block from Harvard Square. There are a couple of documents that I've had in my hot little hand for a while. Do you have a

complete list of the pizza --

CONSTANTINE ALEXANDER: Yes, we do.

PEBBLE GIFFORD: Okay.

CONSTANTINE ALEXANDER: I'm going to ask you, not just you, but everyone else who is going to speak, please don't repeat points that have been made.

PEBBLE GIFFORD: No, I won't. I just want to make sure we're not just fabricating. We know what they are.

CONSTANTINE ALEXANDER: Okay.

PEBBLE GIFFORD: There's another document that I think's very important for your consideration and I don't think it got to you in the administrative review process, and that is the petition.

JANET GREEN: Pebble, hold the microphone right up to your mouth.

PEBBLE GIFFORD: Oh, okay. Oh, I see.

This other document that I'm holding in my hand is the draft petition that was presented for this building and didn't get passed by the Cambridge Historical Commission. I feel that they have in the past year forced --

UNIDENTIFIED MEMBER FROM THE AUDIENCE: That wasn't submitted. (Inaudible).

PEBBLE GIFFORD: I know it wasn't submitted, but it happens to be very well written.

CONSTANTINE ALEXANDER: Well, all right, if it hasn't been submitted, let's move on.

PEBBLE GIFFORD: Can I submit it to you?

CONSTANTINE ALEXANDER: You can submit it to us, yes.

PEBBLE GIFFORD: Because I think it makes very good reading. And the other thing, that's very well written and summarizes this rather confusing case because of the way it started, it started with Cambridge Historical commission and then came over at one point to the Harvard Square Advisory Committee which I'm on. That procedure in there was very confusing. What we were looking at, we never had the right plans, blah, blah, blah. So one of the reporters in town wrote a very good summary of that for all our benefit.

CONSTANTINE ALEXANDER: But, again, please stick to the issue. We've heard -- we know there's been a long, tortured, in my view, process, review by a number of groups in the city. But that's been done. Tonight we

have tonight and we know about those. And just don't repeat it over and over.

PEBBLE GIFFORD: All right.

I just want to say that I can't think in all the years that I've been observing Harvard Square, which is going on 40 years now, and trying to control or work with people to control some of the more egregious mistakes we've made, and there have been a number, I can't think of anything worse in that particular corner in Harvard Square than takeout or not takeout pizza establishment. It is the busiest -- I should back up.

Harvard Square is one of the busiest tourist spots, if not in New England, certainly in Massachusetts. It gets apparently 14 million tourists a year. Not -- I'm not saying natives. I'm saying these are the tourists who come in looking for something unique. They've heard about Harvard Square. A lot of them are from the midwest, the far west. I've had people ask me where is Harvard when they're standing in the middle of Harvard Square. And another person asked me, could you show me a professor? There is an innate interest in Harvard University, what it stands for. And it goes all the way back to --

CONSTANTINE ALEXANDER: Okay, thank you, Ms. Gifford.

The point has been made.

PEBBLE GIFFORD: All right.

When we started seeing Harvard Square threatened in the way that it's been in the last couple of years, it was sort of alarming. I'd say it really started with the Reed block and the Tasty. And that looked good for a while because they restored the facade and people were pleased with that, but then they put in -- now they've got a giant CVS in there, which doesn't -- isn't bringing tourists to Harvard Square and that worries me a lot.

The kiosk was a big battle. Citizens won that one. We prevailed. And it will be standing, what will be in it is another question. We have to fight that one out.

Then --

CONSTANTINE ALEXANDER: Ms. Gifford, we have a number of other people who want to speak.

PEBBLE GIFFORD: I know.

CONSTANTINE ALEXANDER: Can you bring your remarks to a conclusion?

PEBBLE GIFFORD: Yeah, I'll bring them to the conclusion. I worry about the Abbott building because of Curious George which may be on its

way out.

And last but not least, is this Brattle building which is now being tinkered with, the facade is changing. That is a beautiful building. The design fits in with the Harvard buildings. The architect built it that way for -- a lot of things are going on in the square that aren't compatible with the way it's been treated for many, many years. And I urge you to bring back that criteria that look at the square as a holistic place with some attempt by past architects to design compatible buildings and not just superimpose things on those buildings that are gimmicky or encourage, I don't know, business, lighting that's not friendly.

CONSTANTINE ALEXANDER: Thank you.

PEBBLE GIFFORD: Okay.

Oh, one last thing. This place is on only 1800 square feet. That's not very many. And they're figuring on serving food at tables and having takeout.

CAROL O'HARE: Turn your mic on, Pebble.

PEBBLE GIFFORD: They're planning on getting food. You go up and get your food buffet style I guess and bring it to the table. Then they're going to have takeout. People coming in and going out with food. This is 1800

square feet if you can -- you know what that equals. And then you're going to have all the people going back and forth in that intersection, and I don't think they figured it out right. I think it's going to be a madhouse in there and not be very efficient.

CONSTANTINE ALEXANDER: Thank you, thank you very much for your comments and taking the time to come down.

PEBBLE GIFFORD: Okay, thank you.

CONSTANTINE ALEXANDER: I'm going to take them in order but unless you have something you need to say right now, I'm just asking.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: I had a general point to make.

CONSTANTINE ALEXANDER: I want to make sure I get everybody. I'll move left to right. I see a hand up, Ma'am? Yes.

CHARLOTTE MOORE: I'm Charlotte Moore and I live at Nine Rutland Street. I'm going to start by saying yes, I have double parked at Otto that serves nutritional and gluten free pizza and I do not think that this serves a -- it provides a needed service for the community and the square.

And just addressing 10.4, which I'm actually not familiar with, and I

was mostly focussed previously on 11.3. I think the integrity of the district will be definitely compromised by this proposed pizza place. I don't, I agree with Pebble and I certainly agree with Marilee and her colleagues, professor, but I have to say that importantly there was just announced the formation of a kiosk review committee which will begin meeting and not only look at the use of a kiosk, but the entire area around the kiosk which includes this corner. And I think it would really be premature to allow yet another pizza parlor in a place where there needs to be time to consider what would really, what is the meaning of the integrity of Harvard Square. And I will be brief, I could go on.

Thank you.

CONSTANTINE ALEXANDER: Thank you. Okay, sir.

ILAN LEVY: Ilan Levy, it's spring Street. I-L-A-N and L-E-V-Y last name. I'm not here for that case originally, but now that I'm hearing it, I'm in support here of everyone who has spoken. And I hope that -- it seems very obvious that &Pizza had an opportunity, they tried it, I think it's the wrong thing in the wrong place. I think decision is very clear and easy. And thanks also for TPT pointing to I think Harvard Square needs to come back to a square rather than a mall. So I encourage you to deny.

Thank you.

CONSTANTINE ALEXANDER: Thank you very much.

Ma'am.

ABRA BERKOWITZ: Abra Berkowitz. That's A-B-R-A. And my last name is Berkowitz, B-E-R-K-O-W-I-T-Z. I live at 253 1/2 Broadway in Cambridge. I've worked off and on in restaurants my whole life, and I most recently worked in a pizza place. It's probably familiar to some of you, it's Bertucci's on Main Street in Cambridge. And I have to say from my totally unscientific observation, but as an employee for about two years, there was a lot more takeout than dine in. And so I just really have to question the numbers that were given with 65 percent dine in and 35 percent takeout. I just don't think it's gonna happen from my personal experience. And where Bertucci's is, like, there's always doubling parking. I was always helping customers bring their pizzas out to their car, like, all the time, you know. And Main Street is crazy but it's not as crazy as this intersection. And so I think we really have to be careful about allowing this kind of place to go in at that location.

Now do I support cheap food particularly for students and people who can't afford to buy expensive lunch, absolutely. But I think it really is going

to be a hazard if this place goes in.

The second point I want to make is that I'm also a biker. And whenever I bike around that corner, it's really **tight**. Like, I've almost been hit by a couple of trucks. Don't tell my mom. It's pretty frightening. I had a friend whose bike got crumpled by a truck, like, she nearly died. And so I'm really worried about the traffic that this pizza place is going to bring to that specific place. Would it be okay somewhere else? Perhaps. Like, I like cheap food, but I'm just very concerned about the location itself.

So, thank you.

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

All set on this side of the room? No, I guess not. Way in the back first. Ma'am. Ms. Jillson, welcome.

For the benefit of the audience, you're the head or the President or whatever, the chairman --

DENISE JILLSON: Executive director.

CONSTANTINE ALEXANDER: Executive director. I'm sorry. Of the Harvard Square --

DENISE JILLSON: Denise Jillson, Executive Director of Harvard Square Business Association. So I'm hearing a lot of things tonight. And the thing that I did for us, because I thought it might be helpful, is one of the tasks that we do at the association is we keep track of things that are going on in the square. Particularly we keep track of spaces. So roughly within the Harvard Square Overlay district there are about 330 businesses, most of which are first floor retail, restaurant, entertainment, or service. And what I did is I took a look at that survey, which we keep as a living document. You can imagine it's on my desktop, and I change it almost all the time because businesses are coming and going. So you're right, there are five pizza places. There are six burger joints. There are 13 coffee shops with one more coming. Pretty soon you'll be hearing from Blue Bottle.

CONSTANTINE ALEXANDER: Right. We approved that not so long ago.

DENISE JILLSON: 40 Bow Street.

There are three ice cream shops. There are six Mexican.

Interestingly enough, there are eight eye care places.

JANET GREEN: What?

DENISE JILLSON: Eight eyeglass places.

JANET GREEN: Eyeglass?

DENISE JILLSON: So I can name them if you want, but you don't have to. But there's another one coming. So we'll have nine. The other one that's coming is Warby Parker. Warby Parker actually wanted to be at in this location at the Crimson Corner Tory Row, and they were in fact willing to pay more money per monthly rent than &Pizza, but the owner said he didn't think that it would be the best use of that space.

We have ten banking institutions. Right now we have about 12 retail vacancies; EMS, Hidden Sweets, City Sports, American Apparel, the AMC theatre, Fire and Ice, Gino's down on Holyoke Street and Uno, as well as Crazy Dough Pizza, Cultures, Tennis and Squash, and recently vacated Schoenhof's Bookstore. We have five bookstores. We used to have many more.

So when you ask people in the community what they want there, they say, you know, it's a marquis corner and it's really important that it's activated all the time, so from early in the morning until late at night. Because the last thing that we would like to see as the business association and as, as people who are trying very hard to support the 70 percent of the businesses that

are still locally-owned, independent, and the only way you do that, the only way you support those businesses is with foot traffic.

Now I think we all know that retail is really suffering. Amazon has, you know, created havoc within the retail industry. And in fact it was recently reported by NPR that this year we're going to see a 12 percent increase in on-line retail sales mostly through Amazon. And in fact Amazon has now, you know, created these enormous retail distribution outlets, but also UPS is now delivering on Saturday, because more and more people are buying on-line.

So before we make the decision about what should and should not go there, we need to consider what could go there. And what will be there that will support the community. Because I think somebody used wholistic approach, so we do need to look at the square wholistically and make sure that what is coming there doesn't just meet the criteria that you have set forth in these, in your 11.31, but in fact it exceeds our expectations, right? Because as a community that's what we want. We want something that doesn't just meet expectations, but in fact exceeds them.

Now, the owner as you well know, the owners, and I think if I'm not mistaken, I think there are 17 trustees. And they have to agree or a majority of

them will have to agree on what will go there. So they have agreed that they weren't going to rent or lease, excuse me, to Warby Parker, a high end retailer. They were not going to lease to another bank, but they were in fact okay with &Pizza. All right. So we got the whole family to agree to that. So it's really important for all of us to understand what's going on behind the scenes that we don't see within the owners of the building who do have some rights. And as of right, we know they could rent to a bank, and we know they could rent to high end retailers and they don't have to come here for permission to do that.

CONSTANTINE ALEXANDER: That's right.

DENISE JILLSON: The other thing we have to think about is the language, and I think it's important and I hope I'm not overstating and I'm not an attorney and I don't know enough about this stuff. And in C it says that the establishment fulfills a need for such a service. Such a service. Now I'm assuming that service means, the key word here meaning that it's not the type of food but in fact that whether or not this location allows for fast food service.

So, again, as somebody who is in the square as probably as frequently or maybe a little bit more so than most of the people in this room, I can tell you based on the fact that we probably have already issued -- I counted over

40 fast food licenses in the square within the 44 acres that is the business district, about 1,700,000 square feet of space that we've already issued at least 40 fast food. And that our directive here tonight is not to determine what kind of food goes there, but in fact whether or not this corner should allow for that kind of service, fast food service. So I would say based on the fact that we are in fact, I think Adrienne said that we're about 109,000 here in the city, but in fact somewhere between eight and ten million people visit Harvard Square every year and that's a reality.

Now if anybody tries to double park in the super crosswalk, that's absolute suicide and I would say that they're crazy. But nonetheless, that's -- it seems to me that what I'm hearing not only in this evening but in the previous meetings, what I'm hearing is whether or not pizza is the right thing. And I would say that I don't think that that is our directive. And I would also caution, and this isn't a threat, it's just a reality based on fact, right? Based on absolute fact, that is indisputable, that your directive is whether or not that service should be a fast food service. And whether or not we as a community want that marquis corner in Harvard Square to be activated from early in the morning until late at night. And I would say to you as the, as the Executive Director of the business

association, frankly, I don't care what goes in there, but this is what I would want for whatever goes in there. I want it activated early in the morning. And I want it activated until late at night. And I want to make sure that the sidewalk is activated and that it's clean and beautiful and welcoming, because you know what, our retailers -- and think about it, just think about Brattle Street for one moment, heading down, you had Crimson Corner, Tory Row, you have Cardullo's, Black Ink, Origins. Now that's the original Origins. But in that little space right there, predominantly locally owned and independent. Go the next one, we have the Harvard COOP. And right beside it you have the Beat Hotel or Beat Brasserie. We've got Felipe's, Rebekah Brooks, MDF/Motto. You have Hidden Sweets, Brattle Florist, Crema Cafe, Flat Patties, and Sound Lion, now gone but replaced by Crimson Corner. All locally-owned, independent. Every single one of them looking for foot traffic. So we have to be really careful if we say we don't want foot traffic because we can't have it both ways. We just can't.

Thank you.

CONSTANTINE ALEXANDER: Thank you. Someone else on this side of the room had their hand up, maybe. Ma'am. Again, please, don't -- I ask all of you, don't repeat what someone else has already said. It just makes the

evening go on even longer than it's going to go on.

MARIE SACCOCCIO: I understand. Marie Saccoccio, 55 Otis Street, East Cambridge. S-A-C-C-O-C-C-I-O. I actually came to speak about the Staybridge, but I had been involved with some on-line discussion of this over the past few months. I hope you really take to heart people who live with this everyday. And I'm offended quite frankly that whatever plans were presented to you were not presented in advance for people to meaningfully review. And I mean I think that's profoundly disrespectful of the process. I'm also someone who worked at the Horse House, One Potato, Two Potato, Rufus Porter, The Pewter Pot many years ago. So I know what restaurant business is in the square. I'm also Italian. Pizza is pizza is pizza. You're never gonna convince me that your fast service pizza is real pizza. I think the last thing the square needs is another pizza establishment.

CONSTANTINE ALEXANDER: Thank you.

I'm now going to go to this side of the room. This gentleman wanted to speak and you'll go next, Ms. O'Hare.

JAMES GRAHAM: My name is James Graham. I'm a graduate student at Harvard. I've been here for a few years now and I've eaten my fair

share of pizza in the square. I've also actually had the benefit of going to &Pizza store, spending sometime living in DC and actually going to &Pizza store down there. So I guess in that context what I would say is that I would respectfully disagree with your opinion that a pizza is a pizza is a pizza. This is actually a differentiated product. And from a service experience as well, it's not like a standard, you know, quick in, quick out McDonald's, Burger King type place at all. That's not the feel I've experienced when I've gone there. And so I thought that context would be helpful in sort of framing what this particular establishment is like. I would also just say sort of as a student, and I'm not trying to speak on behalf of all students here, but, you know, we sometimes keep odd hours and having those sort of the accessibility for options in the square is somewhat limited late at night and at times early in the morning. And I think having that additional offering and, you know, having a place that's not only my experience high quality, but in terms of product and service but also accessible at various times is at least from a student's perspective, I think it's only going to be beneficial in that particular spot as well.

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

Ms. O'Hare, you wanted to speak.

CAROL O'HARE: Carol O'Hare, 172 magazine Street. It wouldn't be me if it weren't signs, right?

CONSTANTINE ALEXANDER: I asked the question. They said they're going to comply.

CAROL O'HARE: They are, they did say that. And the only reason I'm speaking right now is that I had to -- I wrote to Sarah Burks who is the -- under Charlie Sullivan at the Historical Commission, and she said that -- I can't tell from this plan which I have not had the opportunity to look at, where -- I mean, and I don't want to look at them now because nobody else can. Where those signs are at this point. I can't tell whether they are out from the building, whether they are on the awnings, or whether they are on the wall of the building. And that is relevant not just because everybody here hasn't seen the signs, but because it's relevant because Sarah Burks wrote to me. I suggest -- and this is today, her e-mail. I suggested that they pull the awning back to not wrap around the corner so that they can put the signs on the wall as they had shown on the set of drawings that went to the Historical Advisory Committee.

Well, okay, that's No. 1. I wrote to Liza Paden and talked to her,

and she has said at Community Development -- and she does sign certifications.

And as far as I know, I believe she told me today that they have not received the information for her to be able to give a sign certification.

CONSTANTINE ALEXANDER: Ms. O'Hare, let me interrupt you for a second. They have represented to us tonight that whatever signs they're going to have must comply with our sign, our Zoning Ordinance and that they will not seek zoning relief. Because if they did, assuming we let them open in the first place, it's going to be denied. So I think that that's --

CAROL O'HARE: Well, I want to put it on the record that they have said --

CONSTANTINE ALEXANDER: It's already on the record.

CAROL O'HARE: -- their signs show that it projects. I think their signs show that they have submitted that it projects from the building.

CONSTANTINE ALEXANDER: Then they'll have to change it. And Liza Paden says --

CAROL O'HARE: Then they'll have to go back to Historical Commission possibly.

CONSTANTINE ALEXANDER: Possibly. But at the end of the

day they're going to have -- they've represented to us, should we grant relief tonight, that whatever signs they're going to have there will comply with the Zoning Ordinance without the need for any relief. And so to speculate what's going to happen, forget about it. That's -- we're passed that.

DREW MURPHY: Yeah.

CONSTANTINE ALEXANDER: Okay?

CAROL O'HARE: So the plans they filed, whether or not they are compliant with the sign ordinance it's irrelevant?

CONSTANTINE ALEXANDER: It's irrelevant because if they're not compliant before -- should we grant relief, before they can open up, they will have to put signage up there that is compliant.

CAROL O'HARE: So you will include that as a condition?

CONSTANTINE ALEXANDER: Well, yes, they have represented to us and it will be part of the decision.

CAROL O'HARE: That would be great.

CONSTANTINE ALEXANDER: Thank you.

SLATER ANDERSON: If I could just comment quickly, I would say that the plans that were submitted after the fact do include detailed

information about the signage. And on my quick review they appear to be compliant with size at least. We will go with your representation, but there are materials in here for people to review. Two pages.

CAROL O'HARE: They project. If they do project, they're not compliant.

CONSTANTINE ALEXANDER: I'm going to go from -- I'm going to go from the rear of the room and move forward if you don't mind. A gentleman back there I see someone.

GARY DOYLE: Good evening. My name is Gary Doyle D-O-Y-L-E and I'm a member of the Sterns family of the Dow Sterns building, and I'm somehow got to be the one that sort of trying to run the whole show these days. Since the first one to retire so I got the job.

So we think we've been for the last 103 years excellent stewards of the property that Harry Sterns built back in 1913. So what we've tried to do is always maintain a good mix of both food and retail. And some of those retail shops such as the florist have been there for 77 years now. I mean, multiple families, not original ownership, but it's still the same florist and it's still the same florist shop. It hasn't changed in any of those years. So we really spend a great

deal of time working on trying to make sure that our part of the square that we control is unique, draws foot traffic to the retail places, and it has exciting places to eat. So we think we did a really good job getting Felipe's to, you know, reposition itself from the little hole in the wall that they were in over on --

CONSTANTINE ALEXANDER: Garage. The garage.

GARY DOYLE: The garage. It was -- yeah. It was a mess of a space. And that is done quite remarkably well.

CONSTANTINE ALEXANDER: But before them there was a Bertucci's there that sold pizza which didn't do well.

GARY DOYLE: And it -- but we basically -- the mothership for Bertucci's was circling the drain. I mean, they were in receivership. They, you know, they were basically looking -- this is a sound business operation and concluded that mothership Bertucci's was a lost cause. That they were, they weren't reinvesting their money in the pizza store. It was starting to look really, really shabby and so we went and removed them. So where we got -- as owners we get to see the books of people who run stores in our facilities. We -- we were approached by Tory Row about a year, two years ago, actually, saying they were basically not able to make enough money in that space to pay rents which were

really rather quite substandard at the time. And we worked with them. They started to change what they were doing --

CONSTANTINE ALEXANDER: I'm sorry, I don't want to interrupt you, but the hour is getting late. The history of the property is not --

GARY DOYLE: Right. But I want to explain to you why it's really important to understand why businesses fail.

CONSTANTINE ALEXANDER: That's not our job. Our job is to decide --

GARY DOYLE: It is my job.

CONSTANTINE ALEXANDER: Well, that's your job.

GARY DOYLE: Businesses that are going to succeed in locations, right? So we tried to help Tory Row. We offered them the space which was Crimson Corner. If you're bigger, will that help? No, it isn't. They started increasing the amount of takeout that they were doing. They were up around 40 percent in about April when they finally went out of business. So they were doing a significant amount of takeout business in that space, and they still couldn't make the numbers work for them. And they said, sorry, we -- you know, so they

basically broke their lease. We unfortunately were friendly and nice to them, and because we've known them for a long time, and that backfired horribly across a whole bunch of other tenants who basically took leave when they realized that we were going to be patsies and not hold people to leases.

So we went and looked for who do we want to put into this space. And after a lot of soul searching, we -- and argument we passed up quite a few financial institutions to go with something that would provide some interesting transformational leadership in a restaurant operation in place where it had been a restaurant and was, to most of us, I think Crimson Corner's pretty much of an eyesore if you've driven by it lately. We wanted that to get cleaned up. So we got a transformational restaurant not at the amount of money that we wanted, but they are really, really good at what they do. And if you haven't had an Ampersand pizza, an &Pizza pizza, I suggest you go when you're done in Washington, D.C. or you're down in Baltimore, you go check it out. I went to every one of their restaurants in Baltimore and northern Maryland to check them out before I went and actually met with their CFO and COO in their corporate offices, and these guys know what they're doing. And they're really a unique operation. And honestly, if they don't go in there, it's gonna be a financial

institution and we'll end up making a bunch more money and you will have -- you've had all sorts of opportunities to -- I'm not threatening. I'm basically stating a principle of business.

CONSTANTINE ALEXANDER: Thank you.

GARY DOYLE: And one last thing, it's getting more and more and more difficult to maintain ownership of these properties. There is insane money out there and it is not pleasurable to be an owner trying to maintain sort of a situation as we have with what's out there happening to us. So we need, you know, cooperation in Cambridge in order to move forward and to get businesses that we feel strongly about in position to make money and provide a very useful service from eight a.m. until two a.m. providing really, really unique food in a transformational experience to the City of Cambridge in unfortunately very, very unique location.

CONSTANTINE ALEXANDER: Thank you. Ma'am, you wanted to speak or maybe you don't want to speak now.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Exactly. But I do have something to say.

CONSTANTINE ALEXANDER: Again, I hope you'll say

something that hasn't been said before, otherwise -- take the mic and give your name and address to the stenographer, please.

CAROL PERRAULT: Carol Perrault, Nine Dana Street. I'm gonna speak to the integrity which has been spoken to with I slightly different twist. It will only take a couple of minutes.

I'm opposed for the following reasons:

One, the proposed location for the fast order food business and pizza is smack in the center of Harvard Square's most dynamic view shed, and as a result is fundamentally inappropriate from the standpoint of the cultural landscape.

Two, the proposed design is not compatible and insensitive to the visual and physical characteristics of the architectural fabric of Harvard Square and does not contribute to the square's unique identity and sense of place.

Three, a sense of place and identity to that place is finally important to our experience of place. Unquestionably most people when experiencing a place want to feel the uniqueness of it, not a place that is branded like every other place.

Four, there is a good reason why the fast order food Special Permit

process came into existence. Specifically to prevent such establishments from homogenizing and inappropriately diminishing the richness of our heritage and quality of life from the sustainability, functionality, and visual perspective.

On Earth Day I had a chance encounter with a high school student from Buffalo, New York. She was here with her class. It was her first time in Boston. I asked her what her impression -- what impression she would take away and share with her family and friends? She immediately said the architecture. She loved the mix of the old and the new, the texture, the materials, the sense of history that was palpable. She was responding to the uniqueness of Boston in its layers of culture, the fabrics of our cities educate values. Don't we owe it to our children and their children to protect those qualities and values that enrich our lives?

Thank you.

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

Anyone else? I dare to ask. Mr. Brandon? You always like to speak last. This time you can speak.

MICHAEL BRANDON: Not in this case.

CONSTANTINE ALEXANDER: You're going to speak to something --

MICHAEL BRANDON: For me I'm going to be brief.

CONSTANTINE ALEXANDER: That will be a first.

MICHAEL BRANDON: Thank you. I'm sorry, I'm Michael Brandon, B-R-A-N-D-O-N. I live at 27 Seven Pines Avenue in North Cambridge. I came in late so I don't want to risk repeating anybody, but I am opposed to this news at this location contrary to what this property owner, representatives have said. This is not a transformational restaurant -- it's --

CONSTANTINE ALEXANDER: Hold the mic up so they can hear you.

MICHAEL BRANDON: Okay, thank you.

It is not a transitional restaurant --

CONSTANTINE ALEXANDER: Transformational restaurant.

MICHAEL BRANDON: Transformational restaurant. It's -- it will be transformational extremely but not in a positive way at that corner for various reasons that I think you've heard. Also, it's not a restaurant. It's a fast food operation. Very different thing under our Ordinance as you folks know.

You have criteria which I don't think are being met. It's hard to tell, because I understand the plans were changed again. So speaking to the issue of some moving target. You know, first it was wildly inappropriate because of a trellis that was there. Still not clear to me where the trash receptacles and how that's going to be controlled. It will be primarily takeout at that location. There will be double parking problems. All criteria that -- and the basic thing is that there's no need for this kind of an operation in Harvard Square, probably anywhere, but at this location definitely.

So, thank you. Sorry for going on so long.

CONSTANTINE ALEXANDER: Thank you.

No, you didn't go that long for you.

George. I should tell the world that this man is an associate member of the Zoning Board of Appeals, but he's appearing tonight as a citizen of the city. Am I right?

GEORGE BEST: Yes, you're right. So --

CONSTANTINE ALEXANDER: Just give your name.

GEORGE BEST: George Best. I am a person that has resided in Cambridge all of my life. And my family, all of their lives. So we've been here

for 100 years. Okay?

So I wanted you to know that Harvard Square, that -- pretty much that corner is very challenging anyway. So you have pedestrians, you have bicycles, you have cars. And the foot traffic goes in our direction, so that's my first concern about that.

The second concern is that it's not really adding any interesting value to the corner. It is another takeout and go place. If it were a high end restaurant or something like that, I'd say, I'd really think about it because it is adding value. But pick up and go is not really what that corner needs. I think if you move in the block or into the Smith Center which Harvard is just finishing up, that might be a nice location for you. But within the corner there, you don't, Nini's Corner was there for a purpose. It served a purpose. And you would come and either meet somebody there or pick up a publication. And even when you're there, and they were tight against the building, when you were there, you would have challenges making that corner as a pedestrian. So I would really, really think, rethink that location.

I mean even if you go down the block, it's fine. I mean, you're not going to lose anything. But at that very location where there is so much traffic

and there is so much congestion and the danger of elder people crossing the street, because there are a lot of elderly people that cross there, there's subway traffic coming out, and the convergence of all of that, is not something that I think is very thoughtfully planned. I mean, I have nothing against the food. I've been to your restaurants in D.C. My cousin was a coach at George Washington University so I understand where you are. But that's in a different location. It's not in a congested location like Harvard Square is. It doesn't have as much foot traffic. So that's what I say about it. But I am opposed to that corner. I'm not opposed to your business. I'm opposed to the corner, putting a business there.

Thank you.

CONSTANTINE ALEXANDER: Thank you, George.

I think that will be it for public comment. So I'm going to close public testimony. Or I should mention that we have in our files numerous written communications regarding the petition. Most of them, virtually all of them are in opposition, the views expressed in those letters, I don't propose to go there, have been expressed by one person or another tonight.

I would also report that there is something from the Harvard Square Advisory Committee which indicates that by majority vote, not unanimous vote,

majority vote, they support the petition you're seeking, the relief you're seeking.

And I think that's about, that's about it. So I'll leave -- that's it for public testimony.

Do you have any concluding remarks you want to make at this point?

ATTORNEY MICHAEL FORD: Very briefly. The hour is late. We want to address the ADA issue.

JOHN HAWKINSON: Hawk could you use the microphone, please?

LOUIS CARTER: To address the ADA issue, the accessibility is intended to be at 100 percent. Perhaps this was done in haste in terms of over turning over a plan fairly quickly and just used for diagrammatical purposes. We do have to make it ADA accessible based on ISD submission. So that's the intent. We don't plan on seeking a Variance.

CONSTANTINE ALEXANDER: Thank you. You can leave it there.

Anything more?

ATTORNEY MICHAEL FORD: That's all. We leave it in your

hands.

CONSTANTINE ALEXANDER: Thank you. And it is now in our hands.

Do we want to have a discussion or do we want to go to a vote? What's the pleasure? I think I'll start off by saying I think my views are clear on this. My views have been clear on this with other cases before with regard to fast order food establishments in Harvard Square. I can't support it, the relief being sought. I don't think there's a special need. Given the five plus six restaurants -- five fast order food establishments that offer pizza, plus six other food establishments that also offer pizza. I think this is an iconic part of Harvard Square which is in turn an iconic piece of Cambridge. It is, it is a bad area for the kind of operation you're proposing. It is going to cause congestion. And it is going to derogate from the intent and purpose of the Ordinance in my judgment because of the fact that the impact it will have on Harvard Square. So I'm not going to vote in favor.

Does anyone else want to speak or we can go to the vote?

JANET GREEN: I actually have thought a lot about this and had very -- I don't think this is working. Can you hear me? Okay.

So I started out feeling like we didn't need another pizza place. I wasn't, I wasn't impressed by the hours because the other pizza places do fulfill that to some extent, but then many cases they don't have the same kind of seating. But I think that there's a real problem here with being able, and some people have tried to speak to this, being able to say no, we don't like something but understanding what the options are. Nobody who's been against it has really had to speak to the options. And I don't think any of us like what those are. I think the owner has or the trustee has spoken of the kind of offers that they've had and what they tried to do. And I was -- I really took that quite seriously. I think there is, we all know, a lot of big money that has just come into Harvard Square and only deals with its own interests. It's bought properties and left them vacant. And till the City Council has actually said that they're going to move on those properties because they've been vacant for as long as five years. I think we don't want this property to be vacant. I think we don't want this property to be a financial institution. And from what I've seen how these businesses turn over, that may be our real option. In that case I'm inclined, I'm inclined to vote for it this proposition.

CONSTANTINE ALEXANDER: Thank you, Janet. Anyone else

want to speak? Laura?

LAURA WERNICK: We've got a long night ahead of us. I would just agree with your comments. I feel the same way.

CONSTANTINE ALEXANDER: Anyone else or ready for a vote?

SLATER ANDERSON: I would agree that I'm troubled by what the alternative will be. And I'm -- this is obviously, it's not a local business, but it seems to act very locally in the other markets it's in. So, you know, I'm, I'm concerned about what what's going to end up there. So I'm in favor of it.

CONSTANTINE ALEXANDER: Thank you. Brendan, you want to speak or not?

BRENDAN SULLIVAN: No.

CONSTANTINE ALEXANDER: Okay. All right, I think let me make a motion then.

The Chair moves -- I'll do the best I can and help me if I miss some things.

The Chair moves that we grant the Special Permit requested by &Pizza to operate a fast order food establishment at these premises subject to the following conditions:

That the restaurant, should the Special Permit be granted -- not the restaurant, the fast order food establishment will be consistent with the latest plans that have been submitted by the petitioner.

That there will be no delivery. No delivery service offered at the restaurant.

That -- that the, going back to what I said before about the plans, also the hours of operation and the nature of the food offering will be consistent with what you've given to us.

That when opened, should the relief be granted, the restaurant will comply with the signage requirements of our Zoning Ordinance. And to be clear, that there would be -- this Board would not be predisposed to grant a Variance with regard to signage going forward.

Did I miss anything?

Okay, that's the motion then. I made the motion subject to the conditions that I've just recited.

All those in favor of granting the Special Permit -- all those in favor of voting in favor of the motion please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Three.

(Green, Anderson, Wernick.)

CONSTANTINE ALEXANDER: Opposed?

(Show of hands.)

CONSTANTINE ALEXANDER: Two opposed.

(Alexander, Sullivan.)

CONSTANTINE ALEXANDER: Under our Ordinance you need four votes to get relief. The Special Permit has been denied.

Before we leave this I think we need to put on the record the reasons for the no vote. So I'll give you my suggestion. And, Brendan, you can chip in as you would like.

For the record, the requested Special Permit to operate a fast order food establishment at 8 Brattle Street has not been granted because the petitioner has not demonstrated that its proposed establishment will fulfill a need for the petitioner's food offerings in the Harvard Square neighborhood.

Given that there are five fast order food establishments offering pizza within a short walking distance of the petitioner's proposed establishment.

And that there are at least five other eating establishments which

offer pizza in the Harvard Square neighborhood.

And that the Harvard Square neighborhood otherwise has numerous fast order food establishments.

Demonstrating that there is such a need that the petitioner's proposed establishment will fulfill in the Harvard Square neighborhood is a requirement for the granting of a food order -- fast order food establishment Special Permit pursuant to Section 11.31(c) of our Zoning Ordinance.

Furthermore, because the petitioner's proposed establishment does not fulfill a need in the Harvard Square neighborhood, granting the Special Permit, the Special Permit requested would derogate from the intent and purpose of our Ordinance and will, therefore, violate Section 10.43(e) of our Ordinance.

Further, that the petitioner's proposed establishment does not satisfy 10.43(b) of our Ordinance because it will cause, given the nature of the business, and the location will cause congestion and potential -- potentially substantial change in established neighborhood character.

And further, that the proposed use will impair the integrity of the district. Harvard Square District being, again, we all know an iconic district. And the balance of businesses there, particularly fast order food establishments, is

essential to the square.

Brendan, anything you want to add?

BRENDAN SULLIVAN: In addition to that, 11.31(b), physical design, including color and use of materials of the establishment shall be compatible with and sensitive to the visual and physical characteristics of other buildings, the public spaces, and uses in the particular location. I don't think they satisfied that requirement.

CONSTANTINE ALEXANDER: Good. That's in the record, too. And I think that's it.

Thank you.

ATTORNEY MICHAEL FORD: Thank you.

* * * * *

(9:15 p.m.)

(Sitting Members Case: BZA-012313-2016: Constantine Alexander, Brendan Sullivan, Janet Green, Slater W. Anderson, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will call the next continued case, case No. 012313, 414 Walden Street.

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

Give your name and address to the stenographer.

BENNIE BER: Bennie Ber, B-E-R. I'm the architect for the project. And the people here are the owners of the property condominium. My

address is 2001 Beacon Street in Boston.

The relief we're asking for tonight --

BRENDAN SULLIVAN: Before we get into the merits, if you would -- well, is -- in my reviewing of the plans during the week, I found them woefully inadequate. There were no dimensions on there. What I had asked was for Mr. O'Grady to call your office and ask you to provide some more detail to the drawing, showing what the existing floor plan is and what is being added with some dimensions. And there were no submissions in the file. I don't know if you got that message.

BENNIE BER: We did get the message yesterday afternoon and we have the plans here with the dimensions requested.

CONSTANTINE ALEXANDER: As you heard, I don't know if you were here for the whole before, we need to have the plans in our files no later than five p.m. on the Monday before. Tonight's not good enough. What we do in those situations -- we didn't do it in that other case because the plans, as I said before and my board members concurred, weren't essential as essential as the plans are for this. Given that, I think we need to continue this case.

BRENDAN SULLIVAN: I mean the real -- they're woefully

inadequate because the drawings, if we were to approve it, we have to hand that back to the Inspectional Services and to the building inspector. He has to rely upon them. There's no information on there, dimension wise, and that's the key to this whole thing. I mean, anything that we do it's all numbers, anyhow. And yet the drawings have no numbers on them. They have additional square footage and so on and so forth. But we actually need physical dimensions.

BENNIE BER: We do have physical dimensions here.

CONSTANTINE ALEXANDER: But they're not in our files.

BENNIE BER: They are in the set.

CONSTANTINE ALEXANDER: They're in the set?

BENNIE BER: On sheet 40.

BRENDAN SULLIVAN: All right. Well, we can plow through it, then, if you want then and we'll see how it goes.

CONSTANTINE ALEXANDER: I don't want to get into a case heard.

BENNIE BER: You know, if we must continue it, we'll continue it. We did not get this request for the information until three o'clock yesterday. 3:10 I believe. So there was no way for us to, there was no way for us to provide this

information by the deadline. We were aware of the deadline. We, you know, were not aware of the request. And like I said, if we must continue, we'll continue.

CONSTANTINE ALEXANDER: I think we can continue it for two weeks?

Maria, can we do this next?

MARIA PACHECO: May 11th.

CONSTANTINE ALEXANDER: I'm sorry? May 11th.

JANET GREEN: But it's not heard, right?

CONSTANTINE ALEXANDER: Not heard.

JANET GREEN: It's not heard? Okay.

CONSTANTINE ALEXANDER: And I won't be here May 11th.

They don't need me. It will be somebody else.

LAURA WERNICK: I won't either.

MARIA PACHECO: Not heard.

CONSTANTINE ALEXANDER: So we're going to continue the case two more weeks.

SLATER ANDERSON: Well, I see dimensions on the stair. I

don't see the dimensions on the remainder. Is that the issue?

BRENDAN SULLIVAN: Yeah, I mean -- in reviewing it, where you're basically saying that you need some additional space to add a bathroom for three bedrooms. And I guess what I was looking for is to see what the existing floor plan is. I don't see where there are three bedrooms. I was really looking for what the existing floor plan is and what you are proposing before us. I couldn't see that. I could see a layout but nothing was delineated. Nothing was marked. I couldn't see where the existing outside wall was. I have an idea where it was because I've been in the house many times in another lifetime. But at any rate, and I have an idea of what you're doing is you're adding -- you're taking out the interior staircase, you're moving that over, and so on and so forth. But we need to see what is existing and what is proposed. We also need to see some dimensions.

The other issue that I have, and I'm not really getting into the merits of it, is the staircase. And my understanding is that you're adding six feet onto the house; is that correct?

BENNIE BER: Well, we're adding 16 inches.

LAURA WERNICK: If we're not hearing the case.

BRENDAN SULLIVAN: No, no.

CONSTANTINE ALEXANDER: I'm okay. Don't worry.

BRENDAN SULLIVAN: There's a corrective thing here is that I want you to make sure that that staircase is code compliant, because in one of the submissions it said that you're adding six feet -- six feet by 26 foot, nine; is that correct?

BENNIE BER: That's the dimension of the new deck. But the existing deck is somewhat smaller than that. So the net addition is 16 inches.

BRENDAN SULLIVAN: You're adding?

ALI BASMAA: 16 inches.

BENNIE BER: 15 and three quarters to be exact.

BRENDAN SULLIVAN: Okay. So that's sort of where -- once I start getting confused by it and not -- then once I start -- can't answer my own questions, then I sort of pause. That's where I really was with that. I mean, did you review it and see?

SLATER ANDERSON: I just -- seeing through, I mean, I didn't understand everything that was going on, you know, looking at the plans.

CONSTANTINE ALEXANDER: Okay, I think we're -- let's stop

the discussion, continue the case to May 11th. I'm sorry, do you have a question?

BENNIE BER: Well, I happen to have a conflict on May 11th so I will not be able to do that date.

CONSTANTINE ALEXANDER: All right. What date -- how about the one after that?

MARIA PACHECO: May 25th.

CONSTANTINE ALEXANDER: 25th of May?

BENNIE BER: May 25th.

CONSTANTINE ALEXANDER: Okay.

You understand -- I'll make the motion with the conditions. But you understand that we need to get the kinds of plans with the kind of detail that Mr. Sullivan's identified in our files no later than five p.m. on the Monday before May 25th.

BENNIE BER: We do understand that. We do understand that.

CONSTANTINE ALEXANDER: If you have any questions about what he wants, talk to Mr. O'Grady.

Okay, the Chair moves that we continue this case as a case not heard subject to the following conditions:

That the petitioner sign a waiver of time for decision. You've done already for the last continuance. That's fine.

That the posting sign that you have now maintained -- you didn't do it the first time, be modified to reflect the new date, May 25th, and the new time, seven p.m. Let's not do it the same as this. And that that sign be maintained for the 14 days before May 25th, just as you've done for this hearing tonight.

And lastly, the point I've already made, that any revised plans, and there will be revised plans or supplemental plans, must be in our files no later than five p.m. on the Monday before May 25th.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Sullivan, Green, Anderson, Wernick.)

BRENDAN SULLIVAN: On the posting sign, too, I would take it and put it on the face of the fence facing Walden Street. Right now it's sort of like one-dimensional or one way rather than on the side. And so that anybody going by can see it rather than people coming in this direction that's all.

* * * * *

(9:25 p.m.)

(Sitting Members Case BZA-012629-2017: Brendan Sullivan, Janet Green,

Slater W. Anderson, Laura Wernick, George S. Best.)

BRENDAN SULLIVAN: The Board will hear case No. 012619,

263 Monsignor O'Brien Highway.

Introduce yourself and then I will have a comment.

ATTORNEY JAMES RAFFERTY: Okay. Good evening,

Mr. Chair, Members of the Board. For the record, my name is James Rafferty.

I'm an attorney with offices at 675 Massachusetts Avenue. I'm appearing on behalf of the applicant. Seated to my far right is Christine Thomas. She's one of the principals with Somerbridge.

CAROL O'HARE: Speak into the mic.

ATTORNEY JAMES RAFFERTY: Oh, sure. James Rafferty on behalf of the applicant. Christine Thomas on my far right with Somerbridge, LLC. And the project architect on my immediate right, Jason Diorio. Spelled just like it sounds.

BRENDAN SULLIVAN: There has been sufficient correspondence and comment coming from various sources over the last few days. The Planning Board, the East Cambridge Planning Team, the Bicycle Pedestrian Committee, and we just received one this afternoon from the City of Somerville. And given that and in trying to digest all of it, and there was some suggestions in it from the Planning Board of altering the plan, having to do with a

wider setback, eliminating some of the planters, some architectural features, and all of that stuff, that to me there seems to be an awful lot of moving parts and an awful lot of variables here, rather than proceeding because then you would have to assemble the same five people which may be problematic, I would offer that maybe we digest all of this correspondence, information, and that reassemble at another time.

ATTORNEY JAMES RAFFERTY: Well, I understand the correspondence. Let me say that the Planning Board commentary was that we should meet with the Community Development Department, which we have done. And there are some changes to the hotel, very minor changes. They dealt primarily with materials, design elements that aren't typically the subject of evaluation by this Board. But we have the material board as well. The communication from the Planning Board acknowledges a change that we have made which is the building complies with the setback requirement, but in the site plan that was submitted that is a landscaped area. The view expressed by the Community Development staff was that the building would be better served if rather than planted, that simply became a wider sidewalk. So our site plan reflects that. Our revised site plan. There are no real other design changes to

the building, nor there were any sought. The recessing of the entry to create a better pedestrian scale was already in place. So when we met, when we met on Tuesday with the design staff at Community Development, we made those changes that are asked for. They don't amount to significant changes. There is a communication that arrived late regarding a desire for an easement, a potential easement or some form of access to a community path in the rear of the property. That is, that is simply not feasible. It's -- there's a 15-foot retaining wall behind the property, and there is communication with the City of Somerville that they don't consider this an appropriate location for that.

The property owner doesn't have an objection to exploring opportunities to access the path. It may prove to be a nice benefit to the guests of the hotel. But there is a significant physical constraint that would make that merely impossible to achieve. And there's information from Brad Rawson from the City of Somerville that says they believe there are other opportunities to create a connection between the grand junction and the community path related to the eventual redevelopment of the Sav-More Liquor site, and that it would be premature to create this easement because it is dependent on other easements for the Twin City site which is still speculative.

BRENDAN SULLIVAN: So I guess my question is, is the drawings that are before us reflective of the correspondence or the desires of the Planning Board?

ATTORNEY JAMES RAFFERTY: Yes.

BRENDAN SULLIVAN: They are?

ATTORNEY JAMES RAFFERTY: They are. And they represent a modification of the site plan, not a dimensional change, but the conversion of a planted green area in front of the building, a three-foot strip of planting is now a full sidewalk. And the modification here and the design suggestion is here and it took place for better, to put a, planters in the area where the former green strip was. That's, that -- we had a very favorable meeting with Community Development with the design staff. And as I side -- do you have material?

BRENDAN SULLIVAN: No, I understand that they are design things. And I know what you're saying is that you guys do dimension things, but, you know, we look at the project in toto.

One of the correspondence here, I don't know if all of the members of the Board have had a chance to read this, but staff also encourages improvements to the appearance of the precast concrete columns and partial wall

along the auto entrance where it is most visible from the street. Where the brick and the metal panels meet around the window, the brick reveal will be increased at least four inches to create a shadow line. So there are some architectural features. And I guess my hesitation, as it was, is that we're trying to do this on the fly and we're trying to agree to stuff, and yet it's not on a -- memorialized in a document that I can sign off on if you were to get relief.

ATTORNEY JAMES RAFFERTY: Well, if you feel that way, obviously then we wouldn't pursue the matter. I just want to say that the type of material -- everything you see here was presented to Community Development and they were pleased to see it. In fact, they thought it was quite good in that the rendering didn't quite convey that. But this is, this is all material that is in the -- this is a level of detail, frankly, a type of design detail. At the Planning Board there's often a provision for ongoing design review. We would be happy -- I mean this level of detail, the width of the mullions, that is not typically something I encounter with this Board. In fact, I've heard it said by the Chair that you're not a design board. Our use is what's before the Board. And I'm not suggesting that your purview is that narrow, but the question is the appropriateness of the hotel use in this location and whether or not the design as

presented complies with the design requirements of Special District 1. There's a series of design requirements there, around the amount of glazing, the level of active uses, and all that --

BRENDAN SULLIVAN: All right.

ATTORNEY JAMES RAFFERTY: We feel we've done all that.

Having said all that --

BRENDAN SULLIVAN: I raise that issue because --

ATTORNEY JAMES RAFFERTY: But I want to be candid. I think there is one area that -- one issue that arose late in the conversation and that is this issue concerning a potential easement to provide this access. Now we only learned of that within the last week or two. You know that the project is located slightly more than 50 percent in the City of Somerville. The City of Somerville has granted the zoning relief for the building already. We are attempting to maintain a construction schedule that would allow us to conclude the permitting process by June and to begin the remediation work. The significant environmental remediation required at the site, former uses include automotive repair, car wash, and the like. So it's a lengthy process and I would say that the issue around this easement I don't think -- if the Board feels that's something that

would be appropriate -- frankly, when I saw it, I understood the expression. But I would -- I thought to myself I don't think this Board is in the business of obligating property owners to convey easements. First of all, the easement that would get to this -- the rear of the property is nearly entirely in Somerville. So the notion that an easement to the City of Cambridge or the City of Somerville it's just a little ambitious and frankly physically not appropriate for this location.

BRENDAN SULLIVAN: It's not in our purview.

ATTORNEY JAMES RAFFERTY: Well, that was my sense. But I don't want to do my client a disservice or force the Board -- if the Board -- if the consensus is that additional time is needed, as much as we'd like to go --

BRENDAN SULLIVAN: It was really some of these design elements and the moving of certain things that I really wanted memorialized on a final document that could be signed off and then passed off.

ATTORNEY JAMES RAFFERTY: Right.

BRENDAN SULLIVAN: So that's really where I was going with that.

I don't know, does any member of the Board have a view chiming in on this? You want to go through it?

LAURA WERNICK: Sure, yeah.

BRENDAN SULLIVAN: Yeah? I mean, you've read the Planning Board and -- okay?

SLATER ANDERSON: (Nodding.)

BRENDAN SULLIVAN: All right.

ATTORNEY JAMES RAFFERTY: Okay. As I said, we would --

JANET GREEN: And the issue -- just one thing. The issue of the crosswalk and the pedestrian crossing the street, is it for us or what? Where does that come in?

BRENDAN SULLIVAN: It's a state road.

ATTORNEY JAMES RAFFERTY: Thank you.

We are working DOT. They control the roadway. They control the signal. Neither of the two municipalities do. And we have counsel and we are dealing with the DOT and we're supportive of that. I think it's going to require coordination with Cambridge and Somerville, but the ultimate authority -- the intersection itself, and I don't know if you -- the intersection itself is in the City of Somerville. The vehicular entrance, and we have a single driveway that's in the City of Somerville. It's accessed through an existing curb

cut on the McGrath Highway. There is no question that there is ample opportunity here for pedestrian enhancements. But the thinking at least as expressed to us from Somerville is that needs to be coordinated with the property owner across the street as well. None of this is inconsistent with the hotel use. I think the issues around, you know, adequate ability to maneuver can be controlled on this site by the expansion of the sidewalk. And as I said, an ongoing willingness to explore.

We had a significant -- we have a series of unique jurisdictional issues. We actually have the municipal boundary going through the building in a way that bisects three different rooms on each floor. So there's a special, you can go to sleep in Somerville and wake up in Cambridge without having to leave your bed. And for that room is probably going to be a premium. You might pay more to go to a Cambridge room than a Somerville room. But it's a licensing issue. As you know, hotels are licensed. We're going to need licenses from the licensing authorities in both municipalities.

The alcohol beverage license, the bar and lounge are located in Cambridge. We will need an innkeepers' license in Cambridge for the rooms, they're in Cambridge. We need an innkeepers' license.

We're going to have a building permit from the two cities. At the moment we have a very funny elevation if all we have is Somerville approval, we have a two thirds of facade for you. So, it is, it is a -- there are these challenges.

BRENDAN SULLIVAN: Okay. Good, so you've used up half of your presentation, so go.

ATTORNEY JAMES RAFFERTY: But I will conclude by saying that I'm very respectful of the Board's need to have adequate information and time to make a decision. And if the thinking is that at the moment you don't think that's before you, then I would defer to a continuance.

BRENDAN SULLIVAN: I just want to make sure that the requests from the Planning Board are incorporated in the plans being presented.

ATTORNEY JAMES RAFFERTY: Understood. And I would think that mechanisms exist, including references to the design memo from the Planning Board, that would ensure such that level of detail.

BRENDAN SULLIVAN: Okay.

ATTORNEY JAMES RAFFERTY: We've met with Ms. Suzannah Bigolin, who is the director of urban design, and Stuart Dash and our architect really went through -- we had, as you see, samples. And when they learned that

the applicant developed the AC Marriott Hotel on Route 2 on the Concord Turnpike and also the Fairfield Suites Inn, they were very happy to learn the high level of construction, design, and finish that accompanied both of those properties will be occurring here.

BRENDAN SULLIVAN: Okay. All right.

ATTORNEY JAMES RAFFERTY: Thank you.

So now that we're starting the case, I think, as I noted, this is a proposal to allow for a hotel use on a lot that contains 22 -- excuse me, 15,000 square feet of land area in Cambridge. So what we've done is we've taken the Cambridge land area, we've applied the floor area ratio for the portion of the lot in Cambridge, and we are proposing to construct 22,235 square feet building in Cambridge. Slightly larger building in Somerville. On the Cambridge side of the building there will be 46 hotel rooms. This is called Special District 1. It runs the entire lengths of O'Brien Highway. It has a series of design requirements that are set forth in Section 17. We met previously with Community Development to go through all of the design requirements regarding building facades set forth in Section 17.16. There's requirements associated with the siting of the parking, tree plantings, building facades, the screening of

mechanical equipment.

The plans, the plans reflect that. And all of the provisions of 17.16, the design provisions, are not discretionary, they're required as elements. So the building permit will require satisfaction that those conditions have been complied with.

As I said, we, the applicant, operates a hotel about a few hundred yards from here, the Fairfield Inn, that received a Special Permit three or four years ago was it Christine?

CHRISTINE THOMAS: 2013.

ATTORNEY JAMES RAFFERTY: 2013.

The demand there has been very strong. This is a variation of that. That's called the Fairfield Suites. This is called the Staybridge. The feature of the Staybridge is that it contains a kitchenette and a bit of a seating area.

So Ms. Thomas can walk you through the anticipated business travel. They have a few of these, but it's a popular model.

Interestingly, Ms. Thomas reports that the auto utilization or the percentage of utilization of the parking at the hotel two buildings up is roughly 35 percent. The vast majority of travellers are arriving by cars for hire, taxis, or the

close proximity to the Green Line. The Green Line's going to get even closer to this facility if the Green Line extension proceeds as has been contemplated.

In either event, it's in easy walking distance to the Green Line. And the operator has a high level of confidence that the same type of demand that is being met at the Fairfield will be met at this location. As I said, the current site has a number of limitations. There are two structures on the site, one structure that contained a Meineke Muffler repair facility. The balance of the structure was a pet supply building. The other structure on the site which is located entirely in Somerville, is the car wash location. That has a series of eight stalls.

We have met with representatives of the City of Somerville. There was a public hearing and zoning approval was granted by the City of Somerville of a few months ago. We believe that the purposes of Special District 1 call for such a use. It's identified as allowable by Special Permit. We've set forth in our application why we believe this use satisfies the criteria under Article 10, 10.4 for Special Permits. Its compatibility with surrounding uses. The extent to which that is consistent with the intent and integrity of the district. As I said, there are a couple of -- in addition to the Fairfield Suites, there's a couple of other hotels along Monsignor O'Brien Highway. And there are upcoming anticipated

pedestrian improvements along Monsignor O'Brien from First Street all the way up through Third Street. And we believe that those pedestrian improvements will allow for greater access to the hotel from the East Cambridge residential community.

We have a letter of support from the East Cambridge Business Association that notes that the hotel has been helpful for the businesses, particularly the restaurant businesses along Cambridge Street.

The hotel is a member of the association and actively promotes the local restaurants in the area.

We have met with the East Cambridge Planning Team, and I know representatives are here today and they've sent a communication.

At the end of the day the building itself and the hotel we believe are an appropriate use in this location. We will comply with all of the requirements of Special District 1 dimensionally. And we also will make -- have made the modifications. So there's a site plan in the file now that does reflect that change in the sidewalk. It's not a dimensional change. It's just a determination. It was suggested that the green area in front of the hotel wasn't -- could be better utilized as an extended sidewalk. So that's reflected in the site plan.

And unless you'd like further presentation from the architect or the operator, we'd be happy to answer questions or await comments.

BRENDAN SULLIVAN: Let's get through some of the criteria for the Special District 1.

The following uses may be permitted by Special Permit from the Board of Zoning Appeal, 17.12(a), motel and hotel uses. That's allowed.

The 17.13.1 maximum FAR. The maximum FAR for any lot in the district shall not exceed 3.0 as of right. And 1.50 for all other permitted uses.

You do not exceed 1.50, correct?

ATTORNEY JAMES RAFFERTY: Correct.

BRENDAN SULLIVAN: The building height limitations, the maximum height permitted in the district is 85 feet, and you are not exceeding 85 feet?

ATTORNEY JAMES RAFFERTY: No. We're about 20 feet below 85 feet.

BRENDAN SULLIVAN: Right, okay.

And the minimum yard requirements. Only the following yard requirements shall apply in Special District 1, the front yard, a minimum of three

feet measured from the property line shall be required at the Monsignor O'Brien Highway lot line. And you are?

ATTORNEY JAMES RAFFERTY: We, in some cases we are at three. The balance of the building vast majority is at five.

BRENDAN SULLIVAN: Five. So minimum would be three. You met that requirement. Side yard none. Rear yard none. You do have rear yard but --

ATTORNEY JAMES RAFFERTY: We do.

BRENDAN SULLIVAN: -- but those requirements are met. A building constructed in Special District 1 shall meet the following requirements: Building facades should be designed so as to enhance a visual quality of the district. The following standards shall apply: A principal building entrance shall face Monsignor O'Brien Highway. You comply with that.

Building facades and roof lines shall be articulated in expanses of unbroken wall plains shall be limited to 35 lineal feet for those facades facing public open spaces. You comply with that requirement.

ATTORNEY JAMES RAFFERTY: Probably double that requirement.

BRENDAN SULLIVAN: You're right.

Ground floor levels shall include a 30 minimum 30 percent transparency to enliven and enrich the public environment.

ATTORNEY JAMES RAFFERTY: Similarly, we far exceed that.

BRENDAN SULLIVAN: Tree planting. At least one street tree having a minimum caliper of three inches shall be located in the front yard provided along Monsignor O'Brien Highway for each 25 feet of frontage on the highway.

ATTORNEY JAMES RAFFERTY: They're depicted on the site plan and will be planted.

BRENDAN SULLIVAN: And that you comply with that.
Parking areas shall not be located in the front yard for any lot in the district enclosed -- facilities are encouraged. On-grade open parking shall be located behind the building. You comply with that.

ATTORNEY JAMES RAFFERTY: We do.

BRENDAN SULLIVAN: No refuse storage areas, no mechanical equipment areas shall be located in the front yard within the district. You comply with that requirement.

Mechanical equipment on the roof of any building shall be permanently screened from view from the ground.

ATTORNEY JAMES RAFFERTY: We will. And we gave a presentation about the heating system here. This is a system that will not, it will have modest rooftop mechanicals. They're actually energy -- well, they're called --

JASON DIORIO: Energy recovery units.

ATTORNEY JAMES RAFFERTY: Energy recovery units.
There's four or five of them?

JASON DIORIO: Two.

ATTORNEY JAMES RAFFERTY: Two. And they don't exceed ten feet in height and will be screened.

BRENDAN SULLIVAN: Okay. And you're not doing any rooftop lighting?

ATTORNEY JAMES RAFFERTY: No, no.

BRENDAN SULLIVAN: Thank you.

ATTORNEY JAMES RAFFERTY: That doesn't seem to be popular.

BRENDAN SULLIVAN: The signage will be compliant?

ATTORNEY JAMES RAFFERTY: Yes.

BRENDAN SULLIVAN: And you're not seeking any relief from that?

ATTORNEY JAMES RAFFERTY: We are not.

BRENDAN SULLIVAN: Okay. Nor will you in the future?

ATTORNEY JAMES RAFFERTY: We have no plans to.

BRENDAN SULLIVAN: Great, okay. Anything else to add for your initial presentation?

ATTORNEY JAMES RAFFERTY: No, thank you.

BRENDAN SULLIVAN: Okay, any questions from the Board?

LAURA WERNICK: No.

BRENDAN SULLIVAN: Let me open it to public comment.

ALAN GREENE: How do you want me to do it? Speak from the mic.

BRENDAN SULLIVAN: You can grab a mic if you wish.

ALAN GREENE: Hi. My name is Alan Greene. My name is spelled A-L-A-N G-R-E-E-N-E. I live at 82 Fifth Street in East Cambridge, and

I'm going to be reading from a letter that the East Cambridge Planning Team has written to you all. But I'm first gonna make a comment of my own and then follow the letter by three comments of my own as well, but those aren't from ECBT.

First, I just want to say for the issue of clarity, there is a lot of murky definition of where is Somerville and where is Cambridge? And Mr. Rafferty just mentioned that the pedestrian crossing, which I think is the same pedestrian crossing that I'm going to be talking about in the letter here, he said it was in Somerville. I have a couple of maps here which, at least from the way I read them, where the pedestrian crossing is gonna be, it's biassed towards Cambridge with maybe even in the pedestrian crossing, there might be a small portion being in Somerville, but it's mostly in Cambridge.

ATTORNEY JAMES RAFFERTY: I don't mean to interrupt but I'd be happy to address that factual issue, because --

BRENDAN SULLIVAN: Well, we'll get back to that.

ATTORNEY JAMES RAFFERTY: Okay, because I don't think there's ambiguity.

ALAN GREENE: I also want to say, we the East Cambridge

Planning Team, we've never seen a revised plan, we were only shown the plan on

March 22nd. And everything that I'll say here is in reference to that presentation.

Also with regard to the sidewalk widths, we've never seen a plan to actual scale. There was a bit of confusion between what they were saying and then there was a correction. So I'll try to mention that in the letter as it goes on, but we've never seen an actual scaled drawing of this so we don't really know what the sidewalk widths are as shown.

At the May 22nd meeting of the East Cambridge Planning Team the spokesperson for the Staybridge suites hotel chain, Christine Thomas presented a proposal for a five-story hotel to be located at 263 Monsignor O'Brien Highway. This location is literally on the city boundaries of Cambridge and Somerville. Meaning that part of the hotel structure and its environments will be located in Cambridge and the other part in Somerville. On the one hand, we feel that the structure and environments as presented are in keeping with the use and character of neighboring buildings along O'Brien, and feel that such an use will be an improvement over the current state of the site in question. Nevertheless, we cannot offer our complete support until the following three issues are rectified:

One, insufficient sidewalk width or setback along O'Brien.

Two, lack of a pedestrian crossing on the site of the intersection where the hotel is to be located.

And three, insufficient guarantee that any signage on the hotel will remain discrete, particularly with regard to overly bright and glaring nighttime illumination.

So with regard to insufficient sidewalk width or setback along O'Brien, we were shown a five-foot wide sidewalk along with an appropriate, approximate three-foot wide planning strip making for an approximate eight-foot wide total step back from the highway. Now, I understand there was some confusion. That was actually corrected, and I think that it's now been said it's going to be eight feet with three feet. So I just want to make that change from the letter here.

Rather we feel that a seven-foot wide sidewalk with a five-foot wide planting strip, and by planting strip I mean trees rather than the vegetation against the building that you had shown on March 22nd. So we feel that seven-foot wide sidewalk with a five-foot wide planting strip along Monsignor O'Brien making for a 12-foot wide total setback would be far better as an alternative especially bearing in mind that the sidewalk are in question includes an MBTA bus stop

serving the numbers 80, 87, and 88 bus lines with waiting passengers assembling there. And that is an area shown in their rendering from March 22nd.

There is also no bus pullout at present. Such a pullout should be accounted for in any sidewalk with calculation on a highway like this and it hasn't been. By way of comparison the current sidewalk width as measured at the site is around eight-foot, eight-inches while the sidewalk with nearby Marriott Fairview and Inman Suites on O'Brien have around three inches. And the sidewalk width of the nearby Holiday Inn Express on O'Brien measures about nine-feet, three-inches.

With regard to lack of a pedestrian crossing. We would like to remind you of the very bad conditions that currently exist at the intersection of the McGrath and O'Brien Highway and the entrance to the Twin City Plaza, which, if not rectified, would continue to exist at the entryway of any future hotel at this location. On the site of the intersection that would line up with the proposed hotel entrance, there are no actually markings for pedestrians to cross. Rather there is a dangerous and poorly maintained pedestrian crossing on the other side of the intersection, which is in Somerville, at which drivers turning right out the parking lot at the Sav-More Liquor Store are not watching for pedestrians who

may be on the right as the driver's attention is fixed on predominant oncoming traffic to their left.

As it currently stands, this would also be the case for proposed hotel entrance. Pedestrian crossings that straddle city lines are characteristically abrupt and are further complicated by a lack of communication between city and state administrations. This would seem the perfect occasion to correct the problem as it exists here.

With regard to a lack of a guarantee concerning signs, we were shown a daytime rendering with what appeared to be four unilluminated signs in two corners of the proposed building; three at the top and one at the entrance. As shown, such signage would appear to be discrete. But we were neither given an assurance that this exact signage would be indeed be on the building in its actual constructed state, nor told how such signage would be illuminated at night. Our residential neighborhood, like all others, is sensitive to the risk of light trespass and glare as well as to the health-related problems that newer lighting technologies propose. As some signs are in Cambridge and some are in Somerville, we need to be informed as to what extent these proposed signs will require variances in Cambridge and in Somerville. And if any variances are

required, we need to know why this hasn't been disclosed upfront.

We understand the hotels and motels may have a greater leeway under Cambridge zoning than other uses do. But we ask that such assurance be given that at night such signage will be both limited to and in keeping with what currently exists, whereby Marriott Fairfield Inn and Suites and Holiday Inn Express Hotels. In other words, any range of lighting not being in compliance or is being aggressively pursued by ISD, is not a good road to be taken. There are residents close by, so the lighting should not be a nuisance. Beyond this we are seeking to avoid the creation an urban sprawl-like scenario which could make Monsignor O'Brien Highway look like blighted areas along US-1.

Thank you for the time you've taken to consider our concerns. We look forward to working with you, Staybridge Suites, the City of Somerville, and the Commonwealth in addressing them.

BRENDAN SULLIVAN: Good, thank you.

ALAN GREENE: All right. So that's from ECPT. And I wanted to add some comments of my own which have come up over the last few days, so this is not reflective of the ECPT.

But first I'd like to say that the Board should consider that MassDOT

in its discussion with the friends Of the Community Path have entertained a right-of-way or easement coinciding with or next to the hotel entrance location as part of its proposed alternate route of the community path. We never discussed that with them.

Two, would be as McGrath/O'Brien narrows to two lanes on the Somerville side of the Twin City Plaza/Rufo Road intersection, such a lane reduction could be moved to in front of the proposed hotel location thereby gaining an easy access for a bus pullout and 11 feet more apparent setback for the hotel.

And finally No. 3, as the area in question was originally zoned for housing, the Board should take -- sorry, the -- as the area in question was originally zoned for housing, the Board should take weighing this for a hotel into consideration. And as 20 percent of housing there would be reserved for affordable use normally than perhaps 20 percent of the hotel rooms could be offered at a reduced price and reserved for emergency or urgent crisis lodging as needs. And here I'm reminded of the recent fire that we had where all of a sudden we had hundreds of people I think displaced and living in a shelter.

BRENDAN SULLIVAN: Thank you.

Anybody wish to? Yes.

ALAN GREENE: I have the physical copy of the letter. Would you like that?

BRENDAN SULLIVAN: I have that.

MARIE SACCOCCIO: Good evening. Marie Saccoccio, 55 Otis Street in Cambridge. S-A-C-C-O-C-C-I-O.

As first presented at ECPT, I'm a member of ECPT and a board member. It was a very busy evening. We had elections that evening. We had EF presenting also with Chapter 91. So I mean it was kind of chaotic and very condensed. And not until I left the meeting did I realize that this had to proceed via a Special Permit because it's residential as of right and Special Permit for hotel use. Well, I began to think well, we really need residential. And then I got curious about because this has Somerbridge, and I thought all the renderings said Staybridge. Sure enough, they do say Staybridge. So I mean, I began researching Staybridge and I realized that it really is national. It's a very big entity. And their niche is long-term rental. It's not like an overnight hotel. And they claim to rent up to a year. And even in I think the specs that were presented here, there are things they call studios. There are one bedrooms. There are two

bedrooms with two baths. There are refrigerators and stoves. So to me this is residential and I'm wondering if this is just a very clever way to get out from under the inclusionary zoning requirements and other requirements.

I'm a lifelong resident of East Cambridge, four generations. I've often heard my mother talk about Bridge Street which was the precursor to O'Brien Highway. All that land was taken by eminent domain. They were all residences across the highway where they now want to build. I have long time friends who abut the highway. They have windows facing over there. They would much rather have residences over there. I think, you know, for a Special District 1, the -- for you to agree to use for essentially what is a hotel, I think there should be a profound showing that there's more of a need for a hotel rather than residences. And I'd like to show you -- I mean this is just something I found yesterday. This involves one of the hotels from McGrath Highway. I mean, we could have it admitted into the record. I didn't know about that. That's two weeks ago. There's a big sting for human trafficking. That's what happens when you have moderately priced hotels. We already have two here. We really don't need another one. And I just want to -- my question is when does a hotel stop being a hotel and become a residential rental development? And I mean

they will rent up to a year. They're gonna have a refrigerator and a stove. They have two bedrooms, one bedrooms, and studios, and they describe them that way. So does just the term -- the fact that they've chosen to call themselves a hotel, mean they are in fact a hotel? If it quacks like a duck, walks like a duck, it's a duck. So that's -- it's kind of a -- I think this is a cutting edge issue where developers try to evade the inclusionary zoning.

BRENDAN SULLIVAN: Okay, thank you.

Anybody else wish to speak? Carol?

CAROL O'HARE: I can't beat that. That was a teaching moment.

I know that they comply with signage, but I need to say this to you and to all those in the room. I have been trying to find out whether or not they comply with signage for weeks. They have shown their signs on the plans you've seen. The signs have dimensions. Some of them are in Cambridge and some of them are in Somerville. I called Mr. Rafferty's office a couple of weeks ago and he wasn't there. He was on a well-deserved vacation. And his assistant told me that basically it wasn't -- he didn't have the information. He'd try to find out whether they were zoning compliant.

Cut a little bit to the chase and I called Liza Paden Tuesday of

this -- I spoke to his assistant on Tuesday and then I called Liza Paden at four o'clock and she had just been given the information about the signs at four o'clock on Tuesday afternoon. And you may have her certification, but her certification that they are -- the three signs in Cambridge of the six signs are compliant in every way. This could have been disclosed upfront. There is, as you know, I have been urging this Board and ISD and applicants to make signage information part of the zoning package. And this applicant is very sophisticated. They are part of InterContinental Hotel Group PLGC, Candlewood Suites, Crowne Plaza, EVEN, Holiday Inn, Holiday Inn Express, Hotel Indigo, Hualuxe, InterContinental, Kimpton Hotels, and Staybridge Suites. They're plenty sophisticated. They could have told this Board what the status and me and everybody else in East Cambridge. Are these signs lit? Do they comply with the zoning? Do they comply with Somerville zoning? Just give us a break and tell us upfront about the signage so that you don't waste our time, waste the Board's time, and -- especially if you're compliant tell us upfront.

Thank you.

BRENDAN SULLIVAN: Thank you.

Anybody else wish to? Yes, you.

IAN LEVY: Well, again, I'm going to be brief so as to not waste the time of the Board.

I obviously would like to second everything that was said --

BRENDAN SULLIVAN: Identify your name.

ILAN LEVY: Ilan Levy, I-L-A-N L-E-V-Y. So I would like to speak support all of the points that were made prior to coming here to testify. But I would like to repeat them just to make sure that we are thinking about it. The community path access, something kind of very important. We have more than 50 miles of continuous path that were supposed to, and the only break would just be around the hotel, which is shameful.

JANET GREEN: Can you speak a little slower.

BRENDAN SULLIVAN: She has to be able to write what you're saying.

ILAN LEVY: So I was saying that the community path is the first thing I want to mention. The fact that we have a 50 miles of continuous community path, and the only break is at that McGrath section. And so it would be a shame to have that happen. We should have a continuous path all the way. So it would be great if you could use your leverage to do this at this point.

I would like also to talk about the most important part, which is the housing component. This is actually probably the biggest issue, and something should be done in order to compensate for the fact that even if the hotel was being applied, that the original solution to consider the requirements of the city when it comes to affordable housing, that a medium stay or a long stay hotel like the Staybridge do something to provide either emergency housing or shelter as a compensation. Any original way of thinking about this would be a positive.

I also think that it's actually a negative thing to have -- to keep on buying up hotel on that side of McGrath highway one after the other. It kind of feels a little bit off. So I would also, again, urge the crosswalk as being one of the really important thing -- it's nice to talk about the hotel, but it's nice that it says that people of East Cambridge will be able to benefit of something, but all that the hotel is going to bring people into the East Cambridge neighborhood, but if there is no safe access, it's kind after a moot point. So it's time also to negotiate that part, and if it's not negotiated, than the hotel doesn't make that much sense. So I'll leave it at that for now and other people that want to speak also have their time.

BRENDAN SULLIVAN: Thank you. Is there anybody -- yes.

WIG ZAMORE: My name is Wig Zamore and I live at 13 Highland Avenue in Somerville.

JANET GREEN: What was the name?

WIG ZAMORE: Oh, I'm sorry. Wig W-I-G Zamore Z-A-M-O-R-E. Sorry about that. I'm one house back from McGrath and O'Brien, and we have been trying for the last ten years or so to work fairly closely with East Cambridge when we have time because of the Green Line and McGrath and O'Brien and other shared issues. The boundary here is actually somewhat a figure of convenience. It's actually the middle of the Miller's River, but it's a little bit hard. That's the legal definition, the middle of the Miller's River. It's a little hard to find that currently, but I don't think we have much to dispute. The two communities agree. We miss this in Somerville. This site faces East Cambridge. There's not a lot of Somerville neighborhood around it. We missed it going through the process, so I apologize for that. I am not gonna speak to the use, hotel versus residential, leave that in Cambridge's hands. And I trust that the pedestrian character in front of the hotel will be well taken care of as well.

I mostly want to address as a generalist and somebody who has focussed a lot of time on land use, economic development, transportation policy,

and planning and projects and environmental quality and public health which I had taught for quite a few years at the universities around here, including Harvard both the medical school campus and the main campus. So I've done a lot of formal research on transportation, exposures, and health. Particularly cardiovascular health and also talked bicycle exposure sections of those Harvard courses. I am mostly concerned that we have in the long term great community path connections that are regional as well as local. It's easy for us to be consumed with what's going on in Somerville. And we have great advocates working on the community path and trying to build that last link between the Minuteman and the Charles River Pass that you have so helpfully put a bridge to by getting to Charlestown from North Point. There is a northern strand coming down from Lynn, it will feed to the Mystic River and hopefully at some point match up with the paths in Assembly Square which will get into Sullivan. And then that leaves the grand junction path which I know East Cambridge advocates and the Cambridge Redevelopment Authority have been investing in heavily. That will likely come out near Gold Star Mother's Park and Quincy Plaza. And I think it's important that that path which comes from the Charles River and the BU bridge all the way through MIT and Kendall Square and should be able to get, to

get to connect with these other three paths that that is -- that a way is found to do that for the sake of regional transportation planning and benefit. There's nothing more healthy, more cost-effective for intermediate transportation and active transportation, whether it's walking or biking or so on. So that's what I want to urge you to consider. Not speaking against this project at all, but there are not very many places to cross McGrath at Twin City, and somebody needs to figure out how to do that.

Thank you.

BRENDAN SULLIVAN: Thank you. Anybody else wish to?

LYNN WEISSMAN: I have a handout. I think there are enough for everyone. And there's one more as well to go with those. My name is Lynn Weissman, L-Y-N-N W-E-I-S-S-M-A-N. I am the Co-founder and Co-President of the Friends of the Community Path.

ATTORNEY JAMES RAFFERTY: Can we get an address, please, Mr. Chair?

LYNN WEISSMAN: And --

JANET GREEN: Your address?

LYNN WEISSMAN: My address 112 Belmont Street in

Somerville.

Our group, we started in 2001 and our mission is to -- and I'm gonna kind of go through each of the maps because I really want to put this in context, because this project is right at the node where the community path and the grand junction would meet. It's right, right there. Sorry.

So, and I wanted to just say that this is important. So on the first map you will see the community path, which is in the red and the yellow. And it's connecting there. It will connect to the Minuteman and the Charles River paths making for 48 continuous miles through eleven cities and towns. Why is this important now? Because right there at that blue circle on your maps is where the hotel sits. And that is where this path can meet up at the grand junction path can meet up with the community path. And this is the best location because it is where, it is right before where the Green Line and the community path will touch down to the paths that exist right now at the North Point development that have terminus, a cul-de-sac path at 22 Water Street. They're just waiting for that community path to land there. And we provided two options for where an easement would be. There's just not, not just one on these maps. So, and the first map, you know, I -- you know, we show where the community path is. The

second map shows the connection of the grand junction path to the community path. So if you can imagine adding those two paths together, the community path actually connects Cambridge at the East End to Cambridge at the North End and then continues on out to Bedford. And then over here in East Somerville, the community path could connect and then continue with the grand junction path over through Kendall Square, MIT, and over to the BU bridge which is, you know, another several miles of critical path. So this isn't just -- this is a real nexus. It's not just a place where tourists will go. It's where people will travel.

And I also added a third map which shows the Cambridge feasibility study of the grand junction path that was done in 2014 that shows also the potential for the connection with the grand junction path of Cambridge. CRA has invested in this path. I know there's somewhere there's like \$10 million set aside for the grand junction path. And part of the path is already built from Main Street to Broadway along Galileo Galilei Way. And Cambridge has -- is invested in this path through the feasibility study, through this money set aside for a very good reason, and we really want to connect these two paths. So -- and even if, even if the community path were rerouted to McGrath Highway which is the third map in the handout which is shows that this property is still at that node. And on

the fourth and fifth maps we zoomed in of the state bridge property, and it shows the two opportunities for easements. You know, and they could be seen as one on the Cambridge side. One is on the Somerville side.

The very last map, map that you have shows this project. I think it's a current Zoning Board map, and it shows this map mostly in Cambridge and a little bit in Somerville. We're asking for the project to work with the cities of Cambridge and potentially Somerville to make sure there is a way that this can happen. We only found out about this project on Saturday, but you know, this would be the absolute best location for -- to have an easement for this meeting of paths. And we also had requested widening the sidewalk and improving the street crossing.

So thank you very much.

BRENDAN SULLIVAN: Okay, thank you. Anybody else wish to -- sir.

QUINTON ZONDERVAN: Quinton Zondervan. That's Z-O-N-D-E-R-V-A-N, 235 Cardinal Medeiros Avenue in Cambridge.

I'd like to remind us that we have a climate crisis and an affordable housing crisis. We do not have a hotel crisis. We have plenty of hotels. I too

was appalled to read in the newspapers about human trafficking in Cambridge.

These are underaged girls brought into our city as slaves, and having more hotels

creates more opportunities for that. Having more housing creates more

opportunities for people who live here which is the purpose of the city.

As far as the climate crisis is concerned, half of our emissions that

cause climate change come from transportation. One of the best ways to mitigate

that is to have people riding bicycles instead of driving cars. Now I'm not on a

bike much these days, but I hope to get back to that soon. So I would really like

to see us create this easement so that we can connect these paths. The grand

junction path is very close to my house. I've watched the construction of it. I've

watched the creation of easements along MIT, along the property where the

Kendall Square Cinema is which is very close to my house. So this path is

happening. This is not speculative. It is not something that's optional. It is

happening and we need that ability to connect these pathways together. So since

we don't need a hotel, I think this is an opportunity to consider a little bit of a

bargaining to say well, we can have a hotel, but at least give us an easement so

that we can connect these pathways.

Thank you.

BRENDAN SULLIVAN: Thank you.

Sir.

TED JEGHERS: My name is Ted 820, Mass. Avenue. That's J-E-G-H-E-R-S. My main concern here was something to do with the pedestrian crossings and that sort of thing, but I was concerned whether there's such a thing as a mitigation fees for building a proper bus stop there with a shelter and that sort of thing? And I don't know whether, you know, I haven't seen the plans so I don't know whether they allow for any of that. But I think if you had any control over that, I'd like to see a proper bus stop set up with a shelter and trash barrels and whatever the people need. Because it's a very busy bus stop along with the pedestrian crossing. That's all I have.

BRENDAN SULLIVAN: To answer your question, we don't have any control over that.

TED JEGHERS: All right. Well, I know it's the MBTA's responsibility, it's the state's responsibility --

BRENDAN SULLIVAN: Well, the city has a program with bus shelters that is ongoing. But, you know, people have to understand this is a state highway and, you know, there's nothing we can really do here on that. So we

can't make them do a crossing. We can't make them put in bus shelters and all that other stuff. Our parameters are really quite narrow here. You know, there is an Ordinance and we are bound by the law. And there are three things that we cannot do on this Board is to act arbitrarily, capriciously, or whimsical in any of our decisions. And this is not sort of the art of the deal sometimes either. So, you know? We, we have very little leeway in a lot of this stuff. Otherwise it would be contested and it would be thrown out of court as exceeding our authority. So that's just a little bit of a commentary.

But anyhow, we have no control over the bus stops.

TED JEGHER: All right. Well, that's my -- that's one thing I wanted to bring up.

BRENDAN SULLIVAN: Anybody else?

Sir.

ALAN MOORE: Thank you. Alan A-L-A-N Moore M-O-O-R-E.
I live on Cherry Street in Somerville about a thousand feet from the Cambridge line. I used to live in Cambridge but since this project is Cambridge and Somerville, I hope you see it appropriate to listen to my comments. I had more comments, but noted a number have already been made. I'm co-President of the

Friends of the Community Path with Lynn. So instead of repeating any of those and taking more time, I just like to make a few related points.

To your point about what power or authority your Board has, I'm not familiar with how all the different boards and power in Cambridge work. I just know that, for example, North Point development, however it was permitted is building almost a mile of path through the entire area. 22 Water Street had to build a section of the community path that now ends at a cul-de-sac near the Cambridge/Somerville line that will connect with the community path. And as others have said, the grand junction path, if there's not a connection to the community path, it would be a dead end somewhere in the Twin City Plaza area. So I would like you to perhaps at least consider postponing making a decision here so maybe Cambridge, Somerville, and the advocates for this connection can discuss this with the applicant.

One comment that attorney Rafferty made, apparently Brad Rawson from the City of Somerville who we know, submitted something today, but we haven't seen it, talking about another opportunity to make this connection on the adjacent property in Somerville to the west of Sav-Mor Liquor and other occupants.

That may or may not be possible. It would have the same -- it was a limitation attorney Rafferty made about there is an embankment behind the Staybridge property. There's also the same embankment behind the Sav-Mor property, so whatever engineering challenges that stands in the way -- not in the way, but whatever engineering challenges have to be overcome, as far as I know, those would be the same on both properties. And I do think that the Staybridge property is the best location, like others have said, it's shown on reports on the grand junction Cambridge as well as the community path in Somerville. So to end my request would be if a decision is not being made tonight so that we can continue to try to find a solution here.

Thank you very much.

BRENDAN SULLIVAN: Anybody else wish to speak on the matter?

BETTY LEE SACCOCCIO: **Good** evening, my name is Betty Lee Saccoccio, S-A-C-C-O-C-C-I-O.

I live at 55 Otis Street in Cambridge. And I'm here really to speak against the project. I don't understand why we're here tonight, because this should be something that we're talking about for housing. What I hear tonight is

that the hotel being proposed is studio room, one bedroom, two bedroom, etcetera, whatever. But housing is what it was originally zoned for and what it was originally before eminent domain took it. So I think it should resort back to that. You know, housing is something that the city needs, and especially affordable housing. When I look at this or when I hear about it as the studio, one bedroom, and two bedroom, two bath, whatever, I think of maybe this is just another pitch for some sort of way to get through an airbnb, you know, frenzy that we're having in the city right now. So I really ask the zone -- boarding zone to deny their petition.

BRENDAN SULLIVAN: Thank you.

Is there anybody else who would. I see one more. Okay.

CHARLES HINDS: Yeah, my name is Charles Hinds, H-I-N-D-S.

I live at 207 Charles Street East Cambridge. I'm a member of the East Cambridge Planning Team and what I would like to read a letter from Representative Mike Connolly into the record.

(Reading) Dear Members of the Cambridge Board of Zoning Appeal, I am writing to respectively express my concerns and echo the concerns of my constituents regarding the Staybridge Hotel project, which is proposed

within my legislative district on Cambridge/Somerville line at 263 Monsignor O'Brien Highway. First of all, I ask that you carefully consider the impact that this project could have on the future development of the Somerville Community Path, as well as potential impact this project might have with regards to the Grand Junction Multiuse Path and to the connections that we hope to see forge in the two paths in the future. As a condition of any zoning relief, I ask the Board of Zoning Appeals to require a property easement as needed to the cities of Cambridge and Somerville for the future extension and the connection of these paths.

Second, I ask that you carefully consider the need for improvements on the sidewalks and street crossings in this area and I hope the BZA process will help facilitate these improvements.

Third, I ask that you carefully consider signage and illumination that is proposed for this project to ensure the developers require to adhere to the best practices and all applicable regulations and Ordinances.

And finally, given the somewhat unique nature of Staybridge's business model, I would like to suggest that the project be analyzed with respect to the City's inclusionary housing standards. According to the application, the

proponent plans to produce 120 dwelling units. As I understand it, Staybridge units are intended for extended stay occupancy adding longer for a period of time in a usual traditional hotel, but shortest time frame compared to traditional rental housing. Therefore, I think it would be helpful to look at this project in the terms of the City's provisions the 20 percent affordable housing and new developments. That would mean that 24 of these units could be set aside perhaps for emergency shelter for homeless families in our city or as affordable housing for people of low to moderate incomes. Alternatively you may wish to consider the monetary value of 24 new affordable units in our city and then use that figure as a starting point as a discussion with the developer.

Thank you for attention to this matter. Sincerely, Mike Connolly,
26th district Middlesex, Cambridge, and Somerville.

BRENDAN SULLIVAN: Thank you.

CHARLES HINDS: And I also have a couple of personal comments. I do support these two letters from the East Cambridge Planning Team and my comment. They have a letter of consistent themes, including the writing, pedestrian crossing, affordability component, Community Path, the setbacks, and the need for another hotel and low cost hotel in East Cambridge.

Reiterate with the setbacks. Originally there was some confusion at the meeting.

Well, first at the planning team meeting, I don't remember hearing any of the Special Permit. So that wasn't brought up in any discussions. I just found out about that from Marie recently. The original setbacks they said were five foot for the sidewalk and three foot planking, which is eight foot revised to eight-foot, three. What we really need is a seven-foot space for trees and five-foot sidewalk.

As you note, the City of Cambridge has put a lot of emphasis on protecting and priming the tree community. And I think the seven feet space for the tree is necessary to allow the tree to mature and have room to grow. And a lot of these problems we're having is the setback properties are right on top of the sidewalk. There's not enough room for the tree to grow, it doesn't get light, water, and it dies. So I think that's -- whatever goes there, I think it needs that setback.

Thank you.

BRENDAN SULLIVAN: All right. Thank you.

Is there anybody?

(No Response.)

BRENDAN SULLIVAN: All right, let me close the public in

attendance out of this.

There is correspondence from Nathaniel Fillmore, 13 Marcella Street, Cambridge Bicycle Safety. Writing in regard to the Staybridge is crucial to not allowing any construction to preclude the connection of the Community Path. Asking that you require the Staybridge property applicant to revise plan, make provisions for the future connection to the future Grand Junction Path.

There is correspondence from Cambridge Planning.

CAROL O'HARE: Could you speak into the mic?

BRENDAN SULLIVAN: Planning Board reviewed the BZA Special Permit for the hotel use. The Planning Board does not object to the use of the Special Permit, and asked that Community Development design staff to review the design. Clarifications on design, details, and make suggestions to improve the design. Staff met with the applicant on Tuesday, 4/25, with the following results: The applicant confirmed that the project is being designed to meet the requirements of LEED Silver. The applicant presented a material board which clarified and settled issues about the rendering, particularly board members concerned about the suggested high color contrast between the materials. The materials are suitable for the type of construction. Staff also encouraged

improvements to the appearance of the precast concrete columns. Also the applicant will study use of framing elements around all vertical window groupings as a way to provide additional interest and depth across the facade.

The pedestrian entrance on Monsignor O'Brien Highway will be emphasized and given greater prominence by recessing the entry to create a better pedestrian scale as well as weather protection. Provisions of windows in the stair adjacent to the pedestrian entrance was also suggested by staff on the easterly side of the lobby.

Where the eating areas proposed, the applicant is exploring creation of outside terrace with doors opening onto that area and outdoor tables and chairs. The Monsignor O'Brien Highway will be widened with the removal of the landscape along the building facade to allow more space for the street trees as well as pedestrians. Planters around the pedestrian entrance will replace the landscaping. This is similar to the existing Fairfield Inn on Monsignor O'Brien Highway.

Where possible the tree pits will be lengthened to increase the soil for more successful tree growth.

There is a letter from the East Cambridge Planning Team which Alan Greene read into the record.

There is correspondence from Joseph Barr. He's the director of

Traffic, Parking and Transportation, addressed to Susanne Rasmussen and Bill Dagnon (phonetic). (Reading) For your information, I just talked to Brad Rawson from the City of Somerville about this. He had tried to call Taigan (phonetic), but then called me when he didn't reach her. He wanted to make sure that we are aware that the City of Somerville does not support the request from the Friends of the Somerville Community Path and is supportive of the hotel project moving forward as approved by their Zoning Board. He indicated that Somerville remains fully supportive of the Community Path and the Grand Junction Path but does not believe that this is the right opportunity to attempt to create this connection, particularly given their overall support for the hotel project, which has financial and economic development benefits for Somerville. They believe there will be other opportunities to create a connection between the Grand Junction and the Community Path particularly related to the eventual redevelopment of the Sav-Mor Liquor site. And also that it may be premature to create this easement because it is further dependent on the creation of an easement or other legal access through the Twin City site which is still speculative at this point. As a result, they are not supportive of this proposed alignment and easement and are not requesting that the City of Cambridge or the Board of

Zoning Appeal take any action. Just to be clear, I'm just passing this information along at Brad's request.

There are a couple of other letters here that were basically requests that we consider the connection of the Grand Junction Path and the Community Path extension. And there was a letter in the file from City Councillor Toomey, Cambridge City Council. (Reading) Board of Zoning Appeal, Dear Members of the Board, I am writing to lend my support of the application of Somerbridge Hotel to construct a hotel on O'Brien Highway. The applicant has proven themselves as a responsible operator with other properties in the immediate area. Their existing hotel is a benefit to nearby businesses. Their new hotel will provide additional benefits for local businesses and enliven the streetscape along O'Brien Boulevard.

Thank you for your consideration.

And correspondence from Ms. O'Hare regarding the lighting.

And I think that's the sum substance of correspondence.

One question, you did receive a Variance or a Special Permit from --

ATTORNEY JAMES RAFFERTY: Variance.

BRENDAN SULLIVAN: Variance from Somerville. Were there

any requirements attached to that?

ATTORNEY JAMES RAFFERTY: I have a copy of it here. I will....

BRENDAN SULLIVAN: Anything that pertains to Cambridge?

ATTORNEY JAMES RAFFERTY: No, nothing relative to Cambridge. And now we're not dealing with an enlightened a body admittedly, but there weren't any conditions. I'm looking upon -- to find. I have a copy of it, about no, there were no --

SLATER ANDERSON: What was the nature of the Variance?

ATTORNEY JAMES RAFFERTY: The Variance was related to height and setback, and I believe parking. Oh, thank you. Here's a copy of the Variance, the decision, if you want a copy for the file if you like.

BRENDAN SULLIVAN: And your experience with Somerville?

ATTORNEY JAMES RAFFERTY: I have such affinity for this Board, I don't leave Cambridge. Another attorney handled that in Somerville.

BRENDAN SULLIVAN: That's enough. Thank you.

So anyhow, any questions from the Board?

JANET GREEN: I had a couple of questions.

ATTORNEY JAMES RAFFERTY: Could I be permitted,
though --

JANET GREEN: Yeah.

ATTORNEY JAMES RAFFERTY: I apologize. There was a significant legal or factual statement here that was simply inaccurate that led to an entire line of argument that suggested that the decisionmaking for the Board here somehow involved whether or not this should be a housing use or a hotel use.

And what was just factually completely incorrect was the suggestion that this is a residential district and that the Special Permit is needed in order to have the hotel.

And while the Special Permit for a hotel use is required, right before the Chairman in the first page, Special District 1 has as its base zoning Industry A-1.

All of the uses allowed under Industry A-1 are permitted here as of right, including offices and lavatories, retail uses, and nearly every light industry use, manufacturing use contained there. All of those things wouldn't require the applicant to appear here. So to set up a dynamic here that suggests that there's a burden on the part of this petitioner to demonstrate why this Special Permit should be granted rather than make the use housing, housing is an allowed use.

There are a range of allowed uses. This is a light industry district, but yet

speaker after speaker based an argument on the fact that this is a residential district. That is simply factually and legally incorrect. And the language of 17.11 makes that clear. So I just wanted to clarify that. Because it is not before the Board tonight as to whether or not the Board would prefer to see housing at this location or somehow the applicant needs to demonstrate that the hotel use here is preferable to a housing. That isn't the analysis for the Board. The analysis for the Board. As the Board well knows, is set forth in Section 10.43 and has everything to do with the compatibility of this use. And we've set forth in our application the -- and we've addressed each of the criteria about whether or not we will create patterns of egress that will create congestion or harm or whether the continuation of allowed uses. And that would include everything from auto repair stations and gas stations that are on the site that would be adversely affected. Or whether a nuisance or hazard would be created by a hotel at this location.

So if there's a finding by the Board, and if the evidence before you doesn't allow you to conclude that, then there is an inference that the Special Permit should be granted. So in this case the use, we believe, is highly appropriate. There are similar uses on both side of the highway. And the issue

that we think is relevant to the Board is simply related to the appropriateness of the building and whether it complies. The first test under the Special Permit application, whether the requirements of the Ordinance can or will be met. And as the Chair noted at the outset, all of the dimensional requirements and the design requirements in Special District 1 has design requirements over and above the base zoning here. Every one of those is being met. So I would say the applicant has met its burden here. I'm happy to answer any questions. But we sat for a while and listened to an argument that suggested that this, somehow the zoning here was residential-based zoning. That is simply not the case. And the burden before -- facing this applicant is not to demonstrate to this Board that a housing use is preferable or a hotel use needs to compete with that.

Finally, I want to make clear and maybe Ms. O'Hare helped me, Ms. Thomas operates a -- her company is in the business of building and operating hotels. I hate to kill a great conspiracy, but the notion that this is some attempt by a multi-family developer to evade the affordable housing requirements is patently absurd. This doesn't, this -- there was a reference by the letter from the State Representative that made reference to dwelling units. There is no mention of dwelling units in the application. In fact, if you look at the

dimensional form that asks for the number of dwelling units, it says "N/A." It's not applicable. These hotel rooms don't meet the Building Code definition of dwelling units. It's 120 room hotel. That's what's stated in the application. There are hotels like this. If you look at the floor plan, every hotel room, and I stand to be corrected, is identical. There's no two bedrooms. There's no two baths. There's a single hotel room. It has a kitchenette and it has a seating area. And it's a very accommodating -- it works well for families on weekends. And my client operates several under this particular flag or brand and it occurs across the spectrum. So the idea that this is a ruse to get around affordable housing, I simply needed to address that as absurd.

BRENDAN SULLIVAN: Your question is?

JANET GREEN: My question, actually I didn't hear people doing that. What I did hear, though, was what the relation is between a long stay hotel and the inclusion of zoning. And wonder -- and I was going to ask the Chair if there is that relationship or if we consider that relationship?

BRENDAN SULLIVAN: There is none in a word. I mean, there is not. It's two totally different entities, I guess.

JANET GREEN: So that those -- while those comments are

probably important for people to be considering, that's not relevant in this case. I think that's important.

BRENDAN SULLIVAN: It is not.

JANET GREEN: Okay.

And my second is something that Mr. Rafferty addressed earlier that this Board was not, not in the business of creating easements. However, I think it would make sense for this hotel to recognize the concern that so many people have about being able to connect these pathways. And I'm not sure what Somerville meant that it was more appropriate in another area, but I think you should take that seriously as you become a member of the Cambridge community, and you already are actually, so you know how much these things are valued here and it's one of the reasons that people like to come here. So I would just say that even though it's not in the purview of this Board to create an easement, you might consider as a member of this community or take that seriously. That's what I would say.

ATTORNEY JAMES RAFFERTY: And Ms. Thomas, we did discuss this and she'd be happy to address that. And I think the benefits and advantages of the path, in addition to the community as a whole, that would be a

welcome amenity for the hotel. The hotel recognizes that. And Ms. Thomas's position is they will work and cooperate and advocate and attempt to find ways to make that happen. They have bicycle sharing at the current hotel. They'll have it here as well. Bicycle traffic is an appealing thing. So there is this significant physical limitation with regard -- I don't know if that embankment issue continues down the road. It's certainly an issue, and we're prepared to state that the property owner is prepared to work on and explore and see in what ways they can facilitate or and try to effectuate those kind of connections.

JANET GREEN: Thank you.

BRENDAN SULLIVAN: Laura, did you have any questions at all?

LAURA WERNICK: No.

SLATER ANDERSON: I think that the --

CAROL O'HARE: Could you use the mic, please?

SLATER ANDERSON: Yeah, sorry. Sorry. The, you know, looking at the approval criteria, it does address sort of this -- the element of continuity with the area and perceived development. It gets into the urban design objectives. It refers to an additional section. I mean, I totally agree with what was said and what you guys have said, that we're not, we're not here to make

easements, but we think that good neighbors being good citizens of the City and working together is an important element. So your representations of being willing to continue that are important, and I think the record should reflect that.

One clarification, I would say that, you know, passion defense of this hotel use being appropriate, and I don't disagree with that in the A-1 Zone. Residential is a permitted use in the A-1 Zone.

ATTORNEY JAMES RAFFERTY: Yes.

SLATER ANDERSON: We're in agreement on that.

ATTORNEY JAMES RAFFERTY: No question. With a range of other questions.

SLATER ANDERSON: Totally understood. I want it to be clear to the audience that residential is permitted. It's not prohibited in the A-1.

ATTORNEY JAMES RAFFERTY: Of course not. I was responding to the argument that there was somehow a burden on the part of the applicant to obtain a Special Permit in the context of what is a residentially-zoned area to operate a hotel. And that simply isn't legally or factually accurate. It is zoned industrial use. And as I said, yes, residential is -- but one can make the same argument that -- the range of -- the point that we're trying to make, and there

was some suggestion in the prior case, the range of allowed uses here is part of the analysis for the Board in applying the 10.43 criteria under the Special Permit. So this use and its compatibility with surrounding uses as opposed to a range of other uses, residential only being one of them and being one of the smaller ones, is the criteria by which you need to make the evaluation under 10.43 and that was the point I was trying to make.

BRENDAN SULLIVAN: Okay. Anything else to add?

ATTORNEY JAMES RAFFERTY: No, thank you.

BRENDAN SULLIVAN: Oh, I'm sorry. Are you done or anything else?

SLATER ANDERSON: No, that's it.

BRENDAN SULLIVAN: No? Okay.

ATTORNEY JAMES RAFFERTY: No, thank you.

BRENDAN SULLIVAN: Anything else?

Shall I make a motion then?

Let me make a motion, then, to grant the Special Permit for the construction of the Staybridge Hotel, LLC at 263 Monsignor O'Brien Highway as per the application.

The Board finds that all of the criteria Special District 1, 17.12 under the permitted uses and the dimensional requirements and other requirements have been met in this application.

The Board finds that the Special Permits will normally being granted when it appears that the requirements of the Ordinance can be met.

The Board finds that traffic generated or patterns of access or egress would not cause congestion, hazard, or substantial change in the established neighborhood.

The proposed use will be located on a highway and will only be accessed from the highway.

The continued operation of or development of adjacent uses as permitted in the Zoning Ordinance would not be adversely affected by the nature of the proposed use. The two hotel uses in close proximity -- there are two hotels in close proximity to the site.

The site is abutted by a manufacturer and retail use. None of these uses will be adversely affected by a hotel use.

There would not be any nuisance or hazard created to the detriment of the health, safety, and/or welfare of the occupant of the proposed use or to the

citizens of the city.

The Board finds, and the presentation is that the hotel will be operated in accordance with all applicable health, safety, and licensing requirements.

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

Again, the Board makes note of the Section 17 of the Special District 1 requirements.

The Board also finds that this use will replace a former car wash and warehouse with a well-designed building that will provide much needed accommodations for people visiting Cambridge in this section of the city, that is being in the middle of being transformed from industrial to mixed use residential.

And that the work be in compliance with the submitted plans and --

ATTORNEY JAMES RAFFERTY: And I just want to note this set shows the revised site plan if you wanted to offer that. That's the one that --

BRENDAN SULLIVAN: And the plans and dimensional forms as submitted with the application and initialled by the Chair.

All those in favor of granting the Special Permit?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Green, Anderson, Wernick, Best.)

ATTORNEY JAMES RAFFERTY: Thank you very much.

* * * * *

(10:55 p.m.)

(Sitting Members Case BZA-012741-2017: Brendan Sullivan, Janet Green,

Slater W. Anderson, Laura Wernick, George S. Best.)

BRENDAN SULLIVAN: The Board will hear case No. 012741,

35 Standish Street.

Whoever is going to present, please, clearly name address.

RICHARD BERNSTEIN: Sure. My name is Richard Bernstein, B-E-R-N-S-T-E-I-N, 988 Washington Street in Gloucester. I'm the architect for the project.

DOUGLAS BROWN: My name is Doug Brown. I live at 35 Standish Street in Cambridge. I'm the owner and resident of the house in question.

Thank you. We'll go as fast as you'd like us to go. I know it's a long night. So we have our proposal today. Richard's going to walk you through that. Before he does that, I'll just give you a little bit of background.

We bought the house about five years ago. We've lived there ever since. We like the neighborhood. We like the street. We hope to stay. We get offers every day to sell it, but we're happy where we are. We need a little bit more space. We have three kids and they're getting bigger by the day.

Before we talk a little bit about what we're proposing, these are just some additional stuff to submit that I got today. So this is a letter that came in from my next-door neighbor as of today. A letter of support. And I don't know

who I give that to.

BRENDAN SULLIVAN: Yeah, you can give that to me, Doug.

DOUGLAS BROWN: And then this is a letter of support. We reviewed the plans. We support this request, and it's signed by as many neighbors as I could track down. There's been 13 on the list.

Now I'll turn it over to Richard to talk a little bit about what we're proposing.

RICHARD BERNSTEIN: The house on Standish Street. These are the existing conditions. Existing two-family, circa 1920, one of five houses in a row. This is interesting. The Variance is for a FAR. We worked very hard to stay within all the other dimensional requirements. And the FAR is actually at the average of the neighborhood which we've documented here.

The proposal is to convert a two-family -- existing two-family into a single-family home for Douglas Brown and his wife and family of three kids. We made a strong effort to pick up on traditional styles in the front, which we think is evidenced in the design. Here are some of the references we've used.

The proposal has a great improvement to the open space and green space. This site plan shows the existing asphalt parking of the two-family. This

site plan shows the proposed landscaping and patio.

The addition includes removing what is a two-story addition in the back. So what's in red is the existing floor area. And what's in yellow are the proposed additions. We maintain the traditional profile. These are the floor plans which, again, show what's existing and what's proposed.

In all cases it's the minimum that met their requirements as a family. And the Special Permit that we're seeking, the one elevation is within the seven-and-a-half foot setback. So we've indicated the red windows are the existing compared to the proposed, again, in keeping with the general style. And these are front and back elevations.

BRENDAN SULLIVAN: The thing that got my attention is that you're already over the FAR allowable, and you're basically increasing the house by 25 percent which is, it's a big ask.

DOUGLAS BROWN: Yes.

BRENDAN SULLIVAN: A very big ask.

DOUGLAS BROWN: We recognize that.

BRENDAN SULLIVAN: It's really stretching the limits here for what the Board has granted. It's an existing two-family. Do you live in both or

one?

DOUGLAS BROWN: One. We live in the larger unit upstairs.

BRENDAN SULLIVAN: Upstairs.

And so the question I had is that you're taking a two-family, taking over the entire house and yet adding 25 percent to it. And that sort of, you know, and it's the mass, it's the bulk. You know, you're really pushing out and so on and so forth. And then reading some of the pleadings, we are seeking an increase in floor area to meet the needs of our growing family. We wish to enhance the appearance of the house and correct current structural and building code deficiencies, including a substandard foundation -- inadequate foundation -- I'm sorry, inadequate ventilation, out of dated, inefficient electrical and heating systems, low ceiling heights, poor basement drainage, steep stairs that are not up to code. I mean, you can do all those things without adding 25 percent to the house. And, you know, the district is a 0.45. You're at 0.48 now and you're going to a 0.6. And I know also in your pleadings you're saying that, you know, your -- other houses are greater than yours, but those are all built probably prior to zoning or maybe didn't get any relief from this Board. And that also as far as the hardship is that you're -- the lot's narrow width, 46 feet, which is, again, what it

was. High water table imposes limits on the location of any expansion. That doesn't really answer what the hardship is. You know, it's a non-conforming lot and you're over the FAR to begin with. So that's a tough hurdle for us to get over especially when you want to add 25 percent.

So then focusing in on the dormers, I had a little bit difficulty when I saw some of the elevations. They mostly comply with the guidelines. They don't in all respects. And if you go to sheet A4 -- well, I'm sorry, let me back up. Sheet A3. Maybe I read this a little bit quickly. And I'm looking at the east elevation which is the top, right-hand corner.

DOUGLAS BROWN: Yeah.

BRENDAN SULLIVAN: And I see that, that the dormer comes down in line with the outside wall on the left. And then on the right it seems to come down and line up with the wall on the outside?

RICHARD BERNSTEIN: That's correct. That's to conform with the setback requirement. Because wherever we could make the proposal conform to the zoning we did. Every effort.

DOUGLAS BROWN: Just to clarify, the dormer to the right lines up with the outside wall of the existing structure. The dormer on the left lines up

with the wall of the addition.

BRENDAN SULLIVAN: Okay, what the dormer guidelines call for is that that gets pulled up, one-foot, six and it not go to --

SLATER ANDERSON: I think there might be a stairwell there.

RICHARD BERNSTEIN: There is a stair, and in fact the current stair does not meet Building Code. You hit your head, and is actually quite dangerous. And this, again, is the minimum construction that satisfies the Building Code and their use of the, of this space.

BRENDAN SULLIVAN: Okay. I'm looking at the west, which should be the opposite, and I see this back in here.

SLATER ANDERSON: Which is the other side.

DOUGLAS BROWN: We, we look at the --

RICHARD BERNSTEIN: This is the stair that comes up.

SLATER ANDERSON: Yeah.

RICHARD BERNSTEIN: And we looked at the guidelines very closely and brought it down from the ridge and looked at -- I specifically looked at that dormer and realized that because of the stair clearance, it was just impossible to match it there.

LAURA WERNICK: So is the stair existing or the stair is the
stair --

RICHARD BERNSTEIN: The stair is new. We're also working
within the constraints of the geometry. This is a renovation.

LAURA WERNICK: Right.

RICHARD BERNSTEIN: They're going to be maintaining the
structure of the house. So we had to work within it. And with the configuration
of the bay at the dining room to maximize -- to get as much flexibility in layout,
but it was the --

DOUGLAS BROWN: One thing is that if we were to put the
dormer where the stairs are today, we would not conform with the dormer
guidelines.

LAURA WERNICK: How do you get up to the attic now?
DOUGLAS BROWN: A staircase that you duck your head and
bang it.

LAURA WERNICK: Does your tenant use the attic?
DOUGLAS BROWN: I use it. My kids are up there.

LAURA WERNICK: Okay.

DOUGLAS BROWN: Yeah. And so when I carry them up to bed, I have to kind of duck my way up. But if I were to dormer that and leave the stairs in the same place, I would not be matching the guidelines because it needs to be in the center.

LAURA WERNICK: Right.

RICHARD BERNSTEIN: The existing stairs in the two family are servicing both units. There's a private entry to the second floor. A back stair. This is a stair appropriate for a single-family home.

DOUGLAS BROWN: The other thing I just wanted to touch on is I -- we understand that the FAR increase and the square footage increase is significant as you mentioned, just under 40 percent of that is actually in the attic.

LAURA WERNICK: That's what I was going to say.

DOUGLAS BROWN: And that is for a couple of purposes: One, is to make room for the stairs.

One, is to make room for the bathroom because we're sharing one bathroom, like, all of the family.

The other is that what we have in the front and the back is a flat roof and it doesn't shed snow and ice. We get snow and ice falling on the cars and

damaging them. And we've also been told by the next-door neighbors that their older kids climb out onto those flat roofs. So we are not adding the peaked roof in the front and the back because we need that extra space up there. We're adding it actually because we think it looks better and because it's more functional.

JANET GREEN: So when you have one bathroom, but you're going to make it into a one family?

DOUGLAS BROWN: Right.

JANET GREEN: There's no bathroom on the first floor unit?

DOUGLAS BROWN: There's a small bathroom in the first floor unit and a small bathroom downstairs. We obviously -- my family just uses one of those.

JANET GREEN: But you'll be using two? I mean, or -- you're not making this into a single-family?

DOUGLAS BROWN: We are.

LAURA WERNICK: They just have a little tiny bathroom on the first floor.

JANET GREEN: Yeah. So you'll have a bathroom --

RICHARD BERNSTEIN: This will be the guest bathroom upstairs and the playroom. So there's a, there's a master bathroom and a kids' bath on the second floor.

JANET GREEN: Yeah. No, I'm just trying to understand that. You actually will have a great deal more space now because you'll have the first floor?

DOUGLAS BROWN: Yes.

JANE GREEN: And then --

DOUGLAS BROWN: Yeah, and that's part of the plan.

RICHARD BERNSTEIN: And it's a configured traditional single-family home with the dining room, living room --

DOUGLAS BROWN: Living room, dining room, kitchen, and family room.

JANET GREEN: Right.

LAURA WERNICK: There does seem like there are ways that you could gain another bathroom or enlarge the bathrooms that you have on the lower floor and not have to do your attic space.

DOUGLAS BROWN: Except that there's really nothing in any of

the bathrooms that could be saved. I mean, we've had major water intrusion and, you know, there's no --

LAURA WERNICK: But your floor plan -- okay, on your floor plan, on your A2 floor plan, the two existing toilet rooms, are those no longer there on your first floor?

DOUGLAS BROWN: Well, it's a full gut renovation. I mean there's not --

JANET GREEN: No, but existing now.

RICHARD BERNSTEIN: There's one bathroom per floor.

DOUGLAS BROWN: There's one bathroom on the first floor and one bathroom on the second floor currently.

RICHARD BERNSTEIN: These are all --

DOUGLAS BROWN: These are the proposed.

RICHARD BERNSTEIN: Renovation plans.

LAURA WERNICK: A2?

DOUGLAS BROWN: Yes.

RICHARD BERNSTEIN: A2 are the proposed plans.

LAURA WERNICK: Okay. And I'm seeing two toilets there.

DOUGLAS BROWN: Yep.

RICHARD BERNSTEIN: That's correct. There's two bathrooms on the second floor.

LAURA WERNICK: On the first floor plan there's shown --

DOUGLAS BROWN: There's two half baths.

LAURA WERNICK: Two half baths?

DOUGLAS BROWN: One in the front and one in the back.

LAURA WERNICK: Right. And you're doing a total gut renovation. You can easily make the one in the back the larger -- a larger toilet. I'm just looking at ways you can reduce your square footage.

RICHARD BERNSTEIN: Well, there is also -- a big driving force in this project was the's aesthetics of the house, and picking up traditional details. And one of the things, many houses will have the balance of having a pair of dormers. And there's also the very real need that given the configuration of the attic space as a Home Office and playroom, that the bathroom was -- not only created a balance, it created convenience of having a bathroom there. So that's --

DOUGLAS BROWN: It was also structurally --

LAURA WERNICK: It is, you're adding extra space for

convenience?

RICHARD BERNSTEIN: Yeah. I mean we could give up -- if we wanted to reduce the FAR, I think we can give up this extra attic space which really was solely added for the aesthetics of fitting this into the neighborhood. And if, I actually think it would be a loss. When you're on the street, because this gable is set back, not only the dangers of what this neighbor, and this single-family, it appears to be a flat roof. You have to get well back before you see the gable. So if I bring it forward -- and this, again, this extra FAR, and it is almost 40 percent, can be eliminated but I think that would be actually more detrimental.

DOUGLAS BROWN: What we read in the -- the house next-door which was renovated in 2005 and it needed a Special Permit, so they were before you. And what was on the testimony was that what they were proposing was by-right. They enclosed as much as they possibly could by-right. They needed to relocate the windows. But the testimony that we read said that in general the Board didn't like the look of their house. They didn't like that it sort of just looked like they enclosed everything.

BRENDAN SULLIVAN: Well, it's massing, it's bulk.

DOUGLAS BROWN: Right.

BRENDAN SULLIVAN: You know. And it --

RICHARD BERNSTEIN: We worked very hard to make it fit
into the neighborhood.

BRENDAN SULLIVAN: I mean I can understand dormers
because people are obviously trying to capture some of that space up in an attic.
It's the back addition part. Well, all of a sudden we're starting to, this balloon
starts to push out a bit.

DOUGLAS BROWN: Yeah. I mean the room that we have in the
back right now is only about seven and a half feet wide.

BRENDAN SULLIVAN: And those were porches that were
enclosed at some point?

DOUGLAS BROWN: Yeah. They were in the sixties.

BRENDAN SULLIVAN: Yeah. Again, very traditional. Very
typical.

DOUGLAS BROWN: But they don't serve as a -- like, you can't
really -- you can't even fit a bed in that room.

BRENDAN SULLIVAN: Yeah.

DOUGLAS BROWN: So we can't get that other bedroom there.

So what we did was added --

BRENDAN SULLIVAN: Those areas became catchalls.

DOUGLAS BROWN: Yeah. So it's our combination mudroom, office, storage area. So what we're proposing here is to actually be able to treat that as a standard room. It's not a real big room that we're proposing. I think it -- on the second floor we're adding, is that six feet?

RICHARD BERNSTEIN: Approximately, yeah.

DOUGLAS BROWN: Here.

BRENDAN SULLIVAN: I notice that there's also a garage and there is no drawings. There's a notation on there, there was a size, but I'm assuming that the garage is as of right?

DOUGLAS BROWN: Yes.

RICHARD BERNSTEIN: Yes, it is.

BRENDAN SULLIVAN: So that it does not exceed 15 feet in height and the setbacks are five feet and five feet?

DOUGLAS BROWN: Yes.

BRENDAN SULLIVAN: Okay.

And there's an exemption for one car and you're going to have some bicycle storage there or something?

DOUGLAS BROWN: Yes, there's only one door.

BRENDAN SULLIVAN: Okay. So our relief is not for the garage --

RICHARD BERNSTEIN: That's correct.

BRENDAN SULLIVAN: -- because that's not accentuated fully?

Okay.

JANET GREEN: So you made a decision -- because the houses are all the same except what your house will be is much bigger looking from the road?

DOUGLAS BROWN: Well, we don't -- I mean, the one next to us that you can see that's under renovation currently. We're not quite sure what that's going to look like when they get done with it. They've been at it for quite a while.

JANET GREEN: It doesn't look like they're doing -- I don't know what they're doing. But I'm mostly commenting on, there's how many houses in a row that are the same, right?

DOUGLAS BROWN: Well, they're not the same anymore. There
are five in a row --

RICHARD BERNSTEIN: Yeah, they've been added on to and
enclosed. The one next to it is a single-family and in fact they --

JANET GREEN: The one in the shadow?

RICHARD BERNSTEIN: The one in the shadow. They filled in
the entire second floor -- the first floor porch except for the small entry, and we've
picked up that pattern. In fact, we have a bay to break up the massing. And,
again, the appearance when you're on the sidewalk, it's actually odd not to see the
gable. That in fact it almost feels more dominating like a triple decker or
something. So we worked very hard to make it fit into the context of the
neighborhood.

BRENDAN SULLIVAN: All right, any questions, George or
Slater?

SLATER ANDERSON: No.

BRENDAN SULLIVAN: Laura, any questions?

LAURA WERNICK: No.

BRENDAN SULLIVAN: Janet any?

JANET GREEN: I really don't like it. But I don't have a specific -- I mean, I just -- it seems so different from the other houses and I -- it's really hard to understand how you have a growing family so you need to have 25 percent more. So it looks like you're making a much bigger house than really is consistent within the neighborhood, the neighborhood look. And maybe that's because this picture doesn't show it very well.

RICHARD BERNSTEIN: Well, I think it's -- if I can just say, that we looked very hard at the context. This is a house right down the street. A certain style of two-and-a-half-story houses, and these are other examples. So that in fact it, a lot of times comes -- the gable usually comes out to the front and lower floors and the second and the first are set back. And this is really quite articulated -- you can only represent it a certain way in drawings. But as you look around, we did a lot of looking -- a lot of the houses actually project forward with porches and entry porches. So this certainly is the neighborhood. It's also a neighborhood.

JANET GREEN: You mean they add -- they come forward like your design does?

RICHARD BERNSTEIN: Exactly. Well, some have porches in

front of the gable, the mass of the house. There are many houses that are triple deckers which are far more massive than the articulated single story. So....

DOUGLAS BROWN: Yeah, the immediate, the immediate abutters' average FAR is 0.8.

BRENDAN SULLIVAN: It's a eclectic grouping of houses, Standish, you know, Chilton, Fayerweather, Granville. Go up and down Granville, they're all like, they're just, they're there.

RICHARD BERNSTEIN: It's more of a working class neighborhood on this side of Huron and across the street are the mansions. And I have to say that the changes that have been made to some of these houses are rather quite unfortunate and awkward. And this is really well composed. And this enables his family to stay in the neighborhood they really enjoy. And I think that this is not a for-profit. This is really, they want to stay in this neighborhood and this enables them to do it. And, again, we also worked very hard to keep it to the minimum and scaled back. And it's --

DOUGLAS BROWN: And if you look at the -- go to the floor plans, I mean the first floor is really a living room, a dining room, a kitchen, and a family room. The second floor is really four bedrooms for five people. And

then the attic is, some of it is guest space and a bathroom, and then the rest is really in some ways just trying to create that, that roof line. You know, we could --

RICHARD BERNSTEIN: To make it look like a traditional home.

LAURA WERNICK: I have to say I actually like the appearance. I like what you've done and I understand the additions and the dormers and how they fit in. I think it looks very nice. I am concerned about whenever we take a two-family home and make it a one-family home, that's a concern. And it is a very generous, you made a very generous home, very large spacious rooms. So that's the, that's the tug for me is could this have been done -- you know, you've now got two good sized rooms on the attic. Is there any way to maintain this as a two-family and still have it be --

DOUGLAS BROWN: I mean we -- under the new rules we could put the accessory apartment in the basement. That struck us as far more than was really appropriate. You know, that would be theoretically by-right but it doesn't mean it is right.

RICHARD BERNSTEIN: It's also the existing condition of the two-family and just the economics of it. Here's a family going to make it their

home and invest a great deal of money to make it an asset in the neighborhood,
and I think that the benefit to the neighborhood far outweighs --

LAURA WERNICK: Well, the benefit is having a two-family is
the benefit to the neighborhood.

RICHARD BERNSTEIN: I totally agree with you on that. And,
you know, if you wanted to -- well, they have no -- it's not their intention to add
the apartment in -- the bachelor apartment in the basement. But --

JANET GREEN: And there was no neighborhood objection?

RICHARD BERNSTEIN: Yeah, I think it's a balance.

SLATER ANDERSON: We'll get to the public comment.

RICHARD BERNSTEIN: Actually neighborhood support.

LAURA WERNICK: You don't have any existing conditions
drawings?

RICHARD BERNSTEIN: Not on the floor plans. The front
rooms are preserved. It's really just the back room and the kitchen. This is the
existing conditions of the house.

SLATER ANDERSON: You can see the footprint in dashed lines.

LAURA WERNICK: Right. So in terms of the way it works now,

and I'm sorry, you said this before but I missed it, you actually both use the same entrance? Both you and the tenant?

DOUGLAS BROWN: We use a back entrance. We go up a flight of seven stairs and then up fourteen more. We have to duck our head under a beam in the back to get into the kitchen. And so, that rear addition is substandard and doesn't meet any code standards. And the stairs that then take you from there to the third floor are so steep that the first day we moved in my son fell down them and had to go to the hospital. Access is a bit of an issue in how it's sort of all put together right now.

RICHARD BERNSTEIN: The existing house is in bad condition. And if -- I would say, yes, I would agree with the housing of course. But also to have owner-occupied single-family and a family growing up is also beneficial to a neighborhood. And what's beautiful, I think what they enjoy about this neighborhood, is its diversity and its mix of housing types. And overall there's a balance here which enables them to raise a family which that's their desire.

BRENDAN SULLIVAN: All right. Let me open it public comment.

Ist here anybody here who would like to speak in the matter?

Yes, come forward, please, and identify yourself.

MICHELLE SPRENGNETHER: Sure. Hi. I'm Michelle Sprengnether. And should I spell my name?

THE STENOGRAPHER: Yes.

MICHELLE SPRENGNETHER: S-P-R-E-N-G-N-E-T-H-E-R.

And I live at 31 Chilton Street. And I've lived at 31 Chilton Street since 1993. And I think I mailed this too late, but we sent a letter from Chilton Street, so I'm not sure if you've seen it. I can just share it with you. I'll pass it around.

And we're primarily concerned because I just wanted to describe the -- we have a flooding problem in our backyards on Chilton Street and I think -- we've been told there's an underground creek between the properties on Standish and Chilton Street. And our backyard is much shorter than the backyards on Standish Street. And we've been told that's because that's the location of the creek. And so about once to five times a year our backyards flood and our basements flood. And the house directly behind me is 31 Standish Street. And at the time that it was turned from a two-family into a one-family, they ran a drain pipe -- and I'm not sure what, if it's a French drain or draining the water from the roof, but from their house to the rear of the property and they

buried a large white plastic, I guess you would call it a dry well? I'm not a, I'm not a hydrologist person. But what I see is that when we have the flooding, that storm tank overflows and the back of my property is now flooded and it was never flooded before that. So, I don't think that this Board is the right place to bring this up. I e-mailed Cara Feliz (phonetic) who works on the sewer in our neighborhood, and I've heard that, I think it's 39 Standish was offered to hook up their sewer to -- their storm runoff to the sewer line, but they have not done that. So, but I'm not sure about this property. But I have, I have really serious concerns about any alteration to the back and the storm flooding conditions that we have in our yard because the prior renovation made our flooding worse and that's why I came and to share that letter because I'm not sure it got there in time.

BRENDAN SULLIVAN: Thank you.

Is there anybody else who wishes to speak in the matter?

(No Response.)

BRENDAN SULLIVAN: There is correspondence in the file.

(Reading) Dear Board Members, I am submitting these comments to express concerns I have regarding the application by the owners of 35 Standish Street for the Variance regarding their property. I should begin by noting that I am a

co-owner with my wife and live at 51 Standish Street which is unit 2 of the 49-51 Standish Street Condominium Trust. We moved here in the mid-1980s. I am neither a direct abutter nor an abutter to an abutter of this property subject to the application which lies three blocks away -- three lots, L-O-T-S away from our property. As such, I do not have presumptive standing to appeal the Board in this matter. I would also like to point out that my concerns are in no way directed personally toward the applicants. The city block formed by Huron, Standish, Vasal Lane, and Chilton Street forms a trapezoid shape due to the diversions of Chilton Street and Standish Street. As a result, many lots on both Chilton and Standish grow deeper as the lots approach Vasal Lane. Standish Street lots are narrow as is the subject lot at 35 Standish. I would venture to say that most buildings on Standish Street are non-conforming regarding one or more yard setback requirements. Standish Street has long been compromised overwhelmingly of -- has long been comprised overwhelmingly of two and three-family structures. Many of the buildings on Standish Street were subject to the form of rent control ordinance until the mid-1990s as non-owner occupied two and three-family structures, and a substantial number of buildings remain rental. After the repeal of rent control, a number of these buildings, such as my own,

have been converted to condominium form of ownership. During the past several decades several of the two-family properties have expanded their FAR by enclosing existing back porch structures and by applying for Variance to allow the construction of dormers. We have supported such modest expansions in the past. More recently at least two of the structures on the street have been converted to two families to single-family use, which of course is allowed use in this Residence B District. To my knowledge, none of these alterations had led to increase in the building footprint, which is consistent with the expressed objective of the rezoning that took place in the 1990s to prevent in-fill development. My concerns regarding the application for 35 Standish Street are as follows:

Having reviewed the application, I do not see evidence that the applicants demonstrate the statutory requirement to establish a hardship. I am not sure at all -- I am not at all sure that lot width or water table of the nature described meet the standard. But even if they do, there are certainly nothing unique about those conditions on Standish Street. As pointed out earlier, most lots on Standish are narrow to the point of creating a building non-conformity, and virtually every owner on this block wrestles with the high water table and poor drainage of clay soil. There are certainly pressures to find single-family

homes in Cambridge. However, using the Variance process to make Standish Street structures economically viable for expansion and conversion, including a nearly 25 percent increase in FAR as proposed in this application, seem more properly a planning and rezoning concern than trying to shoehorn such issues into the Variance process does not seem appropriate. I think that a formal decision by the Board in this case is tantamount to concluding that nearly every lot on Standish Street should be eligible for a Variance to expand substantially beyond existing FAR to encourage conversion to large single-family homes. This may in fact be a desired future direction, but the in-fill and the loss of existing housing units strike me as clear planning issues, not Variance application issues. The application in hearing comes at a time when the directly abutting property to the north of 35 Standish is under a complete gut rehab by a developer, and thus there is no one living in arguably the most affected neighboring building. I think this deprives the Board of highly relevant input from directly affected parties. For these reasons I feel compelled to register my opposition to the current application. I appreciate the opportunity to submit these comments to the Board for consideration. Please feel free to contact me if there are any questions.

Respectfully, Donald Drisdale.

I will note for the record that he is the former City Solicitor.

DOUGLAS BROWN: And would note -- could I note for the record, that that's the first I ever heard of it and I checked the file this afternoon. So none of that was ever told to me or shown to me.

BRENDAN SULLIVAN: Yeah, it came in today at 3:47.

There is a petition for a Variance to build an addition and construct dormers at 35 Standish Street. We oppose this petition for a Variance for the following reasons:

We have serious concerns about the negative visual impact of having such a larger building and additional accessory building. The ratio of gross floor area to lot area at 35 Standish 0.48 already exceeds the Ordinance requirements 0.45 for our residential neighborhood. And the proposal is to increase the floor area by 25 percent to .06 -- .6, sorry. This would exceed the Ordinance by 33 percent. We are also concerned about the negative impact that the additions would have on the current flooding on our yards and basement. An underground creek defines the usual property lines between the properties on Standish and Chilton Street, resulting in significantly more open space in the Standish yards. Flooding in the yards at 31, 35, and 39 Chilton Street happens at

least once a year and usually more often. The basements at these properties also flood. Any further construction in the Chilton or Standish yards will have a costly and negative impact on the lower lying Chilton Street properties due to increased flood damage.

31 Chilton, No. 2; 31, No. 3; 25 Chilton, No. 2; 25 Chilton, No. 3;
39 Chilton, No. 1; 39 Chilton, No. 1; and 39 Chilton and 39 Chilton No. 3.

There is correspondence you gave that to me, right, from Alba?
There is correspondence, neighborhood support. (Reading) We have reviewed the proposed plans for the Brown-Elms home at 35 Standish Street and we support their request for a Variance and a Special Permit from the Board of Zoning Appeal. We believe that the proposed home design is reasonable, attractive, and appropriate to the neighborhood and will improve the existing streetscape. We hope the Board will see fit to approve their proposal. Thank you for your consideration. Signed by 13 people: One Waterman Road, 25 Standish, 21 Standish, 7 Standish, 25 Standish, 36 Standish, 71 Standish, 77 Standish, 53, 14 Malcolm, 47 Standish, 37 Standish.

A correspondence. (Reading) Board of Zoning Appeal, Dear Members of the Board: We have lived at 33 Standish Street since 2005 and have

personally known Doug and Dee for the past eight years. During that time we have found them to be excellent neighbors, clearing snow from neighbors' sidewalks, helping us pump out our basements flooded recently, and even organizing an annual Halloween block party for the past three years. We understand that they now wish to renovate their home to fit their family needs.

As direct abutters to the property of 35 Standish Street, we have reviewed the proposed plans and rendering for their project and we support their request for a Variance and Special Permit from the Board of Zoning Appeal. Our only reservation is the wood burning fireplace and chimney proposed because it is so close to our fence and our home. In light of the current fires that have occurred in our community, we just feel that maybe the Board needs to review this part of the proposal. We believe that their proposed home design is reasonably attractive and appropriate for the neighborhood. We hope that the Board will see fit to approve their proposal, but also take into consideration our concern with the proposed wood burning fireplace. Thank you for your time, Alba Lopez and Sandra E. Wheeler.

And that's the sum substance of the correspondence. I'll close public comment.

RICHARD BERNSTEIN: If I could address one comment about the very real issue of drainage and water issues in the area. First of all, it's their intention to connect this house to the storm sewer and so --

DOUGLAS BROWN: When Standish Street was torn up three years ago, we paid to put in a new sewer line and a new storm lateral which is sitting under the driveway ready to be hooked up. And so in addition to that, we're also increasing the open space percentage over what's there now.

RICHARD BERNSTEIN: Yeah. And so as you can see from these two diagrams --

DOUGLAS BROWN: I would agree that the 31 Standish Street backyard floods because it floods my backyard, too. Our hope is to make that better not worse.

RICHARD BERNSTEIN: By reducing the amount of paved area, more water can be recharged into the ground directly. And so that I think all in all it's a much better solution than what exists and there is no detrimental impact.

BRENDAN SULLIVAN: Is the garage really necessary? That was one -- I know going up your driveway, the property on the other side, there's an old masonry garage there, but --

DOUGLAS BROWN: Yeah, there's two; one at 29 and I think one at 25.

BRENDAN SULLIVAN: Yeah.

RICHARD BERNSTEIN: There are two garages --

DOUGLAS BROWN: And then, and then two doors down --

RICHARD BERNSTEIN: -- right there.

DOUGLAS BROWN: -- there's one, and then four doors down there's one.

BRENDAN SULLIVAN: And, you know, again, in context of the whole thing it just seems bulky and massing. And that's --

RICHARD BERNSTEIN: Well, one thing about the garage, and this is a schematic design of the idea as a traditional carriage house design. It's for one car, not two. They're an avid bicycle family. They have like 12 bicycles amongst you. So it will provide not only yard storage but bicycle storage and parking for the car.

BRENDAN SULLIVAN: Just seems like a lot, that's all.

Anything else?

DOUGLAS BROWN: What do you hate the most?

BRENDAN SULLIVAN: What's that?

DOUGLAS BROWN: What do you hate the most?

LAURA WERNICK: The FAR.

RICHARD BERNSTEIN: Again, 40 percent of the increase is in space that we could remove. I think it would be detrimental to do that. I think the neighborhood would lose out on the aesthetics, but that's 40 percent. So in fact really the numbers -- yes, maybe 25 percent, but it's more like 15 percent of actual living area. Now, again, that's subjective, but that's my opinion. And I think the aesthetics speak for themselves.

BRENDAN SULLIVAN: I just have a hard time -- you know, the house goes back to 1925 and families have been raised and lived there and probably didn't suffer any deep psychological damage by having, you know, somewhat tighter spaces, and yet to go from a two-family to a one-family and then add 25 percent to the house is just from where I sit is difficult. It's difficult to justify.

But anyhow, any comments, questions?

JANET GREEN: It seems to me that letter that said it was more

like a -- rather than a Variance, it's more like they need to go and have some zoning work done.

DOUGLAS BROWN: Well, the neighborhood was downzoned in '95 or '96. And as Don pointed out, it was to eliminate the possibility of backyard in-fill development. We're not proposing backyard in-fill development. So in some ways we're not the problem in that case.

SLATER ANDERSON: Well, you're pushing into the backyard with the addition of the back.

DOUGLAS BROWN: Yeah, but we're not creating a standalone separate condominium building in our backyard, which is what we see elsewhere and that's what that was designed to prevent.

SLATER ANDERSON: You know, I'm looking here the houses in a row, and the backs of all these houses line up fairly identically and you're now going to push back another 15 feet or so beyond --

RICHARD BERNSTEIN: Well, actually four feet additional, because the --

SLATER ANDERSON: On the first floor? That right there is only four feet?

DOUGLAS BROWN: It's ten feet on the first floor. It's less on the second floor, yes.

LAURA WERNICK: The second floor?

RICHARD BERNSTEIN: Actually, I was going to say more on the second floor.

SLATER ANDERSON: No, but the first floor is what I'm looking at.

THE STENOGRAPHER: I need only one person to speak at a time, please.

DOUGLAS BROWN: We're pushing back six feet on the second floor and ten feet on the first floor.

RICHARD BERNSTEIN: This is three-sixteenths, correct.

SLATER ANDERSON: So ten feet?

DOUGLAS BROWN: Ten feet.

SLATER ANDERSON: My concern is that --

DOUGLAS BROWN: It's just that room -- we have that room down as a family room. It's hard to have a family room that's eight feet wide. In some ways we're trying to make that functional room.

RICHARD BERNSTEIN: I appreciate your comments and also we worked hard to mitigate that by breaking down the massing. And, again, that was, that was exempt.

SLATER ANDERSON: Well, to be clear, I think architecturally, you know, it's a beautiful house. You know, it's -- I don't -- it's that you have this envelope that exists that's non-conforming. That's, you know, as is 30 -- what, 3400 square feet as one? That's a large single-family house in the city. I'm -- the hardship piece, like, that's -- our charge here as a Board is, okay, well where is the hardship? I understand it's desirable. But have we reached the threshold of hardship? That's the challenge. And I, I mean if you want to speak to hardship a bit, I'd gladly hear it.

RICHARD BERNSTEIN: The hardship is very similar to many projects where a growing family trying to improve the property they own, and given the reality of real estate values and costs and availability, this is -- this enables them to stay in the, in this property.

BRENDAN SULLIVAN: Well, under the -- the Ordinance basically says that the hardship has to be related to the soil, shape, topography. And the case law says, you know, those -- maybe a personal hardship, you find it

a personal hardship because, you know, you like each child to have its own room.

You like to have a bedroom and a bathroom off of each one, an expanded space,

what have you, the Home Office, you know, sort of a little bit of a master suite,

and so on and so forth. And so then, you know, it just keeps getting bigger. But

that really doesn't address the issue under --

RICHARD BERNSTEIN: In this case the hardship is the narrow lot in that --

BRENDAN SULLIVAN: But you need --

DOUGLAS BROWN: And the only place to go is back.

RICHARD BERNSTEIN: The only way to go is back.

BRENDAN SULLIVAN: It's unique to this property, you see?

And again --

RICHARD BERNSTEIN: It's a non-conforming lot.

BRENDAN SULLIVAN: -- that may be an encumbrance, but not a hardship. And, again, case law -- I mean, I have a whole portfolio of case law where the judges are very, very strict on it.

RICHARD BERNSTEIN: Absolutely.

BRENDAN SULLIVAN: And it's very hard for us to sit here and,

you know, you're now living in a second floor of a two-family, you're taking over the entire first floor, and then you're expanding the house by 25 percent because of your, you know, needs, wishes, and desires. If everybody up and down the street, again, as Mr. Drisdale said, if everybody, you know, wanted to keep pumping out, and even though we take every case individually, you know... and the Alewife area is under siege by everybody because they're overbuilt down in Kendall Square. Now all of that stuff is coming up into the Alewife area. And what if anybody came down and said well, the Ordinance says this and yet we want to go 25 percent bigger? You know, not just residential but, you know, anything. You know, this is the Ordinance. Then what, what would your view be then?

RICHARD BERNSTEIN: Well, we believe this proposal fits very nicely into the neighborhood as demonstrated by the people who live right next-door and support it. And that the 25 percent is actually maybe technically correct here, but it can be reduced to 15 percent if we give up on what I again say will be a loss of aesthetics. And having this house fit in the neighborhood by eliminating those attics, which is not needed space. So we can go from the 25 to 15. The other thing is that this area was rezoned for other reasons than this -- to

stop this project. It was rezoned for in-fill in the backyards. And, therefore, we would be under the threshold of requiring only a Special Permit and not a Variance. And the requirements of that is much less strict. And you make valid points and -- but that's more of an accurate on an individual case, we can eliminate that and bring it to 15 percent. I think that's an artificial solution. I would not recommend it.

And also we are so close to a threshold of a Special Permit that I think that's a mitigating reason to support this. And the bottom line is this enables this family whose lived in this area to continue to live here and being part of a community. And it is not for profit. It's for personal use. The detail that's going into this, it's a shame what's happening next-door. And there should be a design review in this neighborhood because they're using artificial materials with plastic corners. They have to look at it. They've also added dormers which -- or expanded dormers which do not conform to the guidelines. They expanded windows which don't conform. We have worked so hard to make this fit into a neighborhood and be a good neighbor, and I think out of that it deserves your support.

DOUGLAS BROWN: And Richard's right, these are probably the

entire dormers in the neighborhood that fit the guidelines. Every other dormer I looked at don't, including the brand new ones next-door. And the FAR on Standish Street is 0.62. This is not anomaly. This is not a giant monster that's going to stick out. Actually trying to fit in.

RICHARD BERNSTEIN: If you look at this breakdown, all the buildings in this block -- and if you can take a look at it --

DOUGLAS BROWN: And I understand that's not, that's not a hardship. All's I'm saying there is we're not proposing something -- we started from the standpoint that we wanted something to fit in. We weren't starting from the standpoint of let's build a giant monster that, you know --

JANET GREEN: Right. No, I get that.

RICHARD BERNSTEIN: And it's not for profit.

DOUGLAS BROWN: Right.

RICHARD BERNSTEIN: It's an attribute to this neighborhood. And it would be a shame in this isn't allowed to happen.

BRENDAN SULLIVAN: George, what are your thoughts? You're quiet down there.

GEORGE BEST: I know. I know the area. So I know the street.

And I think this should -- well my honest opinion? I really think that we could look, be a little bit more conservative on the, on building out, you know, just a little bit.

DOUGLAS BROWN: Front, back, or side?

GEORGE BEST: On the back. You know, I think, the front of the house looks great. You're building -- you're encroaching now into the back. So that's my -- that's my two cents.

SLATER ANDERSON: The gable on the front. I mean, if I read the street correctly, yours is -- and I understand architecturally why you've done what you've done. But your third floor gable is the only one in that row that protrudes out to that plain; is that correct?

DOUGLAS BROWN: Yes.

SLATER ANDERSON: So I mean that's something to me that you could probably scale back what is a Home Office which could move to the back of that attic space? You know, you could --

RICHARD BERNSTEIN: We could do that. We could eliminate both.

SLATER ANDERSON: The front and back on the top floor.

BRENDAN SULLIVAN: You look at that line going all the way down. That's all.

RICHARD BERNSTEIN: I mean, if you are sitting -- I don't know if you visited the site and stood on the street looking up. It has kind of that Somerville triple decker look or two decker look. That's flat roofs. The articulation of a Cambridge style home, of a single-family home, which is this is becoming. So I think it's appropriately a metamorphosis to a different style that's more appropriate for a single-family. These two families were a style unto themselves. They each had a porch, which had been added on to and enclosed and things don't line up. And it's quite unfortunate there isn't a design review that's guiding this. So I would -- to answer that I think it would be a loss and an artificial mitigation of this proposal to not. And this is right down the street. So there's precedence. And this house is becoming old style two-family to a single-family home in Cambridge. And I think there's an eclectic mix of building and triple deckers and two triple decker pushed together.

JANET GREEN: I think what you're finding is concern by every member of this Board.

LAURA WERNICK: And I think that George's notion's one you

should think about which is protruding less in the back.

DOUGLAS BROWN: To the back or to the side I guess?

LAURA WERNICK: Well, both actually. The way I'm looking at it you've got a large mudroom. You've got the toilet room. You've got a very large family room. You've got a very generous, a master bedroom. Is there some way to --

RICHARD BERNSTEIN: Pull back? Pull it back a little bit?

LAURA WERNICK: That would be one way to look at it.

RICHARD BERNSTEIN: And that's definitely something that we could certainly look --

BRENDAN SULLIVAN: Okay. You're not going to get the four affirmative votes on this plan anyhow. So it probably behooves you to go back, rethink, digest the comments you have heard, and come back to us with plan B.

RICHARD BERNSTEIN: Okay.

BRENDAN SULLIVAN: You may very well come back and say, we really want to stick with plan A, that's fine. Here's plan B, or whatever it may be or something like that. But to rethink it anyhow.

DOUGLAS BROWN: Is there a number that would make this

seem more comfortable?

BRENDAN SULLIVAN: Yeah, it's --

DOUGLAS BROWN: -- or is it just subjective?

BRENDAN SULLIVAN: Yeah, I couldn't -- for me I couldn't pull it out. I just think --

RICHARD BERNSTEIN: I mean, is it a 15 percent -- 15 to 16 percent increase, not a 25 percent increase?

BRENDAN SULLIVAN: It's really where it is. To me it's like the massing. Yeah, you know.

RICHARD BERNSTEIN: If we pulled back --

SLATER ANDERSON: Let me answer it this way. You've got half a dozen people in the neighborhood who aren't in favor of the project. I'd suggest --

RICHARD BERNSTEIN: Talk to them.

SLATER ANDERSON: -- get some -- say we're going to modify the plan. We're not expecting you're going to have universal support. But talk to those people. Say we've heard the concerns of the Board, the neighbors, here's what we're trying to do, what we're trying to achieve, here's our revised plan. See

where you come out that way.

JANET GREEN: Yeah.

DOUGLAS BROWN: How do I get a copy of the letters that I haven't --

SLATER ANDERSON: All in the file.

DOUGLAS BROWN: Haven't got a copy of --

BRENDAN SULLIVAN: Yeah, you can get them tomorrow, Doug, on Monday and Maria.

SLATER ANDERSON: Maria will be in at eight a.m. tomorrow.

DOUGLAS BROWN: You may still be here at eight a.m.

MARIA PACHECO: I'll be here.

BRENDAN SULLIVAN: All right, let me make a motion, then -- George, you're good with that?

GEORGE BEST: Yeah.

BRENDAN SULLIVAN: All right. Let me, then, make a motion to continue this matter as a case heard. We have -- Maria, you'll have to chime in here. May 25th, June 8th, or June 22nd.

MARIA PACHECO: That's correct.

BRENDAN SULLIVAN: Which -- we have May 25th, June 8th, or June 22nd.

DOUGLAS BROWN: Probably the May. First one or second one? Your call.

RICHARD BERNSTEIN: Well, is the agenda full on the May 25th, because it's --

BRENDAN SULLIVAN: No.

JANET GREEN: I'm here May 25th. I'm not here on May 11th.

SLATER ANDERSON: 25th I'm here.

BRENDAN SULLIVAN: We have openings on the 25th?

MARIA PACHECO: We do. Can everybody sit?

BRENDAN SULLIVAN: George?

GEORGE BEST: Yes.

BRENDAN SULLIVAN: Let me make a motion, then, to continue this matter to May 25, 2017, at seven p.m. on the condition that the petitioner change the posting sign to reflect the new date of May 25th at seven p.m.

Any submittals, new submittals be in our file by five p.m. on the Monday prior to May 25th.

CONSTANTINE ALEXANDER: Sign a waiver.

BRENDAN SULLIVAN: And have the petitioner sign a waiver to the statutory requirement for a decision. If you would sign that with Maria. Basically we are required to render a decision within a statutory time frame. Because of the continuance, we probably won't meet that date. So if you could sign the waiver then we can proceed at a later date.

All those in favor of the continuance?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Green, Anderson, Wernick, Best.)

* * * * *

(11:50 p.m.)

(Sitting Members Case BZA-012596-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Slater W. Anderson, George S. Best.)

CONSTANTINE ALEXANDER: Go ahead. We're ready to go.

MAGGIE BOOZ: I'm Maggie Booz, B-O-O-Z of Smart Architecture, architect for Doug Payne.

DOUGLASS PAYNE: And I'm Douglass Payne. Douglass with two S's and Payne P-A-Y-N-E.

MAGGIE BOOZ: We're here tonight to request permission to rebuild a two car garage. Doug and Mary Rita's property. The building was constructed in -- in about 93 years ago and it was constructed without a foundation and without a floor and it is rickety and leaning in various directions. And so we actually spoke to the Building Commissioner who said that we could rebuild the building and lifted -- and lift the building I should say. Not rebuild the building. Lift the building and put a foundation underneath it. And then we went to builders and got pricing on doing such a thing, and given the amount of

just renovation work there is to do on the building, it became clear that it would be wiser to rebuild the building if we can. And so --

CONSTANTINE ALEXANDER: You mean just demolish it and build a new building?

MAGGIE BOOZ: Demolish it and build a new building.

And so what we're proposing is a building that's exactly the same as the building that exists there now in planned dimension, in height, and in proximity to the existing house.

So the two things that we violate with the build, the building violates right now are the height requirement of an accessory building, 15 feet. The build is 15 feet, 11 inches at the front. It's considerably less than that at the rear because the land slopes up, but I'm taking a maximum dimension there. And then we violate the proximity to the existing structure which is 8.8 feet to the existing mudroom on the side of the house right now. It's about 13 feet to the existing foundation of the building, but we're going by the letter there. So we are compliant on the side -- we have two side yard setbacks and two front yard setbacks because it's a corner lot on the corner of Fenno and Sherman Street, and we're compliant on the two side yard setbacks and the front, but we're

non-compliant in relation to the existing building.

CONSTANTINE ALEXANDER: I have to -- my one simple question, I understand and am sympathetic to giving you a Variance for the space between the building and the garage, but why can't you comply with the height requirement? What's the basis for giving a Variance for the height?

MAGGIE BOOZ: So the building is unique in its character. It's a lovely building. And the -- I think, and my clients think so, too. They care a lot about the way the building looks. And a building with a shallower roof pitch like that is a distinctly different building and that's the, that is the reason. It is true that there isn't a, that there isn't a practical reason except for upstairs storage, which exists in the building now and which they do want to maintain. There's a loft level to the building that helps with, you know, the storage of all the things that they keep there, which is all really a lot of the things that you might keep in a basement because their basement is very, very low in the existing house. And so, you know, practically speaking maintain storage, aesthetically speaking maintain the character of the existing storage.

CONSTANTINE ALEXANDER: You could still have storage if you just lowered the top of the building by 11 inches. Aesthetics is something

else.

MAGGIE BOOZ: It actually makes a remarkable difference to lower the building 11 inches.

CONSTANTINE ALEXANDER: In terms of storage? You still have storage space.

MAGGIE BOOZ: We still have storage, yeah. But it is definitely reduced.

CONSTANTINE ALEXANDER: The dilemma I have is there's no legal basis for giving the Variance for the height. Design is important I know particularly to an architect. It's not relevant from a legal or a zoning point of view.

MAGGIE BOOZ: So the fact that you can lift this building and --

CONSTANTINE ALEXANDER: Sorry?

MAGGIE BOOZ: The fact that we can as far as the Building Department is concerned, lift this building and put a foundation underneath it and have it be 15 feet, 11 feet tall as it is now, is, you know, the problem is financial. It's, it's the cost of doing that. So that is our hardship.

CONSTANTINE ALEXANDER: No, no. I think you miss the

point. It's late, maybe I'm not making the point correctly. If you're tearing the building, the garage down and building a new one, from the Building Code perspective, it's as if you were building -- starting all over again.

MAGGIE BOOZ: Right.

CONSTANTINE ALEXANDER: And if you're building from the beginning, we wouldn't allow you to build -- the Ordinance doesn't allow to you build a building, an accessory building that's 15 feet, 11 inches.

MAGGIE BOOZ: Right.

CONSTANTINE ALEXANDER: Right. So therefore --

MAGGIE BOOZ: It doesn't. It doesn't allow us to build a building that's within ten feet of the existing structure.

CONSTANTINE ALEXANDER: I know, but you have a legal basis for the Variance. The external dimensions of the garage, given the location of the structure, I'm -- I personally am sympathetic to grant you a Variance on that requirement, because I think there is a basis. There is, we're giving you want to keep the same size garage for putting vehicles in and you can't move a -- the main structure, so you're stuck. But you're not stuck with the height. The height is just simply aesthetics, and I don't minimize it for a second. But that's not a

legal -- it's not a Variance issue. We don't grant variances for aesthetics. As a matter of fact, that case we just -- I wasn't sitting on, on 35 Standish Street was all -- a lot of the argument was aesthetics. We need all the space so it looks better.

MAGGIE BOOZ: So you could say that any building -- I mean, we could take a random dimension. We could say any building that's 20 inches less or nine inches less or if it's three inches less, we'll still have storage in the upper story. You could say, one could say that.

CONSTANTINE ALEXANDER: Yeah.

MAGGIE BOOZ: But there is a reduction in the amount of space that they will have if the roof is lower.

CONSTANTINE ALEXANDER: Yeah, but that doesn't justify the granting of a Variance. I can understand from a nonlegal point of view, but from a Variance, you've got to show a hardship. And you're going to still have storage space, you're going to have less storage space. Well, you're going to have less storage space. And there's got to be a hardship showing to the shape of the lot. Now, we can stretch to get the Variance -- I can stretch to allow to you build on an exact same location and only be eight feet, eight inches from the house. I just

can't find a basis to give you a Variance for the height.

JANET GREEN: What about the, you know, that was built at the same time as the house, right?

MAGGIE BOOZ: Yes.

JANET GREEN: And what year was that?

MAGGIE BOOZ: No, actually it's newer, it's newer than the house.

JANET GREEN: How new is it?

MAGGIE BOOZ: I think it was built in 1920.

DOUGLASS PAYNE: '29.

MAGGIE BOOZ: And the house is?

DOUGLASS PAYNE: About 1895, thereabouts.

MAGGIE BOOZ: Yeah. There's a separate building permit for it.

JANET GREEN: Okay. I guess what I was thinking of is that historic reasons often are not, it's not just that it's a historic reason because it was architecturally consistent with the house.

CONSTANTINE ALEXANDER: I think taking 11 inches off the top of the house is not going to change the -- I mean, it's not a legal basis for a

Variance in my view. Again, I'm not quarrelling with the aesthetics of it all. I just don't -- I can't get there.

BRENDAN SULLIVAN: I think if Maggie were to reduce that by 11 inches and superimpose that structure on that structure, you would actually see that there is a little bit of a difference and that it would not look as good. That the pitch of the roof obviously being higher --

CONSTANTINE ALEXANDER: I understand that.

BRENDAN SULLIVAN: -- has a function obviously shedding rainwater and snow and all that other stuff. But it, if you take that triangle and reduce it down, it flattens --

CONSTANTINE ALEXANDER: Yeah, I understand that.

BRENDAN SULLIVAN: -- the roof out a bit. And it would not be as pleasing. I know you say it's only 11 inches, but it does make a difference actually.

CONSTANTINE ALEXANDER: I accept all of that.

BRENDAN SULLIVAN: And I can understand you're saying that, you know, the legal basis for it. I think what is before us is to replace an existing structure, because I think the hardship would be quite severe to rebuild the one

that's there now.

SLATER ANDERSON: There's a path to rebuild this, it's just very costly to go through that versus take it down and build something else absolutely.

MAGGIE BOOZ: That's correct.

BRENDAN SULLIVAN: I think it's an unnecessary burden.

SLATER ANDERSON: I agree.

GEORGE BEST: So you're actually digging down to build. So why don't you go down a little deeper?

MAGGIE BOOZ: Well, I can't sink the building. I mean, the garage doors would be too low to use. That I couldn't do.

JANET GREEN: It doesn't seem to, you know, contribute to the density of the population or change the traffic pattern or anything like that.

GEORGE BEST: It's not on a hill. I'm sorry.

MAGGIE BOOZ: It is on a hill. It is. The rear of the building is --

GEORGE BEST: My mistake.

MAGGIE BOOZ: As you can see in this elevation, in this rear, the rear of the building is.

GEORGE BEST: I thought the front was --

MAGGIE BOOZ: No. The front is higher. The front is higher.

I mean, partially because the driveway is diving down towards the street.

CONSTANTINE ALEXANDER: Plus the lot slopes. Are you sure at the right measuring point it is 15 feet, 11 inches? Because we're going to have a case later on tonight where you look at the, where you -- I don't know how you do it, you measure the height of the building and sometimes it changes because of the slope of the land?

MAGGIE BOOZ: It does. And, you know, it requires, so some towns require us to do this. They require us to have a surveyor take points all the way around the building and then take the average, the average height. I didn't do that. That's what the point I wanted to make. I took the maximum dimension to come to you.

BRENDAN SULLIVAN: So you're --

MAGGIE BOOZ: It's a violating dimension.

CONSTANTINE ALEXANDER: It's very possible the building, from our zoning point of view, less than 15 feet?

MAGGIE BOOZ: It probably is in the back.

BRENDAN SULLIVAN: So if you measured at the back, was 15 feet, if you measured at the front where it's 10, then basically your average grade is twelve and a half.

MAGGIE BOOZ: Right.

CONSTANTINE ALEXANDER: Twelve and a half, right.

BRENDAN SULLIVAN: Okay. Even though part of it is higher, part of it is lower.

CONSTANTINE ALEXANDER: Right.

SLATER ANDERSON: So you're saying that the 15, 11 is actually -- so you've drawn it where you've included it on that plan, you've shown is from the side, but it's actually the dimension at the rear.

MAGGIE BOOZ: It's the dimension at the front.

SLATER ANDERSON: Oh, it's the dimension at the front, not the rear.

MAGGIE BOOZ: But I have drawn the dimension line at the side, yes.

SLATER ANDERSON: It's the front, right.

MAGGIE BOOZ: Yeah. And the dimension at the rear is

considerably shorter than that. But I didn't -- I didn't have a surveyor do, you know, point dimension, point elevation dimensions all the way around the building. I just took the maximum in order to present you with the worst case height and not pretend anything.

BRENDAN SULLIVAN: Well, I have no problem.

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

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

RICK HENRY: Hi. My name is Rick Henry. I live at 33 Fenn Street. So I'm across the street from Doug and Mary Rita. I would like to speak in support. It's a great looking building. It's been there almost 100 years. I'd like to see it be there another 100 years. And I know the aesthetics aren't key, but it's a garage that looks like a barn. And I probably see it more than any other abutter because we see it right out our front windows. I probably see it more often than Doug does. So I like to continue to see it out my front window looking pretty much the way it does.

CONSTANTINE ALEXANDER: Okay, thank you. You had written a letter, too.

RICK HENRY: I did, yeah.

CONSTANTINE ALEXANDER: Okay, thank you.

RICK HENRY: Is that double dipping?

CONSTANTINE ALEXANDER: Is there anyone else wishes to be heard?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. We are in receipt of three letters. One of the letters is Mr. Henry's so I don't need to read it.

The other two letters, one is from Ed and Gloria looks like Surpe S-U-R-P-E. Did I get it right?

DOUGLASS PAYNE: Yes.

CONSTANTINE ALEXANDER: Surpe. (Reading) We are writing with our support of the Variance sought for Doug Payne and Mary Rita Weschler to demolish and rebuild a two car garage located at 24 Sherman Street. We have received and reviewed the Variance notice and have no issue. Doug and Mary Rita are wonderful neighbors and happily endorse the work of their architect Maggie Booz.

And the other letter is from Kaela K-A-E-L-A Lee and Alex Slive

S-L-I-V-E who reside at 23 Florence Street. They apparently own -- the letter says: As owners of 22 1/2 Sherman Street, we are the direct abutters to Doug Payne and Mayor Rita Weschler at 24 Sherman Street. Our kitchen window looks out on their garage so we would be directly affected by the proposed renovation. We are looking forward to the improvements and would like to register our support for their plans to rebuild the garage on their property.

And that's it. Any final comments?

MAGGIE BOOZ: I don't believe so.

CONSTANTINE ALEXANDER: I'll close public testimony.

Discussion or ready for a vote?

JANET GREEN: I'm ready.

CONSTANTINE ALEXANDER: I think people are ready, particularly this hours of the night.

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

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being that the structure involved is a 93-year-old building that is original construction would not meet today's

construction standards, and is in need -- basically needs to be replaced, torn down, and rebuilt.

That the hardship is owing to the shape of the lot and the relationship between the garage and the main house. Such being that they want to relocate the garage where it was before, you would have to -- a new garage will be within less than ten feet from the main structure which is what our Ordinance requires. And that if you want to rebuild the garage as it was before, that the building could be, could be as high as 15 feet, 11 inches which is more than the 15 feet max that's in our Zoning Ordinance for accessory buildings.

And that relief may be granted without substantial detriment to the public good.

Or nullifying or substantially derogating from the intent and purpose of the Ordinance.

With regard to this, what is being done is to just maintain an existing garage, but a garage that's built now and not 93 years ago with a number of construction problems that make the garage -- make it necessary to replace the garage.

So on the basis of these findings, the Chair moves that we grant the

Variance requested on the condition that the work proceed in accordance with plans prepared by Smart Architecture. They are numbered A-1.0 and A-2.0, both of which have been initialled by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Variance granted.

(Alexander, Sullivan, Green, Anderson, Best.)

* * * * *

(12:10 a.m.)

(Sitting Members Case BZA-012698-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Slater W. Anderson, George S. Best.)

CONSTANTINE ALEXANDER: The Chair will call case No. 012698, 678 Massachusetts Avenue.

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

JON RITTER: Good morning.

CONSTANTINE ALEXANDER: Hello.

JON RITTER: Jon Ritter and I'm here to represent Sprint. Sprint has proposed to modify their existing telecom facility by removing three antennas and replacing them with three new ones and three radios with some associated wires that will connect through the existing cable trays where possible.

Sprint considers this a congruent use with the rest of the building because there's other telecom equipment up there and other carriers. They're requesting approval to modify their --

CONSTANTINE ALEXANDER: Did you speak to the Planning

Board? Have you gone -- has Sprint shown these plans to the Planning Board?

JON RITTER: Yes.

CONSTANTINE ALEXANDER: Okay, we don't have any correspondence. Were you there at the Planning Board hearing?

JON RITTER: No, I wasn't at the Planning Board hearing.

CONSTANTINE ALEXANDER: Okay. I'm just wondering if the Planning Board had any comments on what your -- on what Sprint proposes to do.

JON RITTER: No, I have no comments from them.

CONSTANTINE ALEXANDER: They gave you no comments?

JON RITTER: I wasn't providing anything, no.

CONSTANTINE ALEXANDER: I'm sorry?

JON RITTER: No, I wasn't provided anything.

CONSTANTINE ALEXANDER: Okay. I see no mention here of The Spectrum Act.

JON RITTER: The 6409?

CONSTANTINE ALEXANDER: Yeah.

JON RITTER: It's a wireless communications act --

CONSTANTINE ALEXANDER: No, no, unfortunately we're very

familiar with what it is. But usually petitioners come before us and tell us why you -- because there are six things listed in The Spectrum Act that you have to meet to get the benefit of the act.

JON RITTER: I was told that Cambridge doesn't participate in it so that's why I didn't --

CONSTANTINE ALEXANDER: No, we do participate. The point is is that the way we handle it in Cambridge per our Legal Department is that you still have to get a Special Permit from us, but that Special Permit request must deal with the fact that you can meet The Spectrum Act, because of a possibility you can't. And we as a Board have to decide whether you do meet The Spectrum Act. Again, there's nothing in here that deals with that.

JON RITTER: Understood. Well, I definitely do know that it does comply with the act and it doesn't increase the base station by any height. It doesn't increase any of the side dimensions where it would hang over like someone's window or any of the other requirements that have to do with --

CONSTANTINE ALEXANDER: Let's just quickly, we need to make an exact record.

Do the modification to which you want to do -- well, the modifications to the transmission equipment do not increase the height of the base station by more than ten percent or ten feet, whichever is greater.

JON RITTER: Correct.

CONSTANTINE ALEXANDER: And you meet that standard?

JON RITTER: We meet that standard.

CONSTANTINE ALEXANDER: The modifications to the transmission equipment do not protrude from the edge of the support structure by more than six feet?

JON RITTER: Correct.

CONSTANTINE ALEXANDER: You meet that?

JON RITTER: Meet that.

CONSTANTINE ALEXANDER: The modifications to the transmission equipment do not involve the installation of more than the standard number of equipment cabinets for the technology involved not to exceed four.

JON RITTER: There will be no equipment cabinets added.

CONSTANTINE ALEXANDER: Thank you.

Four, the modifications to the transmission equipment do not entail

any excavation or deployment outside of the base station site.

JON RITTER: There is no groundwork.

CONSTANTINE ALEXANDER: No groundwork to be done.

Five, the modifications to the transmission equipment do not defeat any existing, concealed, or stealth design.

JON RITTER: Correct. It does not defeat anything.

CONSTANTINE ALEXANDER: And last, that modifications to the transmission equipment, comply with prior conditions of approval of the base station unless noncompliance is due to blah, blah, blah.

When we granted relief to you, to Sprint before when we imposed conditions. Are you in compliance with those conditions?

JON RITTER: Correct, yes.

CONSTANTINE ALEXANDER: You are.

So on the basis of your representation to us is that you do meet the requirements of The Spectrum Act.

JON RITTER: Yes.

CONSTANTINE ALEXANDER: Okay.

And we have photo simulations here. And that's very important to

us in terms of compliance. You have -- you're not changing them in any sense?

JON RITTER: No. Same as you received.

CONSTANTINE ALEXANDER: Same as the plans?

JON RITTER: Same as the plans. Nothing's revised.

CONSTANTINE ALEXANDER: All right.

Are you a licensed -- is Sprint a licensed FCC carrier in good standing?

JON RITTER: Yes. And licensed in Massachusetts.

CONSTANTINE ALEXANDER: Okay.

And you're doing it in a business district so you don't have to meet the special -- we don't have to make the special findings that are required for telecommunications equipment in residentially zoned districts, so that doesn't apply.

JON RITTER: Right.

CONSTANTINE ALEXANDER: So I think we've covered everything you want to cover.

Questions from members of the Board?

(No Response.)

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

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

(No Response.)

CONSTANTINE ALEXANDER: Not surprisingly no one wishes to be heard.

I think we're ready for a motion. And you'll have to bear with me our motions on telecommunications limit equipment are rather long with conditions.

First of all, we have to make the findings that are required under Section 10.43 with regard to Special Permits, and that's what you're seeking.

That the requirements -- I propose that this Board make the following findings:

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

That traffic generated or patterns of access or egress resulting from what you propose to do will not cause congestion, hazard, or substantial **shall** change in established neighborhood character.

That we find that the continued operation of or development of adjacent uses as permitted in the Ordinance will not be adversely affected by what you're proposing to go do tonight.

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

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

In addition, the Chair moves that we make the further finding that the petitioner, that the modification of the existing telecommunications facility at the site proposed by the petitioner does not substantially change the physical dimensions of the existing wireless tower or base station at such facility within the meaning of the Section 6409(a) The Middle Class Tax Relief and Job Creation Act of 2012, also known as The Spectrum Act.

And there are further conditions -- further findings -- or condition I should say. I'm sorry, it's late, late night.

So based on these findings the Chair moves that we grant the

Special Permit you're seeking subject to the following conditions:

That the work will proceed in accordance with the plans submitted by the petitioner and initialled by the Chair.

That upon completion of the work, the physical appearance and visual impact of the proposed work will be consistent with the photo simulations submitted by the petitioner and initialled by the Chair. And I've initialed the ones you've given us.

That the petitioner shall at all times maintain the proposed work so that its physical appearance and visual impact will remain consistent with the photo simulations previously referred to. So you've got ongoing responsibility, Sprint does, to make sure that the appearance of this new equipment will not deteriorate and make the fact of their existence more obvious.

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

And that the petitioner is in compliance with and will continue to comply with in all respects the conditions imposed by this Board with regard to

previous Special Permits granted to the petitioner with regard to the site in question.

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

A, that the petitioner shall file with the Inspectional Services Department each report it files with the federal authorities regarding electromagnetic energy waives emissions emanating from all of the petitioner's equipment on the site. Each such report shall be filed with the Inspectional Services Department no later than ten business days after the report has been filed with the federal authorities.

Failure to timely file any such report with the Inspectional Services Department shall ipso facto terminate the Special Permit granted tonight.

B, that in the event that at any time federal authorities notify the petitioner that its equipment on the site, including but not limited to the Special Permit granted tonight, fails to comply with the requirements of law or governmental regulation, whether with regard to the admissions of electromagnetic energy waves or otherwise, the petitioner shall, within ten days of

receipt of such notification of such failure, file with the Inspectional Services Department a report disclosing in reasonable detail that such failure has occurred, and the basis for such claimed failure. The Special Permit granted tonight shall ipso facto terminate if any of the petitioner's federal licenses is or are suspended, revoked, or terminated.

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

And then D, that within ten business days after receipt of a building permit, that installation of the equipment subject to this petition, the petitioner shall file with the Inspectional Services Department a Sworn Affidavit of the person in charge of the installation of equipment by the petitioner with the geographical area that includes Cambridge stating that; A, he or she has such

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

All those in favor of granting this Special Permit subject to these conditions, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Relief granted.

(Alexander, Sullivan, Green, Anderson, Best.)

JON RITTER: Thank you.

CONSTANTINE ALEXANDER: All of this will be in the written decision. Make sure the people at Sprint get this and know what it's about.

JON RITTER: Thank you.

* * * * *

(12:25 p.m.)

(Sitting Members Case BZA-012693-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Slater W. Anderson, George S. Best.)

CONSTANTINE ALEXANDER: The Chair will call case No. 012693, 43 Cedar Street.

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

ATTORNEY SEAN HOPE: Good evening, Mr. Chair. Members of the Board. For the record, attorney Sean Hope, Hope Legal Offices in Cambridge. I'm here tonight on behalf of the petitioner. I have with me Mr. Brian Lavelle. Would you spell your name for the record?

BRIAN LAVELLE: Brian B-R-I-A-N L-A-V-E-L-L-E.

ATTORNEY SEAN HOPE: We are requesting a Variance for a lot area per dwelling unit to construct a two-family dwelling unit on the site just

briefly and we'll try to be succinct given the late our. This is in the Res B Zoning District. And in all other respects this proposal satisfies the dimensional requirements of the Ordinance. Currently there is an existing two-family non-conforming structure that is in serious need of -- in serious disrepair. We have submitted with the file a motion by a receiver where the property has been condemned. It's been deemed unsafe for human habitation. And often as the Board may know, that a receiver being appointed is often a remedy as last resort. So the property is now stabilized but it has been a neighborhood eyesore for many years. And presently the -- there really is no practical way to salvage the property. Not saying it's impossible, but it's really not practical to solve that. As we see in the plan, all of the dimensional requirements are satisfied, but in the Res B District there is a requirement that there is 2500 square feet per dwelling unit. So this is about 4100 square feet. So it's about approximately 900 square feet less than we're required to do this project as of right. So we are requiring a Variance for the lot area per dwelling unit to construct a similar two family. I'd also note for the Board that if you look at the context of the neighborhood, each unit will be approximately 1100 square feet, which is very similar to the two-bedroom structures that are adjacent to the property as well as

in the district. As part of this application, the petitioner had reached out to the neighbor. There's been overwhelming support, either letters in the file -- there was some, there was a direct abutter who that --

BRIAN LAVELLE: Phil Bard.

ATTORNEY SEAN HOPE: Phil Bard.

BRIAN LAVELLE: What's his address?

CONSTANTINE ALEXANDER: He gave us a little note.

ATTORNEY SEAN HOPE: Yes.

CONSTANTINE ALEXANDER: 47 Cedar Street and 45 Cedar Street.

ATTORNEY SEAN HOPE: Yes.

And actually, even though they're listed as single families, they're very similar to the proposed structure. They're connected, they're mansard style, and they're a little bit bigger. They're 1500 square feet, but they're very similar in structure and design and size to what is being proposed today.

CONSTANTINE ALEXANDER: Okay. You're tearing this building down, demolishing, and building a new one, or proposing to build a new one.

ATTORNEY SEAN HOPE: Yes.

CONSTANTINE ALEXANDER: As you know, the zoning approach in the city is that we treat this structure as never been built before and so you got to meet the requirements. It's like an empty lot and you've got to meet the requirements of our Ordinance. When did you acquire this property?

BRIAN LAVELLE: I haven't acquired it yet.

CONSTANTINE ALEXANDER: You haven't acquired it yet?

BRIAN LAVELLE: No.

CONSTANTINE ALEXANDER: So you have it under contract?

BRIAN LAVELLE: Yes, under P&S.

CONSTANTINE ALEXANDER: Okay. Is there a condition subject to getting zoning relief?

BRIAN LAVELLE: Yes.

CONSTANTINE ALEXANDER: Good. Good for you.

ATTORNEY SEAN HOPE: We have a representative of the owner --

CONSTANTINE ALEXANDER: I'm sorry?

ATTORNEY SEAN HOPE: We have the attorney for the owner is

here as well, as well as the receiver.

CONSTANTINE ALEXANDER: The question is why -- what's the hardship? Why, considering you approached this as an empty lot, why -- what's the hardship that would justify granting the relief you're seeking? Build a single-family house.

ATTORNEY SEAN HOPE: Understood. And I would say that part of the nature of the hardship is financial. To be able to -- on this lot, and we actually have the listing broker here. It's not financially feasible to be able to build a single-family structure on this lot given, this was a public listing, it wasn't a private sale. And Mr. Lavelle can speak to the finances. But to build a single-family house given the cost to acquire the lot, the cost of construction, as well as the cost to build it, it really is not financially feasible to build a single family on this lot.

CONSTANTINE ALEXANDER: Shouldn't the price for the lot reflect the fact that you can only build a single-family house there and therefore you pay less for the property?

ATTORNEY SEAN HOPE: I would say that the price of the lot is really just given the price of land of the adjacent properties. This lot itself is not

necessarily only controlled by what you can build on it, but I would just say that the demand of housing and the price per square foot, whether you could build a single or a -- granted, if you could build a two as of right, it would be worth even more. So I do think the price that they paid does reflect the challenge that we're presented tonight. But in terms of being a financially feasible project that you would -- that we need to be able to build this modest-sized two-family structure to make the project work and make it financially feasible.

BRENDAN SULLIVAN: And, again, I've said this a thousand times, but your cost is what you pay for it. But the value of a piece of property is what you can do with it as of right. And so if you paid a thousand dollars for the lot, could you build a single-family home there?

ATTORNEY SEAN HOPE: If you paid a thousand dollars -- yes.
Yep.

BRENDAN SULLIVAN: Okay. So somewhere between a thousand dollars and whatever you paid for it, was a tipping point. Where all of a sudden a single-family didn't become feasible anymore, and then all of a sudden because I'm going to pay -- I don't know what you paid for it, but say you paid six, seven-hundred thousand dollars for it, well, that only justifies a two-family.

So you overpaid for the lot. You know, the lot, again, the value of it is what you can do with it as of right. And nobody is going to buy that lot for, you know, a big bag of money for just a single-family so they're overpaying for it.

ATTORNEY SEAN HOPE: I wasn't part of the listing, but I do believe that the cost of the lot was not just based on what he paid for it. It was based on there were five bids on the property, all of which were very similar in price. And I would not say the price he paid was a tipping point. I think it was substantially over what, be able to afford for a single-family.

CONSTANTINE ALEXANDER: You said the price he paid. You haven't bought it, you said, though.

ATTORNEY SEAN HOPE: I mean, excuse me, the price of the accepted offer.

CONSTANTINE ALEXANDER: I just wanted to make sure.

BRENDAN SULLIVAN: And yet those people who put in bids, were they going to build -- we don't know what they were going to build on it. Eventually, again, maybe have to come down before this Board.

ATTORNEY SEAN HOPE: I would say so.

BRENDAN SULLIVAN: And it's again sending a wrong message,

I'm going to overpay for this lot and you people have to bail me out of basically in plain English.

ATTORNEY SEAN HOPE: I wouldn't say necessarily overpay. I think the cost of land is not just built on just -- this is not just looking at this lot uniquely. I think part of it is part of square footage and part of it is the adjacent lots and the value of the adjacent lots.

CONSTANTINE ALEXANDER: But going back to Mr. Sullivan's point which is absolutely correct. The price that the receiver can get from this lot reflects what you can do with the lot as a matter of right. You can build a single-family house there if you don't pay too much for the lot. It's economically feasible.

ATTORNEY SEAN HOPE: And the test is not in feasibility. I would say that if you weren't allowed to build a two-family on this site, even if you lower the price just within reason, and this is not to give it a way, I would say this lot could also stay as is. And I don't know that someone would actually build a close to a 3,000 square foot single family on this lot.

CONSTANTINE ALEXANDER: Don't build a 3,000. Build a 2,000 square foot house and have a bigger yard.

ATTORNEY SEAN HOPE: I think the idea is that regardless whether it's a two-family or a single-family, that the idea is that someone is going to maximize the square footage on the lot. That's just a practicality.

CONSTANTINE ALEXANDER: Where does that come from, though, Sean? The legal requirement says that you've got to meet --

ATTORNEY SEAN HOPE: I understand that.

CONSTANTINE ALEXANDER: You're 20 percent less in terms of the -- if we allowed a two-family house. Twenty percent less than the minimum required by our Ordinance. That's a significant departure.

ATTORNEY SEAN HOPE: I understand that. It's an existing condition that's there. We're contending that to make this project work, to cure this neighborhood eyesore, we need to build two units on this lot.

CONSTANTINE ALEXANDER: You do, maybe someone else doesn't.

BRENDAN SULLIVAN: Because of the high entry point.

CONSTANTINE ALEXANDER: Yeah, that's what it comes down to.

JANET GREEN: What is the character of the neighborhood?

ATTORNEY SEAN HOPE: So the character of the neighborhood is a mix of two and single families and then multi-families. I would say that the size of what we're prosing is directly consistent with the adjacent properties and the properties within the neighborhood.

I would also say that a single-family, while it might satisfy the Board and not require the Board to reach and define this hardship, I would say that it's less appropriate, that a single-family on this lot.

CONSTANTINE ALEXANDER: A single-family on this lot in this neighborhood would be inappropriate?

ATTORNEY SEAN HOPE: I said it would be less appropriate.

CONSTANTINE ALEXANDER: Less appropriate.

BRENDAN SULLIVAN: You've got a bunch of singles going down --

CONSTANTINE ALEXANDER: Yes. Yes.

ATTORNEY SEAN HOPE: It's not about single. I think it's about the size of the unit. I think we're when you're talking about a two-bedroom house, that's about 1100 square feet is consistent. We have -- directly adjacent we have a very similar two mansard-style sharing a party wall, each is about 12 to

1300 square feet. That's very close to what we're proposing here in terms of the context.

BRENDAN SULLIVAN: I mean I object to this Board being a vehicle to justify somebody overpaying --

CONSTANTINE ALEXANDER: Exactly.

BRENDAN SULLIVAN: -- and then coming down and saying, you now have to justify my paying too much for this and you've got to give me a two family.

When was the LAST time it was used as a two family?

ATTORNEY SEAN HOPE: In terms of being occupied?

BRENDAN SULLIVAN: Yeah, as a two family?

ATTORNEY SEAN HOPE: I would have to --

BRENDAN SULLIVAN: I remember the guy and his father living there, but that was 25 years ago. And I don't think anybody else was living there.

ATTORNEY SEAN HOPE: It looks like it's been --

BRENDAN SULLIVAN: So what I'm saying is -- where I'm going is that its use as a two family has been forfeited because that use has been abandoned. So it's really only a single family now.

ATTORNEY SEAN HOPE: I would argue, and this is maybe getting off point. I don't think you abandon the use. If you don't rent out a unit, you don't abandon the use that's existing. I wouldn't say that you abandon the use.

BRENDAN SULLIVAN: Talk to the Commissioner. I asked that question. But anyhow.

CONSTANTINE ALEXANDER: Or the fact you could demolish the building, you are abandoning the use. At that point, as you know it, you're back to an empty lot --

ATTORNEY SEAN HOPE: That's right.

CONSTANTINE ALEXANDER: -- and you have to comply with the Ordinance. You don't want to comply with it so you're asking for relief from us, and that goes back to what Mr. Sullivan is saying.

ATTORNEY SEAN HOPE: I understand that part. Part of the rationale for the demolition is not just to build a **nice** new structure to make more money. It's that the property itself can't be salvaged.

CONSTANTINE ALEXANDER: Understood. That's irrelevant. Why you're demolishing is up to you. But once you demolish, you start again as

if it was an empty lot.

ATTORNEY SEAN HOPE: Understood.

CONSTANTINE ALEXANDER: And you've got to meet the requirements of our Ordinance. You can't. And the justification is, well, effectively I paid too much -- I have pay too much money for the property to justify building a single-family house. That's life. If that's the case, you overpaid.

You know, it sort of reminds me in a tangential way an old lawyer's line about someone who murders his mother and father and then asks for mercy from the jury on the ground he's an orphan. That's, that's the point that's being made here. Anyway.

SLATER ANDERSON: I'll just comment.

CONSTANTINE ALEXANDER: By all means.

SLATER ANDERSON: I think that I see there's two paths here: It's a single and you're building new conforming single. Or you guys figure out if there's a two-family right that still exists in some way that you can utilize it, and, you know, may be more costly to work within that shell, and -- but it doesn't seem clear to me from what I've heard whether this -- unless the City's condemning of it

erases that right. But it's a legal question.

BRENDAN SULLIVAN: It's the use of it. In other words, it would be a non-conforming two family, but if you abandon one of those apartments, then you forfeit the right to a two family.

SLATER ANDERSON: Where's the threshold on that?

JANET GREEN: I'm not sure -- is that right?

ATTORNEY SEAN HOPE: I also think --

CONSTANTINE ALEXANDER: One at a time so she can take it down.

Go ahead.

ATTORNEY SEAN HOPE: No, I would just say that the abandonment requires intent. It's not just the fact that you don't use it. So part of the abandonment for the three-year time period requires an intent. So if you have a two family and you open up the wall and you use it as a single, I agree with you. And if you do it for the requisite period of time, you abandon that. What I don't believe is that if you aren't able to rent it out or you're not able financially to be able to manage the second unit and, therefore, you don't use it and then you would lose that. That's not how I believe that would be interpreted

by the Commissioner.

BRENDAN SULLIVAN: Ask the Commissioner.

ATTORNEY SEAN HOPE: But I still think that --

BRENDAN SULLIVAN: I asked a very simple question and that was the answer I got, is that it would -- if you were not being used as a two family for an extended -- well, actually two years, that the City would consider it forfeited and it reverts back to what it can legally be used for which is a single.

ATTORNEY SEAN HOPE: I do believe that there is an intent, an intent portion of that. That you have to do some pro-active step and oftentimes families will take a multi-family and use it as something different.

BRENDAN SULLIVAN: Well --

SLATER ANDERSON: That's beyond our, you know.

ATTORNEY SEAN HOPE: That's --

CONSTANTINE ALEXANDER: I'll open the matter up to public testimony. One second, sir. Let me make sure nobody else has any other comments first before I do that.

Okay, sir, thank you.

GEORGE STYLIANOPOULOS: Thank you. Can I give her my

name?

CONSTANTINE ALEXANDER: By all means.

GEORGE STYLIANOPOULOS: Save a little energy. Thank you.

My name is George Stylianopoulous. I live at 15 Reed. I live on a single on that block which is the exception, most people are stacked like pancakes.

THE STENOGRAPHER: Please speak a little slower.

GEORGE STYLIANOPOULOS: So single-families on our block are the exception. Most people are stacked like pancakes in 1100 square foot condo units. Brian's group does beautiful work. He's made lasting contributions to multiple neighborhoods in Cambridge. Big budget for plantings, nice masonry. You can see it on Cedar. You can see it on Beech Street. He has kept existing tenants in the properties he's acquired. And in this specific case he's made concessions to neighbors regarding the scale of his design before appearing to you. I approve of the --

CONSTANTINE ALEXANDER: That's obvious.

Thank you for sticking around. Appreciate that.

Anyone else.

ATTORNEY DANIEL McCUALEY: I'm attorney Dan McCauley.

I'm the court-appointed receiver in the Superior Court. To get into the receivership it's tough to do. It's a very small percentage. So I'm asking you to take that into consideration. You know, I've been handling receiver cases for 15 years. The second one we've ever had in Cambridge. So if there's any discretion, this is the worst of the worst, these type of buildings. We have to still on a court track where we have to find a solution, they put us in the middle. And many times these cases are very contentious. There's lenders on the bank. There's still money owed on the mortgage. So what happens is we have a scenario now that's fallen in place because of the value. Usually we're fighting over short sales, frankly, and trying to work a solution that the stakeholders aren't gonna sue and drag it out. So we're trying to get to a point where it's safer sooner. I understand you have responsibility and guidelines. I'm asking you to consider any discretion that you do have from the Superior Court's point of view. And that's basically what I am, a fiduciary for the judge for the Superior Court, to see this -- we put all these pieces together since the fall to get to this point today. And we're, I'm here wholeheartedly in support of the proposal. And we're very happy to have this buyer. I don't know him otherwise. I met him tonight for the first time, but we're happy to have him. It seems good for the community.

Certainly good from my perspective from the court and for the buyers -- the seller's attorney who is here as well. And I understand he's not well. And it's a long family -- there's a lot of emotional ties to the property, which again holds up the progress of the receivership. It puts us in difficult positions.

CONSTANTINE ALEXANDER: Well, as I understand it, your offer was one of five, I think you said to buy the property? I assume if one of the other offers had been accepted and they wanted to go forward with the property, you would be just as much in support.

ATTORNEY DANIEL McCUALEY: As long as we move long.

CONSTANTINE ALEXANDER: Yeah, okay.

Our issue is not this gentleman, who I assume is a very fine builder. The fact of the matter is we have -- it's a Variance case. It's a legal standard that we have to satisfy and it's a very vigorous standard. And what you're hearing is that, at least some of us believe you can't satisfy that standard.

ATTORNEY DANIEL McCUALEY: All I'm saying is we're in context a very small percentage, that's a dangerous context because of the building and because of the holdups. And because of the other interests, there's lender, there's taxes owed, there's liens on there, it won't help the progress. I do

understand you have your standards as well.

CONSTANTINE ALEXANDER: Thank you. Anyone else wishes to be heard?

ATTORNEY MICHAEL MOSCA: Yes. I'm Michael Mosca (phonetic). I represent Michael Pixen (phonetic). He is the present owner. It's a family home since 1928. He grew up there, lived there. Unfortunately he had a stroke a number of years. He's a sheet metal worker, and now he's had further serious medical conditions. And the problem -- one of the problems is that there's a very substantial mortgage, very substantial liens on the property. And in terms of the bidding here there was an interest, three actual bids, five people were interested in making a bid. And the amount that was bid was, yes, based on the fact that the perspective person who came forward, Mr. Lavelle, this is the first time I met with him, but in terms of e-mails and so forth, he has spent a considerable amount of time. It was in November when we signed the purchase and sale agreement. He met with everybody in the neighborhood. He lives at 52 Cedar Street. And he met with everybody in the neighborhood, and he met with the Planning Board. And it seems to me that this is a solution. If Cambridge needs housing, these are two units. The neighborhood really is -- if

you drive down the neighborhood, is reflective of basically two or three units.

And I think this adds to the housing stock in terms of the City of Cambridge. It creates value, tax value to the City of Cambridge. It allows for immediate -- as a matter of fact, he's already engaged a demolition contractor. Only because of your schedule we weren't able to come before you in February or March. There is great concern about the present condition of the property as a fire hazard and so forth. And he's going basically June 1st and start the demolition. And it's a solution.

What will happen is probably the bank will take the property. Because you're looking in terms of a sale here with all the liens and everything else, you're talking something like \$600,000 that is involved on this property. And so I think to say that you want to dictate -- excuse me in saying the word "dictate," but it sounds as if you're saying you want a single-family there because that is some kind of a solution for it. But I don't think in terms of the economics that is the solution. I think in terms of the economics, it's Mr. Lavelle's solution, two units that he can then be able to sell to pay for the bid price that he made which was accepted for the property.

I appreciate that you've stayed so long. This is a very honorable

service by you people. But I would hope that you would reconsider. It seems to me that there's an objection to the extent that you'll deny the request, because we are back the use of saying square one, we are to appear in court, in Woburn, the Middlesex Superior Court on May 9th, and the judge wants to know why we're still not with a solution being implemented.

So in all due respect to each one of you, and I thank you for your service, I would hope you would allow us to take down this building, which should be taken down immediately, and I think there's an Affidavit from the receiver to that effect in the file, and to allow for this Variance to provide the basis for the builder or anybody else -- if this is turned down, someone else I don't think will have the solution other than a two-family unit and solve the problem.

Thank you for letting me speak.

CONSTANTINE ALEXANDER: Thank you for staying until quarter of one in the morning.

Let me make it clear for the record. We don't -- I'm not saying we want a single-family house there. We want a house to be built here that complies with our Zoning Ordinance. And if you can't comply, you've got to meet the requirements for a Variance. This building, this property does not allow, under

our Ordinance, a two-family home. It's not big enough. The lot's not big enough. And for us to grant a Variance, there's got to be a demonstrated substantial hardship. And the hardship is there is no hardship so long as a single-family home can be built on this. Not that the lot's going to lay fallow. There's going to be a building on here some day and it's going to reflect the price that was paid for the property. And the dilemma the petitioner has is the price he has to pay to get the property requires a two-family home. A two-family home is not permitted under our Ordinance for a lot of this size and we can't grant the Variance requested because that doesn't meet the standard. That's where we are.

So I don't want you to mischaracterize what's out -- I'm not saying we must have a single-family home here. Give me a case that justifies a Variance to allow a two family and we haven't heard it.

ATTORNEY MICHAEL MOSCA: Well, I wasn't prepared to bring the case forward so I apologize.

CONSTANTINE ALEXANDER: No, no, that's okay. We have to be clear because we're keeping a record.

ATTORNEY MICHAEL MOSCA: I understand what you're saying. Thank you.

CONSTANTINE ALEXANDER: Thank you.

Anyone else? Mr. Brandon? I guess not yet. Yes, Ma'am.

MICHELLE JOSLIN-CHAVES: My name is Michelle Joslin

J-O-S-L-I-N- Chaves C-H-A-V-E-S. I was the listing agent on the property.

And I just wanted to share with you, I don't know what qualifies as hardship, if it has to be specifically for the current owner or for the neighborhood, but I just wanted to share some thoughts on my experience over there when I was showing the property.

There was quite a bit of interest in it, but the only interest was really for a developers like Mr. Lavelle to build a, to put a two-family over -- two units over there. In the single-family option was not presented me to me. There really was no interest in that at the time. It was just not viable. The hardship really listening not neighbors over there, was really that's where the hardship I could see happening. The neighbors, I mean, unanimously, like, they all approached me and expressed, you know, the disappointment with what the property has done to the neighborhood. They felt it's very unsafe. There's a park right across the street where young kids play, and it's, it's a not only an eyesore, but it is a hazard. And so I really think that the part of the hardship and,

again, I don't know the legalities of what qualifies, but I really think it's a hardship upon the neighborhood, and that was expressed to me several times over and over again by the neighbors. And, you know, they were all very anxious and very much in support of their other neighbor Brian going forward and making the improvement there for safety reasons as well as, you know, just what the property has done to the neighborhood.

CONSTANTINE ALEXANDER: Thank you again for coming down, too.

MICHELLE JOSLIN-CHAVEIS: You're very welcome.

CONSTANTINE ALEXANDER: Thank you. Anyone else wishes to be heard?

Mr. Brandon.

MICHAEL BRANDON: Thank you and good morning. Michael Brandon, for the record, 27 Seven Pines Avenue. And in this case I'm here in my capacity as the clerk for the North Cambridge Stabilization Committee. And we have sponsored several presentations by Mr. Lavelle, and in addition meetings with abutters, including Mr. **Bard** who was here earlier and, you know, asked me to speak on his behalf.

CONSTANTINE ALEXANDER: He also left a note for us saying he's approving it.

MICHAEL BRANDON: Yeah. And initially just so the Board understands, the proposal that was originally presented was very different and violated a bunch -- several other dimensional restrictions and parking restrictions and was much taller. Because -- largely because of Mr. Bard's objections and other neighbors, the Colemans, Nigel Coleman and her husband immediately across the street shared concerns, as did another woman two doors down. He changed the plans in responding to those, including as-of-right you could have a one family that could go up 35 feet, which would be at least one story higher than Mr. Bard's property. He also requested rather than the gable roof that was originally planned, that to match the existing original house and Mr. Bard's property, that mansard roofs be put in. So it was -- there were significant changes made to try to accommodate what could work in to that neighborhood. And so now there is just the one violation. And, you know, we acknowledged that. But we think -- really you need to understand the whole history of this site. It's two decades that the current owner has been able to keep it up. It's gotten worse. You know, it was extreme -- the city has spent a lot of time, as has the

stabilization committee, which because we've been writing and there have been numerous City Council orders, nothing got done until Mr. Clary who you know, Richard Clary said, look, you know, this has gone on, we have to do -- you know, do something about it. And the conditions were getting worse.

Finally we agitated a meeting with the previous City Manager Mr. Rossi and the Legal Department, his department had -- so the city has put a lot of effort into trying to deal with the property and the current owner.

Ultimately that got nowhere. Fire department finally went in and put the big red X up, condemned the property. Towed abandoned construction vehicles that were parked for years on McLean Place, because they, they were concerned that the place would go up and they couldn't get their engines close enough to fire.

The recent -- the bad winter made -- the roof is open. It -- neighbors complained about vermin and animals in there. I actually, with Dick Clary, toured the open house. And I had to leave because the mold problems inside were so bad, I, you know, couldn't breathe. I was **coughing**. And so it's in decrepit shape. The idea of possibly gut renovating it, crazy. If you'd seen the property, the garage is about to collapse. It's leaning visibly. It was felt, and as you know, I'm usually -- I personally usually a stickler for exact sort of concerns that the Chair

and the Vice Chair have raised. Because of the history of this, because of the public danger to this property being allowed to go on and what the alternative might be is, you know, I guess it could go on the market again. Although I think we would probably agitate to ask City to ask the court receiver to come in and tear it down, put another lien on the property. Then you're going to have a vacant lot. You know, but it's gonna prolong the process which has gone on for decades.

And now that we seem to be close to a solution that the abutters -- and as far as I know, we did vote unanimously to support this Variance application provided that no parties in interest objected. And I'm not aware of any. We did try to do as much outreach as we could. And, you know, so there were some concerns about the principal entrance not facing Cedar Street. You know, it's a side. The architect explained why that was necessary, had to do with the placement of the interior kitchen for that unit. Brian has indicated that he will significantly landscape to screen it. We talked about fences. Mr. **Bard** seems to be quite willing to not, you know, have an actual plan in place, but to work, you know, as it proceeds, once the building is down and the construction goes on.

So I could probably go on another hour as you know, but I won't because even I'm getting tired. But so, you know, that's it. Because if it goes

back to court again and, you know, it's only going to be more delay, and ultimately, you know, a two family on that lot, even though it's not -- no longer up to date, it does fit in with many lots, you know, nearby. And in the absence of objections and, you know, active support from the most affected abutters and parties in interest we urge you to grant this.

Thank you.

CONSTANTINE ALEXANDER: Okay. Thank you.

MICHAEL BRANDON: And I'm happy to answer any questions.

CONSTANTINE ALEXANDER: I'm sorry, I didn't mean to be rude but your comments raised a question in my mind. I wanted to check the file out. Go ahead. I'm apologizing to you and I'm not trying to be rude and ignoring you. I was listening to you. I was checking something.

MICHAEL BRANDON: No, no, no. I, by the way, support Mr. Mosca's comments about the sacrifices you guys make. It's incredible.

CONSTANTINE ALEXANDER: Thank you. Anyone else wishes to be heard?

(No Response.)

CONSTANTINE ALEXANDER: No. No one else wishes to be

heard. I'll close public testimony.

Any final comments?

ATTORNEY SEAN HOPE: Yeah. I'll be brief.

One of the things that I didn't mention that counsel mentioned and I think is relevant is that, you know, part of this -- the hardship and what was driving the price, has also to do the lenders and the different needs on the property. Even tonight with the receiver in place, there are fees that are continuing to accrue. In terms of what the price might be, that the price might be too high, every time -- every day this property is not developed, there are fees that are -- penalties that are accruing. So the idea, I think one of the tests is would another buyer be able to come in and make this financially work? I think we've made the statement, and I would contend that another buyer would be in the same dilemma. And so I would say today that the longer this goes on and that you put this on, there will be additional fees and liens that would accrue. I would say that although, and I'm admitting that this does not fit in the hardship directly in the statute, I think there is a practicality to the request for a Variance. I think that it would solve a major hardship, not necessarily for the petitioner that the Board recognizes, but for the community as well as the economic blight. I don't think

another developer or anybody else would be able to come in and doing a single-family make at project work. That's what we're contending.

What I did not emphasize is the existing liens. There's a threshold amount you have to pay. You just paid the lien. There was a representation of \$600,000. I think we talked about some prices and the Board knows some prices, but it's not like this is just a single-family. You could have bought it for 500 but he offered more. Also he lives in the neighborhood. He's also more interested and more vested. And in Cambridge when you have a property that doesn't have swarm of people to build a single-family, there's usually a reason why.

I would say it's impossible to use the existing structure for the natural reason to do that. Why don't we just build an existing structure? I think for all those reasons there's practical element to it. One these would actually bring the property in greater conformance. The property's already further out of conformance, over the FAR, it's within the setback. We're talking about slew of dimensionality requirements as well as allowing the property to move forward on being developed. For those reasons I would ask the Board, even if it is a stretch, to look at the practicalities of it and vote in favor of the Variance.

CONSTANTINE ALEXANDER: Good. Thank you.

Public testimony has been closed. Any discussion or you want to go right to a vote?

JANET GREEN: I have, I just would like to say a couple of things. I think, I think what I've heard is the hardship not just, it's a hardship for the neighbors but it's also been a hardship for the city who has had to spend a lot of resources dealing with this property. I think the Court has recognized that something should be done. I think they've acknowledged that it's been hard to put a plan into place for this property, so I don't think it would just be easy to go to do another one. I also think that it happens that someone with a reputation who -- doing things in this neighborhood is taking it all in or has -- would take it on, and that he's respected by the neighbors. I think that they've responded to neighborhood concerns. And so to me -- and the East Cambridge people support them wholeheartedly.

CONSTANTINE ALEXANDER: Not East Cambridge, North Cambridge.

JANET GREEN: Sorry, North Cambridge. Sorry. Usually East Cambridge. North Cambridge.

The real estate person has acknowledged that there was only interest

in having a two-family. You know, I just thought there was a lot of, a lot of things we heard tonight and I'll vote in favor of it.

CONSTANTINE ALEXANDER: Obviously. Anyone else wish to speak?

GEORGE BEST: Yeah, I'll speak. I, I really am in favor of it. A couple of things.

We have a person that is from Cambridge and a longtime resident developing. No. 1.

And No. 2, I know that building and it really shouldn't be there. And I can see the neighborhood concern. I also look at the economics behind leaving it blank, that spot blank for a number of years and what that would cost. And then we're always so concerned about people coming in with big bucks and buying up the place and putting what they want there. So then what would go there? An apartment building? You know? Or a four-story, something like that if this he could work it out. You know, you could make mini apartments, which they --

CONSTANTINE ALEXANDER: I don't think the property could support -- the size of the lot could support any kind of -- if you can't do a two

family. You can't do anything more than a two family.

GEORGE BEST: Okay.

CONSTANTINE ALEXANDER: It would have to be a single family it would appear.

GEORGE BEST: Right.

But I think being reasonable, you know, is -- I just beg that we be reasonable on that end.

CONSTANTINE ALEXANDER: Okay. Want to speak or go for a vote? You don't have to speak.

SLATER ANDERSON: I'm just going to make an observation. We have a lot of talented, experienced attorneys, builders involved in this and, you know, I just -- it's a little frustrating going back in time to November and all of you huddling together and saying, like, nobody raising the red flag of, you know, we may only get a single out of this and all proceeding forward under the assumption you're going to get a two, knowing that, you know, was there was a risk there. And it's, you know, the risk here being, you know, here we are. And the arguments against our vote are simply you're going to make us start over again. Well, you should have thought about that in November. You guys are

smart people. You know what you're doing. It's a little bit of putting us over the barrel on this thing.

I drive by -- I live in the neighborhood. I drive by that house all the time. It's a disaster, you know. I'm in support of seeing it move forward, but I don't necessarily like how this is proceeding.

CONSTANTINE ALEXANDER: Thank you.

Do you want to say anything more?

BRENDAN SULLIVAN: No.

CONSTANTINE ALEXANDER: All right, ready for a motion.

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

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being that the petitioner cannot -- it would be forced to construct if they wanted to proceed a single-family home, and that is not consistent with the price that apparently he is willing to pay for the structure -- for the property.

That the hardship is owing to not soil conditions, shape, or topography of the land. It's basically owing to the fact that it is a -- the size of

the lot is below the minimum lot requirements for our Ordinance, which makes development of the lot much more difficult if you otherwise wish to comply with the requirements of our Ordinance.

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

The point being here if we grant relief it would appear that what is now a very derelict structure and a problem for city and for the neighborhood will be removed.

So on the basis of all of these findings, the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with the plans submitted by the petitioner and which have been initialled by the Chair.

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

(Aye.)

CONSTANTINE ALEXANDER: Three in favor.

(Sullivan, Green, Anderson, Best.)

CONSTANTINE ALEXANDER: Opposed?

(Show of hands.)

CONSTANTINE ALEXANDER: Two opposed.

BRENDAN SULLIVAN: No, no, I'm sorry. Four.

CONSTANTINE ALEXANDER: You're voting in favor? Sorry,
I misunderstood.

Four in favor. The motion is granted.

* * * * *

(1:10 a.m.)

(Sitting Members Case BZA-012773-2017: Constantine Alexander, Brendan
Sullivan, Janet Green, Slater W. Anderson, George S. Best.)

CONSTANTINE ALEXANDER: The Chair will call case No. 012773, 6 Maple Avenue.

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

ATTORNEY SEAN HOPE: Good morning now, Mr. Chair, members of the Board. For the record, now, Sean Hope, Hope Legal Offices in Cambridge. We're here on behalf of the petitioner. We have Mr. John Herron and architect John Lodge.

Spell your name for the record.

JOHN HERRON: J-O-H-N H-E-R-R-O-N. And I actually go by John.

ATTORNEY SEAN HOPE: And John Lodge.

JOHN LODGE: L-O-D-G-E.

ATTORNEY SEAN HOPE: So this is a Variance request for height. This is a unique case where the petitioners had a proposal that went through the Mid Cambridge Neighborhood Commission to add an addition to a large existing structure that at the time they believed was conforming. In terms of height, if you measure from the adjacent grade, the building is below 35 feet in height, and they proceeded under that understanding. There is a steep slope to

the lot and that is the nature of the hardship that actually fits into the statute. And part of the relief which was actually found out -- at right before the Building Permit was issued through zoning, was that because of the excavation that is required for the additional structure in the rear, it had been determined by Inspectional Services that the grade should not be measured from the adjacent ground, but the Article 2 talks about the mean grade taken from the highest point. So that although common sense would say that you would measure the height from the adjacent grade, that's not how the property is measured. So that the property -- the structure itself was non-conforming because of the slope of the lot, and that by the excavation in the rear, it exacerbated the non-conformity causing -- requiring zoning relief.

Part of the Mid Cambridge Commission, in granting the Certificate of Appropriateness, they required that the addition be centered behind the existing structure in the rear of the lot. One, because it wasn't primarily visible from the public way.

So there is -- if you look at it, it's a pretty generous lot, and you can put an addition on the side in different places on the lot, but that wouldn't have been -- that would not have received a Certificate of Appropriateness. So it was

the location that was approved. That location happens to be in the rear in the lot.

And in order to achieve the low profile addition, there needed to be some consideration.

JOHN LODGE: Sorry, just to clarify. The excavation is actually for the parking more than anything else.

CONSTANTINE ALEXANDER: I saw that in the file.

JOHN LODGE: Yes, yes.

ATTORNEY SEAN HOPE: So that excavation, though, does trigger additional zoning relief. And so the hardship is owing to the slope of the topography of the lot, and that the addition which was sited because of the Mid Cambridge Neighborhood requirements, was in the rear of the lot. And for the parking as corrected and so therefore we would have needed a Variance relief.

CONSTANTINE ALEXANDER: One thing I would quarrel with your presentation, Sean, is that we've had this case before. And Appleton Street, Jim Rafferty represented the petitioner exactly the same fact. Wanted to build an addition on the back that shifted the height of the building in the measuring point, put him over the 35 feet, just like you're doing here, and we granted relief. So it's not, it's not from my perspective, it's not a unique situation and certainly

understandable. And really a very technical issue that you have. It's not, there's no --

JOHN LODGE: I'd say it's a tribute to Ranjit and Sean for catching it.

ATTORNEY SEAN HOPE: I think the timing is the only unfortunate piece. There was a lot of neighborhood process and then to end it up, but it is consistent with the Ordinance.

CONSTANTINE ALEXANDER: Questions from members of the Board?

JANET GREEN: No.

GEORGE BEST: No.

BRENDAN SULLIVAN: What happens to the main house?

JOHN HERRON: The main house would be sold and we have two residences there. And the objective is to find a Medicare age to have one floor and we would live in the back and down there. And so it's kind of an aging place. We love the neighborhood, and that was sort of the objective. And it would be to have a two -- our understanding, we would have a two unit, our understanding right from the start is the one rule we had was not to have to

request a Variance. That was the one. And being an architect, and that's why we're very careful in terms of the lot lines, etcetera. It was only literally a month ago that we discovered this 35-foot, to a certain part, issue but it was really two residences.

CONSTANTINE ALEXANDER: We had a letter of support.

And somehow -- it was on a single piece of paper.

ATTORNEY SEAN HOPE: One of the neighbors submitted something to Maria.

MARIA PACHECO: I gave it to you.

JOHN HERRON: Maybe a brave soul is out there.

CONSTANTINE ALEXANDER: No, no, I jumped ahead.

Any questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: Technically the relief being sought, just so the record's clear, is that by virtue of building the addition, where the building is now deemed to be 36-and-a-half feet high from a zoning point of view, and our Ordinance restricts buildings to 35 feet. So they're getting technically a Variance to have an additional foot and a half to the building.

That's what it's all about.

JOHN LODGE: Or I guess.

BRENDAN SULLIVAN: Which goes to the topography.

ATTORNEY SEAN HOPE: That's right.

CONSTANTINE ALEXANDER: Comments or questions?

(No Response.)

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

Sir, do you want to speak?

MARK DISHOP: Mark Dishop. That's M-A-R-K Dishop D-I-S-H-O-P. I'm at Seven Maple Avenue and I'm supporting the petition. I think it's a technicality and it doesn't, that the requirements of the Historical Commission are -- were essential to getting this approved. And also the placement and everything was necessary in order to get the abutters to go along with it.

It says in the application that the abutters approved this. I would argue that the abutters would rather it not happen, but that all the individual concerns of the abutters have been addressed individually by very pro-active

actions by the owners to change the plan, move it around some, and take care of additional issues of closeness to the property line or drainage issues and site, being able to see it from the street. And so they've very correctly taken these actions and ended up having it placed by where it is and approved by the Historic Commission. And so that's great. I would say that abutters' concerns have all been addressed to the extent that they -- I don't know of any abutters that are now not, that are objecting to it at this point. I would characterize it that way. I'd rather characterize it that way on the record so that this group knows that there was considerable concern in the neighborhood, and because I don't want to set a precedent that says that the residents of the historic Cambridge Avenue have abandoned their interest in preserving the historic character of the street. I think there was considerable concern, and the individual issues have been addressed. And the plan now presented is manufactured to be very typical to see from the street, from Maple Avenue, and they've done a very good job of it. And so I would recommend approval.

I just also wanted to correct for the record in the application it says in part D on the first part that it was approved with unanimous support by the Mid Cambridge. It was not. It was three to one.

JOHN HERRON: Three to one, yes.

MARK DISHOP: It was also all very well discussed in that Commission. And I just wanted to, for the record, have it -- and for the sake of a precedent, because I think there may be more petitions on Maple Avenue since there was a zoning change that encouraged more in-fills. I just want to make sure that the precedent is set and that there was proper discussion and people do care about the historic character of the street. However, I think this project was well considered and has already been approved by the Historic Commission as is required. So I don't have any other objections to it and I think this Variance thing is a knit. So I would recommend approval.

CONSTANTINE ALEXANDER: Thank you, thank you for staying here.

JOHN HERRON: That's an accurate -- what Mark said is absolutely accurate in terms of the vote. It was actually very active and very construct and not a straight line process. It was a good process, and I think we got a better design as a result of all of that. And so that was an accurate assessment.

CONSTANTINE ALEXANDER: And thanks to Maria Pacheco

we have located the note I misfiled I guess. It's handwritten from Richard Talcon
(phonetic)?

JOHN HERRON: Yes, they were here earlier.

CONSTANTINE ALEXANDER: And Susan Davies who reside 8
1/2 Maple Avenue. (Reading) We were here to support both 6 Maple
Avenue -- which we haven't heard yet -- we are hearing that. And that's next.
And 19 Maple Avenue Variance request and need to leave as the hour is late.

SLATER ANDERSON: And that was written three hours ago.

CONSTANTINE ALEXANDER: Anyone else wishing to be
heard?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. I'll close
public testimony.

Any final comments? Ready for a vote?

SLATER ANDERSON: Yes.

CONSTANTINE ALEXANDER: Okay, the Chair moves that this
Board make the following findings with regard to the Variance being requested:

That a literal enforcement of the provisions of the Ordinance would

involve a substantial hardship. Such hardship being is that the petitioner has a desire to build a structure to the rear of the building which, which has been approved by Mid Cambridge Historical, and which in turn however has triggered a technical violation with regard to height.

That the hardship is owing to the topography of the lot. The fact that it slopes to the back and that as you move, as the structure moves, if you will, migrates to the rear of the lot, the measuring point for the height of the building changes.

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

In this regard the project has the approval of Mid Cambridge Historical, although not unanimous apparently. And that it is apparently no neighborhood objection. And again the relief being sought is really technical in nature. And there we are.

So on the basis of these findings the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with plans prepared by John Lodge Architects, each of which -- the date is 4/11/17.

Each page of which has been initialed by the Chair.

All those in favor say "Aye."

(Aye.)

(Alexander, Sullivan, Green, Anderson, Best.).

* * * * *

(1:25 a.m.)

(Sitting Members Case BZA-012783-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Slater W. Anderson, George S. Best.)

CONSTANTINE ALEXANDER: The Chair will call case No. 012783, 22 Farrar Street.

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

EDRICK VAN BEUZEKOM: Okay. My name is Edrick van Beuzekom. I'm the architect for the project. I have offices in Somerville and I live in Cambridge. And beside me is Emmy Linder. Last name is L-I-N-D-E-R who is one of the owners of the house. Unfortunately Emmy's husband Natan is out of the country at the moment and couldn't be here tonight.

CONSTANTINE ALEXANDER: Fortunately for him.

EMMY LINDER: He just woke up. He's in Europe.

EDRICK VAN BEUZEKOM: He just woke up.

We are here to request a Special Permit to add two windows to the back of the house. The house is non-conforming. The lot size is non-conforming. It's an odd-shaped lot. The -- we want to add a couple of windows to get some light into the back -- into the kitchen. We're also looking for a Variance to do two modest additions a total of 130 square feet to the house.

One of the additions is to create a small eating area next to the kitchen. It's on the south side of the house, so it's the light side of the house. The other addition is on the side closest to the lot line on the left side of the house as you face out. Let me pass that out.

CONSTANTINE ALEXANDER: I noticed in your plans -- pass them out, please.

EDRICK VAN BEUZEKOM: Okay, that's a photo showing the side. And here a couple of 3-D views. This one shows the -- you can see the addition at the kitchen in the back here.

CONSTANTINE ALEXANDER: And my question is regarding the deck on top of the kitchen. As you know, you've been before us before, this Board has always been suspicious or leery of granting deck relief because privacy and noise issues.

EDRICK VAN BEUZEKOM: Yes.

CONSTANTINE ALEXANDER: So give me -- talk to me a little bit about how big is that deck going to be and where does it come off -- what's the doorway -- what's behind the doorway inside the house?

EDRICK VAN BEUZEKOM: Let me show you. So the house at

the second floor is a little bit of an odd configuration. There's a -- what you see in the photos, this was an addition. I'm not sure when that was built, but it has a room that has basically skylights along the back here and almost a sort of a mansard-type roof. It's really not a very useful room. It's an odd dimension. It's small. But it's adjacent to the master bedroom. And the idea was to use that just to get access on to the deck and just have a small outdoor private space.

CONSTANTINE ALEXANDER: What's the dimensions of the deck?

EDRICK VAN BEUZEKOM: The deck? Ten feet by twelve foot, three.

CONSTANTINE ALEXANDER: That's small, okay. But it is off -- effectively off the master bedroom?

EDRICK VAN BEUZEKOM: Yes. And it's at the -- so I'm going to show you the site plan here. It's at the rear corner of the house where it's sort of a triangle of the property.

We've had discussions with neighbors. I have a --

CONSTANTINE ALEXANDER: We have one letter in the file.

EDRICK VAN BEUZEKOM: Okay. So I have a copy of that

letter, and I also have an e-mail from the abutter on this side.

EMMY LINDER: Affected from the deck.

EDRICK VAN BEUZEKOM: He would be the one affected by
the -- and I can just read that to you.

CONSTANTINE ALEXANDER: I'll read it into the record later
on.

EDRICK VAN BEUZEKOM: Okay. Just the first top portion of
that.

CONSTANTINE ALEXANDER: Okay. And we have a letter
from Robert Mitchell, too.

EDRICK VAN BEUZEKOM: Yeah.

So Robert Mitchell's house is on -- he's on this side of the house. If
you look at this plan here. So it's certainly a unique little development here
because these houses were built at the same time and that's where that triangle
slice is. Robert Mitchell is in this house. The e-mail is from him and his wife
and next-door.

CONSTANTINE ALEXANDER: And just point out where the
deck's going to be?

EDRICK VAN BEUZEKOM: The deck is on this back corner here.

CONSTANTINE ALEXANDER: Okay, got it. Thank you.

EDRICK VAN BEUZEKOM: Okay. And they are in support.

They were very nice. They seemed very happy with what we're doing.

It's actually because of the tree cover back there, in the summertime you really can't see the neighbors very much. And, in fact, that's why the photos that I have are wintertime photos because summertime it's obscured by the trees.

CONSTANTINE ALEXANDER: Okay.

EDRICK VAN BEUZEKOM: So....

CONSTANTINE ALEXANDER: You're not planning to have any wild parties on the deck, are you?

EMMY LINDER: No, too many children.

EDRICK VAN BEUZEKOM: The other piece of relief we're asking for is on the other side of the house. There's an existing bulkhead here. And it's a small house. Natan and Emmy have a growing family. They want to make use in the future of the basement as a playroom. So the idea there is to basically build a little structure here which you can see from the street view here.

And let me show you the elevations. But basically it's just a small gabled structure covering the bulkhead. One side of it -- this is a view of the house from the street. And you see it here with the windows up high to get some light in. And then the rear facing the backyard would be taller windows to really get light down deep in there. And basically the goal was to have a safer egress rather than just a bulkhead into the basement and to get light down there. And that piece, we made one small change that was submitted on Monday in the drawings.

CONSTANTINE ALEXANDER: We have it right here.

EDRICK VAN BEUZEKOM: Right. Which was to lower the roof a wee bit so it was the same height as the entry roof.

And maybe Emmy can just say a few words about their situation.

CONSTANTINE ALEXANDER: You don't have to.

EMMY LINDER: Yeah, so my voice is a little off, but just to say that we are -- we're a small -- we just got this house and we're still working on it. But we are -- have three children, very small ones, and we would love to be able to have the different size.

CONSTANTINE ALEXANDER: How big is the house? I can look it up in the dimensional form. Do you know it off the top of your head?

EDRICK VAN BEUZEKOM: Not off the top of my head I don't remember.

CONSTANTINE ALEXANDER: No? I'll find it.

EDRICK VAN BEUZEKOM: So it is --

CONSTANTINE ALEXANDER: 2753.

EDRICK VAN BEUZEKOM: Yeah. It's 21 feet wide basically, and then it's --

CONSTANTINE ALEXANDER: And you're going to add basically another 150 feet.

EDRICK VAN BEUZEKOM: Yeah. It's non-conforming to the FAR and so we're increasing it slightly.

CONSTANTINE ALEXANDER: You're from 0.54 to 0.57 and the district is 0.5. You're over a little bit now and you're going to be a little bit more over if we grant you the relief you're seeking. And you have the setback issues because of the unusual shape of the lot.

EDRICK VAN BEUZEKOM: Exactly.

CONSTANTINE ALEXANDER: Comments from members of the Board?

JANET GREEN: No.

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

Is there anyone here wishing to be heard?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

We are in receipt of two letters which I will read into the record.

One is from Hank Reisen R-E-I-S-E-N. (Reading) My wife Cheri C-H-E-R-I Fultineer F-U-L-T-I-N-E-E-R and I have lived in the house at 20 Farrar Street for decades. We have reviewed your plans. The letter is addressed to the petitioners -- for 22 Farrar Street which is directly next-door to us. We feel you and your architect Edrick have done a very nice job. We think the plans and designs that you are submitting for the Variance on your property are attractive and appropriate. Your new design appears to be a good size, not too big. We believe your new proposal will also look great to us. And best of luck on passing the Variance.

The other letter is from Robert C. Mitchell and Susan J. Pharr spelled P-H-A-R-R. They reside at 26 Farrar Street. (Reading) As immediate

abutters to 22 Farrar Street, we wish to register our strong support for the petition submitted by Natan and Emmy Linder for the Variance described in the notice of public hearing on this matter. 22 Farrar Street and our property at 26 Farrar Street and 11 Holden Street are three adjacent houses built at the same time (1929). Designed by the same architects, Duguid D-U-G-U-I-D and Martin for the same developer. A consortium of neighbors. Although the architecture of each house is unique, they share an overall design. Over the almost 90 years since their construction, each of our three houses has been modified by small additions and reconfigurations to meet the needs of new owners while maintaining the original look of the structures. We have examined the documentation for the Linders' proposed modification of 22 Farrar and have inspected the property with the architect. We believe that the Linders' proposed modifications in 2017 for 22 Farrar are fully in keeping with the character of the past changes to our companion buildings; that is, they are intended to increase the liveability of the house, they are limited in scope, and they maintain the house's original character. We wish them well and strongly support their petition. And that's it.

Any final comments? Only if you have them. You don't have to.

EDRICK VAN BEUZEKOM: No.

CONSTANTINE ALEXANDER: No?

EDRICK VAN BEUZEKOM: No.

CONSTANTINE ALEXANDER: I'll close public testimony.

Any discussion or are we ready for a vote?

JANET GREEN: Ready.

CONSTANTINE ALEXANDER: I'm ready for a vote.

SLATER ANDERSON: Yes.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that we make the following findings with regard to
the Variance being sought -- two votes and then a vote for the Special Permit.

A literal enforcement of the provisions of the Ordinance would
involve a substantial hardship. Such hardship being this is an older structure,
somewhat of an undersized and necessary to have some modest increases to the
envelope of the structure to make the building more liveable for a family.

That the hardship is owing to the basically the shape of the lot. It's
trapezoidal in nature.

And that relief may be granted without substantial detriment to the

public good or nullifying or substantially derogating from the intent and purpose of the Ordinance.

In this regard the Chair would say the relief being sought is modest. Nonconformance of the FAR. It has the support of the neighbors and which is important in this case because the neighbors have structures with similar architecture and it's important that we remain consistent with this structure with the neighbors structures.

On the basis of all of those findings the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with the plans prepared by EVB Design, the first page of which has been initialled by the Chair. This is the second. Your amended submission with a slight modification.

All those in favor please say "Aye."

(Aye.).

(Show of hands.)

CONSTANTINE ALEXANDER: Variance granted.

(Alexander, Sullivan, Green, Anderson, Best.)

CONSTANTINE ALEXANDER: Variance granted.

Now we move to the Special Permit.

The Chair moves we make the following findings with regard to the Special Permit being requested relating to reconfiguration of windows in a non-conforming wall.

That the requirements of the Ordinance cannot be met unless we grant the Special Permit.

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

In this regard, again, we're not talking about hazard or congestion, we're talking about rather modest changes to the window, window configuration on the structure.

That the continued operation or development of adjacent uses will not be adversely affected by what is being proposed. The best of it is that the letters of support that's been provided to us by the petitioner.

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

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

On the basis of these findings the Chair moves we grant the Special Permit requested on the condition, again, that the work proceed with the plans previously referred to with regard to the Variance we granted.

All those in favor please say "Aye."

(Aye.).

CONSTANTINE ALEXANDER: Five in favor. Good luck.

(Alexander, Sullivan, Green, Anderson, Best.).

* * * * *

(1:35 a.m.)

(Sitting Members Case BZA-012827-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Slater W. Anderson, George S. Best.)

CONSTANTINE ALEXANDER: The Chair will call case No. 012827, 19 Maple Avenue.

Is there anyone here wishing to be heard? Obviously you are wishing to be heard. For the record, your name and address to the stenographer.

SAM WOLFF: My name is Sam Wolf W-O-L-F-F and our address is 19 Maple Ave.

MEREDITH WOLFF: Meredith Wolff, M-E-R-E-D-I-T-H W-O-L-F-F, same address, 19 Maple Ave.

SAM WOLFF: So we're here to hopefully get a Variance for dimensional -- it's dimensional relief.

CONSTANTINE ALEXANDER: It says setback relief.

SAM WOLFF: Setback relief. Yeah, the rear yard and one of the side yard.

We have an existing carriage house or garage, depending on who you ask at the Historic Commission, they call it different things. But it was built over 100 years ago. I think it's safe to say again they disagreed with each other when exactly. I don't think they could figure it out. Our house was built in 1897 and the garage was shortly thereafter, not at the same time.

We are hoping to turn it into a dwelling unit. It -- we did a fairly careful renovation of our existing house. We're on, again, Maple Ave. which has already been discussed a bit. It's an historic street. We have a fairly historic house and so we did a pretty careful job on the house, and now we kind of want to do the same thing to the garage, but at the same time let a little bit more light into the second floor, let a little bit more light to the first floor.

CONSTANTINE ALEXANDER: Are you planning to rent the one bedroom apartment?

SAM WOLFF: No, my mom who is here.

CONSTANTINE ALEXANDER: You can still pay rent even

though you're the mom.

SAM WOLFF: That's a whole other discussion. I can get charged back rent for a few decades.

Anyway, so that's, that's where we are. So our, you know, we again have what we feel is a pretty attractive garage that was probably more attractive before the previous owners fooled around with it a little bit. You can see in some of the pictures that we submitted, that they did a little fooling around with it and we want to kind of bring it back a bit. And I don't know. I don't want to draw it on. I'm not sure what else I'm supposed to say.

CONSTANTINE ALEXANDER: Okay. Questions from members of the Board?

(No Response.)

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

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

LAURA PIRANI: I've waited this long I might as well. My name is Laura Pirani P-I-R-A-N-I. I reside at 23 Maple Avenue with my significant other who has resided there since 1982, and his family owned the property in the

late fifties. So as Sam said, they did an absolutely wonderful job renovating their home. We expect that they'll do a wonderful job if their petition is granted. And I guess from what I have been able to read, we are the setback that they don't meet and we really have no problem with it. The -- it looks like from all their plans at the outside of the building will remain the same. It's the inside that will be changed. And, therefore, you know, we're supporting it.

I also don't feel as if it were to be detrimental in any way to the neighborhood. You know, there are a lot of two-family homes. We also have a two-family home. So I think it's in keeping with the maybe hood in our property.

CONSTANTINE ALEXANDER: Thank you. And thank you for being patient enough to stay for this late hour.

Sir.

MARK DISHOP: Hello. Mark Dishop again. I don't know these people. It's 7 Maple Avenue. But I, in the course of doing research for the 6 Maple Avenue thing, I took a look at all the changes that have been made on Maple Avenue since inception, because I was opposed to the project on 6 Maple originally until they made some changes to it. And what I discovered is that none of the major houses, the main houses on the street that still are there now,

have had any changes, any additional rooms even added to them. They may have had some rooms slightly bumped out a little bit, but otherwise no changes. It really has been a preserved street. However some of the guest houses and garages have been changed or changed from barns or something into guest houses or have had second stories added to them and have been changed in a numberer of ways. And I think what they're trying to do on their house, on this garage is not -- is in keeping with some of the things that have been done on the street, on guest houses or garages. So while none of the main houses have been changed in significant ways to date, the guest houses and garages have been changed somewhat meaningfully and so I think this is in keeping with the, with what the historic character of the neighborhood and with what's been done on the street already.

That's all I want to say.

CONSTANTINE ALEXANDER: Thank you thank you. Anyone else wishes to be heard?

(No Response.)

CONSTANTINE ALEXANDER: The Chair will close public testimony.

Discussion or we ready for a vote? Ready for a vote I think. I hope.

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

That a literal enforcement of the provisions of the Ordinance would involve a hardship.

Such hardship being that there is a rather large carriage house on the property that would, was quite suitable for conversion to a single, a one-bedroom apartment to supply accommodations for a family member.

That the hardship is owing to the fact that the structure is currently non-conforming as to certain setbacks, and therefore would require if we were to grant relief, we have to accept the fact that there are setback issues.

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

So on the basis of these findings the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with a one page of plans prepared by Black River Architects which have been initialled

by the Chair, which you submitted as part of your package.

SAM WOLFF: Yes.

MEREDITH WOLFF: Yes.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

(Alexander, Sullivan, Green, Anderson, Best.).

(Whereupon, at 1:45 a.m., the

Zoning Board Adjourned.)

* * * * *

ERRATA SHEET AND SIGNATURE INSTRUCTIONS

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

INSTRUCTIONS

After reading this volume of the Zoning Board of Appeals transcript,
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this Errata Sheet.

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

C E R T I F I C A T E

**COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.**

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of May, 2017.

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

My Commission Expires:
April 29, 2022

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