

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, JANUARY 12, 2012

7:00 p.m.
in

Senior Center
806 Massachusetts Avenue
Cambridge, Massachusetts 02139

Brendan Sullivan, Chair
Constantine Alexander, Member
Tad Heuer, Member
Thomas Scott, Member
Mahmood R. Firouzbakht, Member

Sean O'Grady, Zoning Specialist

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P R O C E E D I N G S

(7:00 p.m.)

(Sitting Members: Brendan Sullivan,
Constantine Alexander, Tad Heuer, Thomas

Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: We'll call to order the Board of Zoning Appeal meeting for January 12, 2012 to order. The first case will be case No. 10144, 169 Western Avenue.

Is there anybody here interested in that matter?

(No Response.)

BRENDAN SULLIVAN: The Board is in receipt of a correspondence dated December 19, 2011, from Kathleen Walcott, W-a-l-c-o-t-t, who is the owner of the property.

(Reading) I, Kathleen Walcott, would like to withdraw my petition to increase the height of my building located on 69 Western Avenue, Cambridge. Please accept this letter as notice of withdrawal for our petition.

All those of accepting the motion to withdraw.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

The matter is withdrawn.

(Sullivan, Alexander, Heuer, Scott,
Firouzbakht.)

* * * * *

(7:00 p.m.)

(Sitting Members: Brendan Sullivan,
Constantine Alexander, Tad Heuer, Thomas
Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case No. 10126, 61 Dudley Street.

Is there anybody here interested in that matter?

(No Response.)

BRENDAN SULLIVAN: The Board is in receipt of correspondence dated January 6th from Michael Wiggins (phonetic).

(Reading) Dear Mr. Sullivan: The hearing on the above matter which was originally heard in July 2011 has been continued and is on the agenda for January 12th. I now ask that it be continued to February 2nd. As you may be aware, a new petition for a variance involving different dimensional relief from the original petition was filed and is to be scheduled for a hearing on February 2nd. At that time it is our intention to withdraw the original petition providing that my clients are permitted to proceed with the new petition.

Thank you for your consideration.

All those in favor of continuing this matter.

CONSTANTINE ALEXANDER:

Mr. Chairman, I would just point out this is a case heard. And if we have to hear the continued case, I will be not be here on February 2nd.

BRENDAN SULLIVAN: Correct.

CONSTANTINE ALEXANDER: My assumption is that they will continue with four Board members.

BRENDAN SULLIVAN: On the motion, then, to continue this to February 2, 2012, at seven p.m. on the condition that the petitioner change and maintain the posting sign to reflect the new date and time of February 2, 2012.

All those in favor of accepting the request for a continuance.

(Show of hands).

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer, Scott,
Firouzbakht.)

* * * * *

(7:05 p.m.)

(Sitting Members: Brendan Sullivan,
Constantine Alexander, Tad Heuer, Thomas
Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will
hear case 10171, 725 Concord Avenue.

Is there anybody here interested in
that matter?

(No Response.)

BRENDAN SULLIVAN: The Board is in receipt of correspondence from Ms. Katherine Rafferty requesting a continuance to a later date for them to proceed and in maybe possibly a different matter with their petition. That later date would be?

SEAN O'GRADY: Three to six months out I have to say.

BRENDAN SULLIVAN: So, we'll give them a March date?

SEAN O'GRADY: I would shy away from March given it's not that urgent.

BRENDAN SULLIVAN: April 12, 2012?

SEAN O'GRADY: April 12th or 26th.

BRENDAN SULLIVAN: All right. On the motion, then, to continue this matter until April 12, 2012, on the condition, again, that the petitioner change and maintain the posting sign to reflect the new date and time at least 14 days prior to the

hearing of April 12, 2012.

All those in favor of continuing this matter.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer, Scott, Firouzbakht.)

* * * * *

(7:05 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case No. 10140, 2 Hutchinson Street.

Is there anybody here interested in that matter?

EDRICK VAN BEUZEKOM: Yes.

BRENDAN SULLIVAN: Edrick, if you would please come forward. As you are aware, we only have four of the original five members that sat on the case. And the decision to

proceed to go forward is?

EDRICK VAN BEUZEKOM: I think we are going to ask for a continuance. The question is --

BRENDAN SULLIVAN: The next time we'll all be together will be March 8th.

EDRICK VAN BEUZEKOM: March 8th. So that's as soon as possible.

BRENDAN SULLIVAN: That's as soon as possible. The other option would be to -- I'm not even sure if it can be re-filed in time. That's another possibility.

SEAN O'GRADY: I'm not sure on that.

EDRICK VAN BEUZEKOM: Why don't we --

BRENDAN SULLIVAN: Continue it to March --

EDRICK VAN BEUZEKOM: -- issue a continuance and if --

BRENDAN SULLIVAN: So as per the request of the petitioner, I make a motion to

continue this matter until March 8, 2012, at seven p.m. Again, on the condition that the petitioner maintain the posting sign for 14 days prior and change it to reflect the new date and time.

And any submissions regarding this particular case be in the file by five p.m. on the Monday prior to the hearing of March 8th.

All those in favor of continuing this matter.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer, Scott, Firouzbakht.)

* * * * *

(7:10 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case 10120, 101 Larchwood Drive.

Is there anyone here interested in that matter? Please introduce yourself.

ZEEK BROWN: I'm Zeek Brown the architect and I would just like to request a continuance to the March 8th hearing.

BRENDAN SULLIVAN: Okay. All those in favor of accepting the request to continue this matter until March 8, 2012, at seven p.m. on the condition that the petitioner maintain the posting sign, change the date on it to reflect the new date and the time, and it be maintained at least 14 days prior to that date.

TAD HEUER: This is a case heard?

CONSTANTINE ALEXANDER: Yes.

BRENDAN SULLIVAN: Larchwood is a case heard.

TAD HEUER: Right. So I seem to recall from the last time we had everyone here and we're discussing it, there was some question from members of the Board as to the appropriateness of the request for relief not only in the volume, which I see that they brought down nearly to 23 feet over something very minor.

ZEEK BROWN: Just the front entry.

TAD HEUER: Yes. So there was an FAR question. There was also a setback question. And particularly the left-side setback, which was already non-conforming. It will be more non-conforming. And I believe that there are several members who were looking at this and looking at a rather generous rear yard setback not being

infringed upon at all, and had questions about why the extension was moving to the left, for example, the left yard setback rather than being placed in the rear which would allow it to be more conforming. And I would encourage as they're continuing, I know they submitted new plans, that maybe consider those comments of the Board in approaching the March 8th continuance as justification for why you are not -- have not commended them to look at the rear yard as well as the side yard, or to consider if you do want to amend the plans, that they need to be amended in time, the Monday before the hearing so we can review them. I would hate to get to a continuance and only to have that discussion and have the architect be required to continue again only that's something they elected to reflect in the plans --

BRENDAN SULLIVAN: Okay.

ZEEK BROWN: Yeah, we -- after the

last hearing we met -- I met with and we reworked as much as they are in favor of doing at this point. At this point we worked hard to get the FAR to be within the standard.

TAD HEUER: Yes.

ZEEK BROWN: And we talked a bunch about moving it back to the backyard as opposed to the side yard and we elected not to pursue that because we want to preserve the backyard space for quality of life reasons. And the side yard that they want to expand to is that neighbor is strongly in favor of the plans that they have, you know, had me draw up.

So, you know, we took one of the main non-conformities off the table which is the FAR and we sort of --

CONSTANTINE ALEXANDER: So you're saying you're going to rise and fall on the plans that are now in the file knowing that there may be issues with the yard? That's

your Constitutional right.

ZEEK BROWN: That's it.

BRENDAN SULLIVAN: And, again, the transcripts of that hearing are in the file if you want to review them --

CONSTANTINE ALEXANDER: Yes.

BRENDAN SULLIVAN: -- word by word, just so that you can have a ready response I would think.

ZEEK BROWN: Yeah.

BRENDAN SULLIVAN: Anyhow.

CONSTANTINE ALEXANDER: You've been duly warned.

BRENDAN SULLIVAN: Yes. Anyhow, I mean, you can do what you have to do.

ZEEK BROWN: Okay.

BRENDAN SULLIVAN: Okay.

On the motion, then, to continue this, again, with the prerequisites of changing the posting sign and maintaining it.

All those in favor.

(Show of hands).

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer, Scott,
Firouzbakht.)

ZEEK BROWN: March 8th it is?

BRENDAN SULLIVAN: March 8th.

ZEEK BROWN: Thank you, sir.

* * * * *

(7:15 p.m.)

(Sitting Members: Brendan Sullivan,
Constantine Alexander, Tad Heuer, Thomas
Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: Okay. 10181, 64
Dudley. Is that the latest and the greatest
on that one?

THEODORE REGNANTE: Yes, sir.

CONSTANTINE ALEXANDER: Just get the correct street in case you care. We could hear Prentiss Street?

BRENDAN SULLIVAN: Well, Dudley is an earlier file and earlier number.

CONSTANTINE ALEXANDER: We're hearing 10181, right?

BRENDAN SULLIVAN: I think that's the latest one.

ATTORNEY THEODORE REGNANTE: Yes, sir.

BRENDAN SULLIVAN: Mr. Regnante, if you would introduce yourself for the record.

ATTORNEY THEODORE REGNANTE: Mr. Chairman, my name is Ted Regnante and I represent the petitioner. And with me is Bill Hubner the architect, Mrs. Flori the owner, and her son Arty. And what I'd like to do is kind of give you an overview. This is a rather complicated issue at least from

my point of view, a rather complicated petition that's been pending for quite a while. And I'm going to let Bill actually go into the detail which is, you know, more of the technical aspects.

So we're moving forward on 10181 and we would be asking that the prior cases of 10047 and 10151 be withdrawn at the time that action is taken on 10181. So we're not taking any action on those.

Our proposal is to construct a two-family residence at 64 Dudley Street which is parcel 123, which consists of 5,010 square feet. The lot is irregularly shaped with a frontage of 30 feet and a depth of 167 feet. It becomes more complicated because it's held in common ownership with parcel 152 which is 31 Cedar which is a combination of residential apartments and three commercial uses on the first floor, all non-conforming. That parcel consists of 7,666 square feet.

Further complicated by the fact that it's held in common ownership with 1-5 Cedar Square which is parcel 125 and is a landmark structure, the Old Park House Hotel built in 1847. And that parcel consists of 17,938 square feet. The proposed residence would have a footprint of 21 feet by 40 feet and will be three stories similar to the structures on the same side of Dudley Street. And Bill will show you that perspective.

The parcel will contain 13 parking spaces with extensive landscaping including an open space buffer of 15 feet.

It should be noted that at the request of some abutters and Inspectional Services, we've submitted this plan with an alternative plan with some reduced landscaping and 18 spaces reducing the open space landscape buffer from 15 feet to six feet. The present lot could accommodate 25 spaces if no improvements are made to the property.

Although that number would not conform to the dimensional space requirements, and if a fire lane were required, the number of spaces would reduce to 17 from the 25. And that is an open air parking lot at the present time.

What we're attempting to do is to create two additional housing units in the two-family structure, improve frankly an unattractive parking area with a structure consistent with the Dudley Street streetscape and some extensive landscape.

The building would have a height of three stories, of 32 feet. It would be one bedroom on the first floor and a second bedroom and two bedrooms on the second and third floors of the structure.

We've met with the tenants and the neighbors and some of them are here this evening, including representatives from the North Cambridge Stabilization Committee with mixed results. We have some support but

considerable opposition. We've changed the proposal and added landscaping in an attempt to address a lot of their concerns, but I'm sure there will be other concerns raised tonight.

Most of it has to do with the number of parking spaces and that's why we've come up with an alternate plan, our proposal is with the 13 spaces, but we've come up with an alternate plan, with a little less landscaping, with 18 spaces. We would like to move forward with the 13 spaces pending comments from the Board.

The Variance and the Special Permit are necessary since we're required to treat the three separate lots as merged under Zoning and all held in common ownership.

It's interesting to note that if we were treating 64 Dudley Street as a separate lot, we'd meet the Zoning requirements except for the setback of one-and-a-half feet versus the

seven-and-a-half feet required, but we don't.

Because the structures at 31 Cedar and 1-5 Cedar are non-conforming as to parking, as to use, and other requirements, we need both a Special Permit and a Variance. We've been before the Historical Commission because of 1-5 Cedar Street is a landmark building and they have issued, and you have in your file, a Certificate of Appropriateness. And it's interesting to note that they support our proposal of 13 spaces or in the alternative, 18 spaces feeling that the matter of parking is appropriately before the ZBA rather than themselves. The original structure as I'm sure you know, is part of the Cambridge (inaudible).

The hardship has to do with the irregular shape of 64 Dudley Street with the frontage of 64 and a length of 167. We feel

the two-family will maintain the character and the fabric of Dudley Street with screening and substantial landscaping.

The proposal also includes covering asphalt with landscaping and improving the usable open space. The proposal for the 13 spaces is less than the 22 that would be required because there are 20 units there and the additional two would bring it to 22.

We feel that the lesser parking is appropriate because of the more -- the extensive landscaping and the usable open space. But of course that's up to the Board.

The other thing that we're doing as a result of working with the abutters is that access from the parking area will be from Dudley Street and MacLean Place, but egress will be directly to MacLean Place. Because we've got complaints from a lot of the abutters on Dudley saying that people pull out onto Dudley and actually hit the cars over

there. So we want to make sure that it goes out, out the other way.

We feel that the -- we're trying to strive a transition from the triple decker residences to the west and to the larger structures on Cedar Square by improving the appearance and the function of the existing parking lot with a new residence and the landscaping. We think that the improvements will reduce hazards for the occupants and the neighbors. The current wide unstriped and no signage lot encourages random access and parking with no regard for the right of use which is a nuisance frankly to the neighbors. The proposed defining parking lot with the screening and the landscaping will discourage the double parking, the random use, and the uses.

With that I'd like to turn it over to Bill who can actually go into the details.

CONSTANTINE ALEXANDER: Before you

do that, I'm just going to review some notes.

ATTORNEY THEODORE REGNANTE: Go ahead.

CONSTANTINE ALEXANDER: And I got these numbers off your dimensional form, but I want to make sure that we're all in agreement.

ATTORNEY THEODORE REGNANTE: Okay.

CONSTANTINE ALEXANDER: In terms of your Zoning relief, the FAR for this district is 0.37, no more than 0.37. Right now you're at 0.84. And if we give you relief that you're seeking, you're going to go 0.92. More than roughly three times what is permitted under our Zoning By-laws.

ATTORNEY THEODORE REGNANTE: That's correct.

CONSTANTINE ALEXANDER: That's FAR. In terms of the number of dwelling units on the lot, the Zoning law says no more than 8. You've got 20 there now, and you want to

go to 22. So you want to go to three times more than permitted by the Zoning By-Law. And parking, you're supposed to have at least 22 spaces on this lot.

ATTORNEY THEODORE REGNANTE: Right.

CONSTANTINE ALEXANDER: You now have arguably 25, but you want to go to either 13 or 18 --

ATTORNEY THEODORE REGNANTE: 24.

CONSTANTINE ALEXANDER: 24. All right. You're in compliance now.

And you want to go to either 13 or 18 which is not nearly in a compliance. Probably almost 50 percent less than what is required. You wanted to do all of this in a very densely populated neighborhood where parking is an issue on the street and houses are close together. I want to make sure, are those numbers right?

ATTORNEY THEODORE REGNANTE: Yes.

WILLIAM HUBNER: More or less we'll

go over them again.

ATTORNEY THEODORE REGNANTE: Yeah. He'll go over them. But yes, in answer to your question. I said at the beginning that it's substantial --

CONSTANTINE ALEXANDER: I wanted to make sure I got the facts right, that's all.

ATTORNEY THEODORE REGNANTE: So, Bill, will you go through the proposal and will you look at the -- will you point out the variances that are required? There are actually six variances that are required.

BRENDAN SULLIVAN: Introduce yourself for the record.

WILLIAM HUBNER: Bill Hubner. And I am a resident at 55 Goldstar Road in Cambridge. I'm the architect.

A quick overview on top of what Ted just said, the current parcel is -- we have existing conditions.

BRENDAN SULLIVAN: What is the date

of the plan that we're working off of by the way?

WILLIAM HUBNER: 29 November, 2011. You guys should have a copy of this in your package.

ATTORNEY THEODORE REGNANTE: And I have -- excuse me. I have extra copies of all of these if you don't have them in front of you.

CONSTANTINE ALEXANDER: I'll take a copy now. I have that.

Tom, would you like one?

THOMAS SCOTT: Yes, I'll take one, too.

ATTORNEY THEODORE REGNANTE: And as Bill goes through it, if you don't have it in front of you, I've got extra copies that I can pass out as he's talking.

WILLIAM HUBNER: Okay. The existing parcel, as Ted mentioned, is a uniformly paved vacant lot basically from the

fence line, which is to the property line, to the existing curb line which is the back of the property line 31 Cedar Street and 1 FIESer Street.

I did a hypothetical parking diagram on this, not just the way it is, and people were actually parked according to the dimensional requirements, and came up with a hypothetical number of parking spaces of 25 on this parcel here. That's in the landscaping on the street.

Currently the parcel's accessed by a curb cut here. There is -- there used to be an open air fenced-in storage area, which has been there for some number of years. It was taken down just recently to occupy approximately 30 percent of the lot, which has sort of the recent history, the area that was used for -- throughout ad hoc parking that was the front part of the lot here. And anecdotally it was -- when I do my analysis,

we are able to park about 12 cars. So the neighbors say, you know, on a busy weekend or whatever, when the tenants or when there's a party going on, there's just a chockfull of cars.

There's an -- after the open area's removed, there's a fence here, but it blocks the access from Dudley on to the Mclean and then Mclean onto Cedar. But there is no curb line there. It is a flow. In the historic district review there was evidence of this having one time been just an open flowing roadway. This actually was called Mclean Place all the way through here. It's been changed. (Inaudible).

It is the goal of the property owner to construct a two-family home. And that is shown here. This side-by-side analysis of it. Which with two dedicated off-street parking spaces as Ted mentioned. And in the primary submission we would provide and

organize an additional 11 parking spaces that in our scheme would be dedicated to the 31 and 1-5 Cedar Street.

Parking areas will be signed and screened from the street by both the new building and by landscaping. And access, as I mentioned to this parking area from Dudley Street, which is a one way street in this direction, but we will also provide access to the transit place which is a two-way street, dead end, and that would take off the pressure off the Dudley Street traffic that exists there now.

The basic plan, our goal anyways is to transform this unattractive, vacant lot into an appropriate scale residential neighbor enhancing the side lines from Dudley Street and from the Mclean Place as well.

CONSTANTINE ALEXANDER: Can I ask you a question? Why wouldn't you do the landscaping without building the two-family

house? What does one have to do with the other? The lot is unsightly, we've acknowledged that.

WILLIAM HUBNER: Well, my understanding is that sort of two, I mean three -- sorry, goals for basically any property in Cambridge. One is the opportunity to provide housing whenever possible. Another is to provide open -- usable open space and landscaping whenever possible. And also the third is also parking.

So we're proposing what we think is an actually nice balance of new residence. There's always a need for that. We ultimately relieve the housing pressure. And also a little bit about the house in just a moment.

Obviously usable open space. Not just a paved parking lot, but actually landscaped screening type open space that is of higher

quality. Actually technically paved space. There's zero open space right now because it's paved for parking.

And, of course, the parking. And, again, I'm going to talk about that in just a moment why we believe the balance of fewer parking spaces for really needs or goals is appropriate for you all to consider. That's basically it.

The building itself, you can see from its footprint here, it's quite modest and provides a somewhat different housing type (inaudible). As Ted mentioned, there's the single bedroom, 800-square foot unit on the ground floor. And then a two-bedroom duplex apartment on the second floor which is about 1300 square feet.

CONSTANTINE ALEXANDER: Is that it down there?

WILLIAM HUBNER: This is the actual, this is an analysis of the triple deckers next

to the --

CONSTANTINE ALEXANDER: I meant the drawing, though.

WILLIAM HUBNER: Yeah, that's the front of our building.

CONSTANTINE ALEXANDER: The building you would propose to build?

WILLIAM HUBNER: Yes, exactly.

Here are all four facades in here. And that goes with that footprint. And I also have the floor plans which are also in your packet which show the layout, it's part of the record of what we are -- we'll be building if we're allowed to build.

BRENDAN SULLIVAN: I don't see that in the file anywhere. This is dated 8th of August.

WILLIAM HUBNER: Well, that may be date of the plans. That may be different than this. You know, all the drawings were produced at different times with different

submissions.

ATTORNEY THEODORE REGNANTE: These are the plans that --

WILLIAM HUBNER: The plans that are in your file.

BRENDAN SULLIVAN: Yes. What's the date of that?

ATTORNEY THEODORE REGNANTE: The date of these, 8 August.

BRENDAN SULLIVAN: All right, so those are the plans. I thought you had mentioned something about -- when I asked you what plan we were going by, you gave me a different date.

WILLIAM HUBNER: That would be for this drawing itself. Sorry.

CONSTANTINE ALEXANDER: I think for the landscaping, the site plan --

BRENDAN SULLIVAN: All right, so this is --

ATTORNEY THEODORE REGNANTE: Those

are the house plans, Mr. Chairman.

BRENDAN SULLIVAN: Okay.

WILLIAM HUBNER: So we're talking about a total number of bedrooms of three -- again, we're actually providing designated parking for that building, but, again, it would be appropriate for student housing, young couple, co-habiting unrelated adults, older, retired people trying to make a balance here of, again, housing type and perhaps find the one (inaudible).

And as Ted has already gone over, I don't want to repeat the point. Currently there's the triple decker scale of these two quite large buildings. We're trying to fill the gap, make a bridge between them, kind of fill the hole in the neighborhood, and we feel that it enhances the streetscape, the screens, the road to the back of these buildings, and force the parking

(inaudible).

Of the 20 units that are currently here, three of them are commercial uses with primarily, primarily mid-weekday time parking which are residential. We have -- and these are all in the documents, we have a bus stop on Mass. Ave. which is 500 feet away from this parcel. And we have another bus stop down on Rindge Ave. which is 700 feet away up to Cedar, which is now Cedar to Rindge. And we are well served by public transportation. We have a bit of a mixed use in the area which is the pressure on the lot is not quite as much. And in general, using various process, what we're trying to do is saying at least we believe the conditions we're providing is actually appropriate for the neighborhood. A typical house in this greater area when you ride the bus on Mass. Ave. offers zero parking spaces. It's not an excuse, but just saying we're trying to keep

this in sort of some balance.

Same with FAR, the proposal, as you recognize with the numbers, is for a proposed FAR of 0.09 and change. We did an analysis on the neighborhood, and the FAR's vary of course, but there are -- 66 Dudley Street, is 0.09; 70 Dudley Street is 1.14; 76 Dudley Street is 1.3.

TAD HEUER: Isn't that likely because Zoning was put in because those lots were overburdened and they want to prevent further construction that would create such overburdening and that's why we have the Ordinance that we have today?

WILLIAM HUBNER: I wouldn't know why you have the Ordinance you have today.

TAD HEUER: I'll bet it's that reason. When were those buildings built?

WILLIAM HUBNER: Probably --

TAD HEUER: Pre-1944?

WILLIAM HUBNER: Yes, yeah. Most

certainly.

TAD HEUER: So wouldn't it be a reasonable presumption that the reason that those buildings have a high FAR and they were built pre-zoning, that the City Council wanted to prevent that kind of very high density in this exact neighborhood which is why they set an FAR lower than that? And to say anything that's already there is grandfathered, but anything coming later we want to comply with the FAR. And here we're essentially -- your justification, and I understand why you're doing it, is that we should match the neighborhood. Whereas the City Council has essentially said the exact opposite. We don't want that much density in this neighborhood. We mandated that it would be less. Would that be unreasonable for us to --

WILLIAM HUBNER: No. Actually, the way I see that is that what Zoning says is that

before -- the reason why there's a Board here is to say before we had cart blanche and by right, let anybody come along and build at these higher densities, we want you to come to us and show us why if -- do we actually -- do we indeed have a case here with what we're proposing isn't detrimental to the neighborhood, it's sort of the character of the neighborhood of occurring the existing pattern.

CONSTANTINE ALEXANDER: But the argument that Mr. Regnante proposed as to why you're entitled to relief is an irregular shaped lot. That has nothing to do with the FAR issues that Tad and I have raised.

WILLIAM HUBNER: Okay, let's go back a step. This is just to kind of helping to understand we're thinking about this in a systemic logic, if there's logic as to why it came up, and that is as we first approached this parcel, what we were looking at is a

30-foot wide by 162-foot long parcel, which is designated at 65 Dudley Street. And assuming it's a grandfathered deeded lot. It's a peculiarity of the lot which has this discussion. If you look at what we're proposing to do on this lot, as Ted mentioned, we don't need any Variance. This actually meets FAR and meets setback, except for the one side yard setback. In this case it's a 35-foot lot. Current Zoning, for current Zoning is minimum of 50 feet wide, if I got that right, instead of 30. So our hardship is that it's an existing lot, grandfathered lot, happens to be 30 feet wide. That's our hardship. The FAR height requirement, usable open space, parking, yadda-yadda, just on our lot, now, it's just when we have to put on the middle lots. So they gave us, let's see, they gave us a goal to see if we could come up with a reasonable plan, that seemed like a reasonable development pattern

for this lot and see if it would work, and that got us to kind of where we are now, but where we were, say, a month ago. So it seemed reasonable to us. It just does. I mean, it's not out of the question. The size compared to the other one, if you look at the numbers across the board were okay, except for the side yard. And by the way, my argument to you is if this was the discussion was, we don't figure this is a hardship because what we're asking for relief on the side yard is indeed against what would be now a common driveway, a substantial space between us and our neighbor and, therefore, we're conforming on this side and conforming in the front, it seemed like a reasonable plan.

Now --

BRENDAN SULLIVAN: But the tipping point is even though you're saying that you're complying with the parking for the

proposed structure --

WILLIAM HUBNER: Yeah.

BRENDAN SULLIVAN: -- you're taking away from the other structures.

WILLIAM HUBNER: Well, again, when we first came to this project, there was this large ground area that was actually all made up. Again, the third of the hypothetical parking was available here. So, it seemed pretty reasonable. We were looking about 12 spaces of parking and saying gee, we're going to offer 11. We're looking for a little bit of relief. It now turns out that, you know, again, that's -- this is a tough, this is a tough application.

CONSTANTINE ALEXANDER:

Absolutely.

WILLIAM HUBNER: Because I think it offers a sensible use of the property. A reasonable flavor for the neighborhood, but it doesn't require us to make some decisions,

tough decisions to make sense or whether it does not make sense.

TAD HEUER: I mean, the other reason Duany-Plater-Zyberk would love this; right? Like, this is new urbanist in-fill, all that over good stuff. I kind of like that theoretically, too, but this book has a lot of rationales that we need to look at and give deference to. I mean, you're right, we're here as a safety valve. But we have to give deference to a lot of stuff that pretty much down the line says, "Don't do it." And, "Really don't do it." And, "Don't do it and certainly don't do it in combination with one other." Like, "Don't do it in combination with one other, one other, and one other." When you mentioned the 30-foot frontage, maybe it's a hardship. And you could also say 50 feet is what they require for both the lots. It's just that you have a non-buildable lot; right?

WILLIAM HUBNER: Well, again, that's why there's the grandfather clause. It's a deeded lot. Someone's been paying taxes on all those years.

CONSTANTINE ALEXANDER: Well, it's a deeded lot, but a deeded, unbuildable lot.

WILLIAM HUBNER: Well, I don't know how to deal -- I guess that --

BRENDAN SULLIVAN: It's not that it's not being used, it's being used for parking which services those two buildings. Which right now is an amenity to those two buildings and also an amenity to the neighborhood because it gets all those cars off the street. And to me -- and, again, I'm just not convinced, I think that the petitioner, the owner is looking at this lot and saying, Gee, you know, we're paying taxes on it and could we not generate some revenue here? And how can we generate some revenue? Some additional revenue. And so, well,

let's throw a house in there. And it's really a revenue-raising scheme.

Now, you can couch it and all that, we're providing housing for starters and so on and so forth, but that's fine if you can do it as of right. But you're taking away parking, which I think is going to overburden the neighborhood. I also think that the in-filling, and in reading your supporting statements, your pleadings that you're saying that we're taking an unsightly lot and we're going to provide open space, usable open space. If I were to say to somebody in the neighborhood that by putting in a two-family house they're going to add to usable open space. I wonder what kind of reception and perception that would generate? They would say how can you build a two-family house and add to the usable open space?

WILLIAM HUBNER: Well, it's part of

the --

BRENDAN SULLIVAN: Because it's a Zoning.

WILLIAM HUBNER: Yes. Well, it's also part of the whole development plan. It's not just --

BRENDAN SULLIVAN: But what we are doing is we are in-filling where it really is not meant to in-fill. So, I'm just not convinced.

WILLIAM HUBNER: Okay. Well --

BRENDAN SULLIVAN: You've got to get me over that threshold somehow.

WILLIAM HUBNER: Housing is generated in our town and probably most towns by the private sector. The town isn't building housing per se, they're encouraging it. It's a private sector, it brings housing to the market. And so this is a proposal to bring housing to the market, to the process of it, to enhance the property which is there

now which is -- it's taking away parking. On that point there's no argument. What we're trying to do is say it's a strong enough argument, a need that it should trump all other uses, potential uses here. And, again, I've already stated the fact that the mixed use of this -- the proximity of the public transportation allows us to consider that as being a consideration. It isn't, it's one for one, although it's Zoning. I appreciate that. Sometimes it's the relief from that and that's why it's written in the Zoning By-Law that there are ways to come to you folks and ask for relief. So, again, we're trying to add all three things. And financial motivation plans, but again, I mean housing is housing. It has to come from somewhere. It fits in. The historic districts seem to think it's nice and we -- again, while we are on this discussion, we should probably talk about this. Because

if the (inaudible) hinges around parking predominantly, I don't hear any other --

BRENDAN SULLIVAN: Well, it's just one item in a long litany of items that was spelled out by Mr. Alexander.

TAD HEUER: You've also got problems with lot area per dwelling unit. You've got the same amount of lot, you're adding more dwelling units. You're already well under your required lot area unit.

CONSTANTINE ALEXANDER: I mean, parking troubles me greatly because you are taking a crowded neighborhood and you are going to put cars out in the street that park in the lot. But you're really overburdening this lot, and the lot are these large lots to a great, great extent. And yes, the city wants new housing. And, yes, our Zoning By-Laws are designed to encourage housing, but subject to all kinds of requirements. And those requirements can be varied by us

only under certain narrow circumstances; a financial hardship to the petitioner owing to special circumstances. There's no financial hardship here other than what Brendan has pointed out, and that's in your application. You know, you're paying taxes on land that's not built on, so you want to build something on to make more money. That's a hardship in one sense, but it's not a Zoning hardship.

ATTORNEY THEODORE REGNANTE: But the parking -- the standard on that parking on a Special Permit is that it's not substantially more detrimental than the existing, and I think that's what we're saying. One of the things that we're saying --

TAD HEUER: Didn't the architect just say that when he went and looked --

ATTORNEY THEODORE
REGNANTE: -- this is licensed, this lot is

licensed for 10 spaces. I don't know if you have a copy of that.

BRENDAN SULLIVAN: I don't agree with what you just said.

TAD HEUER: But I also just heard a statement, and I believe I wrote it down because I was kind of surprised, that when you reviewed the parking, you found the lot was chockfull of cars. Well, what's chockfull of cars and we're going to take away parking spaces? Like, that doesn't make any sense.

WILLIAM HUBNER: I don't know if the neighbors are here tonight, but that was one of the complaints we've heard from the neighbors is that they said people are just parking there randomly. It's a vacant lot. There's no striping, there's no signage, there's no nothing.

TAD HEUER: Right.

WILLIAM HUBNER: The people that park there, they double park, they whatever.

And it's a nuisance.

TAD HEUER: Chockfull suggests a volume rather than a --

WILLIAM HUBNER: Whatever I go by --

BRENDAN SULLIVAN: Well, the property owner is encouraging or enhancing the problem by not taking this lot, being more responsible with it by possibly putting in a little bit of landscaping, marking it, and policing it. That's their responsibility. They own the property. And if it has become a nuisance to the neighborhood, then the onus is back on the property owner. Not to -- well, we can clean it up by putting up a two-family house and putting in all these nice trees and nice shrubbery and we'll have a pretty picture here. I don't buy it.

CONSTANTINE ALEXANDER: I don't either.

ATTORNEY THEODORE REGNANTE: Even with the 18 spaces? That is the alternate

plan that we have reduces the buffer from 15 feet to six feet.

CONSTANTINE ALEXANDER: What you're coming to us before and showing us a nice landscaping plans that justify ignoring the rest of the requirements of our Zoning By-Law. And that's another thing. You want to overbuild on a lot, under park on the lot, but because you're going to show us some nice trees and shrubs, which Brendan has pointed out, we'll give you relief. I don't buy it either. Sorry.

MAHMOOD FIROUZBAKHT: I guess, you know, I'd like to hear a little bit more about -- kind of touching on Brendan's and Tad's point about the motivation for doing this project. And also if there's been further studies done in terms of the use of the parking and who's using the parking spaces and the need of the parking spaces given the existing properties. You know, on

those two points, like, can you elaborate a little bit more?

WILLIAM HUBNER: I am a neighbor. I walk my dog up and down the street all the time. And the motivation, as you walk and you turn the corner, you see this big, empty space. Actually, when I go by there, I don't actually see that many cars in it at all. We were told by neighbors when we have these public meetings, it's a nuisance, bright lights in the window, parking to the fence line, yadda-yadda. You know, you can see it from the street. It's an eyesore. At least in my opinion, and it -- the fabric in the street. I mean, that's what Cambridge neighborhoods, are, you know, just -- it's a street front of houses. It's a fabric. This is an anomaly of in this area.

MAHMOOD FIROUZBAKHT: What about the existing need of parking, you know, for the existing properties?

WILLIAM HUBNER: You know, it's -- the need, I guess, is one car per unit. I didn't, I didn't -- there was -- well, maybe some of the neighbors can speak to that point about, you know, how it is.

MAHMOOD FIROUZBAKHT: I mean, I guess that goes to the point of, like, the impact this project would have, you know, on the neighborhood. If you've done a study, you can say, well, given, you know, the 20 units that we have here, you know, typically speaking over the past, like, five years, you know, we never have tenants, you know, that will require more than 10 spaces because they just don't want them because guess what, we have the bus right here, and all those nice things you said about transportation. So boy, that would be helpful for me to know that, you know, that's the current need. And what you're proposing is not going to put, you know, any kind of pressure or have a negative

impact on, you know, that neighborhood because you've kind of looked at this issue and, you know, can address it with what you're proposing. But I guess I'm not really seeing that in the proposal.

ATTORNEY THEODORE REGNANTE: We could provide you with a list. A lot of the folks who live there do not have motor vehicles.

WILLIAM HUBNER: But that's also --

ATTORNEY THEODORE REGNANTE: That changes.

BRENDAN SULLIVAN: That's not what he's saying moving target in and out every September.

ATTORNEY THEODORE REGNANTE: When they were there --

TAD HEUER: It can also be, I mean, we don't speak to financial issues really, but it can be increased by compounding the value the a parking space with the price of

the rent; right?

So, I mean, if the real motivation is financial and your rent is \$1,000 a month, \$1200 a month with a parking space, use it or not, but you have the availability of it, I feel 25 parking spaces and 22 units, you know, that's where you gain your financial viability.

MAHMOOD FIROUZBAKHT: Yes, and it's not that we're here to give financial advice to the ownership here, but those parking spaces are very valuable. And, frankly, they're easier to manage and maintain than units with tenants in them to the extent that you focus in on striping that lot and making it look nice and using those spaces to generate income, it's a very viable option which, you know, could work to the benefit of the ownership and to the benefit of the neighborhood to take advantage of it. So that, you know, I think that would be good for

the neighborhood, too, to kind of use that additional income stream to make that what you're saying, an eyesore, look nicer, without maybe, you know, overusing the lot by putting, you know, a structure on it.

BRENDAN SULLIVAN: Let me do this. Why don't we let you gather your thoughts. Hold on this. And unless there's any other questions from Members of the Board. Open it to public comment and then we'll come back and then allow you....

Let me open it to public comment. Is there anybody here who would like to speak to the matter?

Please come forward. You would have to say your name, spell your last name, and give your address so that the secretary can record it.

DOUGLAS CHILSON: Hi. My name is Douglas Chilson, C-h-i-l-s-o-n. I live at 61 Reed Street. This is -- this is my garage.

My and my neighbor's garage right here. I really like the idea of putting landscaping in here because right now it's my -- the back of my garage is what they were using for part of their junk yard that they had in here before. They put that in in 2003. When they did that, there used to be five trees right here. They ripped them up in doing so. When they did that, they poked a hole in my garage. Which leads me to my biggest objection, is I don't trust them at all. I don't trust anything they say. I don't trust anything they put forward. I attempted to contact them about the damage that was done to my garage. Ms. Flori said she was going to send an agent out. She did -- or she said she did. When I tried to follow up with that, she said it was broken already and cut off all contact with me after that. I tried and tried and tried and I finally just fixed it myself.

They never -- you could say that -- I

don't know whose trees they were because I don't know if this is exactly on the property line or not, but all of a sudden my view went from looking at trees to looking at these units back here, and then subsequently the junk yard that was installed in there. So, my biggest objection is that I don't trust them at all because she wasn't straightforward with me. She wouldn't communicate with me. Just ill will across the board.

BRENDAN SULLIVAN: With regard to the plan that they're proposing, what are your thoughts on that?

DOUGLAS CHILSON: Well, I'm not sure that they build what they're planning.

BRENDAN SULLIVAN: Well, they have to. How will that have an impact on the neighborhood?

DOUGLAS CHILSON: Well, if now cars can start coming and going through here, I

think that potentially could be a problem. Because right now, no car -- the only cars that go in here are just the people who live here in these units and park here. So there would just be a lot more noise and a lot more traffic congestion going right behind my garage.

BRENDAN SULLIVAN: What happens to snow removal, snowplow?

DOUGLAS CHILSON: Right now they push it up against my garage or they, they started dumping it over the fence into the junk yard when it was there. They've recently, I guess, because of the actions here, they recently cleaned that all up and they took out the one thing. Fortunately they've left the one fence here so people can't use it as an L to change direction because of all the one way streets.

BRENDAN SULLIVAN: Okay.

DOUGLAS CHILSON: I would love it

if -- I really, really like the proposal of them using it for parking spaces and charging for it. I think they would do well if they -- I would love it if they'd put the trees back because, you know, my view is crap now because -- it's a three-story unit so I get to see everything. So, I guess --

BRENDAN SULLIVAN: Thank you.

DOUGLAS CHILSON: Can I make one other comment about your suggestion about a study?

BRENDAN SULLIVAN: Go ahead.

DOUGLAS CHILSON: My only concern with that is that may be current need and it doesn't speak to a need going forward. You know, we're a nation of cars and people are buying a lot of cars. Right now, I mean, I've seen that parking lot vary in its use considerably. I think it is interesting that since they've moved the junk yard, their people have been consistently parking now

right behind my garage and using those extra spots that removing the junk yard created.

BRENDAN SULLIVAN: Thank you.
Anybody else wish to comment on the matter?

CHRISTOPHER DEERY: Hi. I'm Christopher Deery, D-e-e-r-y. I live at 69 Dudley Street, just across from the lot, over two houses. My concern really is the parking. The -- there are several commercial lots. There's some commercial use for the lot, so if there's only 11 spaces, somewhere from three to six of them get used by the commercial interest. That's only a handful left. Last winter when we got snow once a week, I was out there shovelling. I think I shoveled the entire winter. Got to meet lots of the neighbors in that building who park on my street and helped them dig out their cars. So I can tell you there's already a fair bit of overflow at this time from tenants in that building already parking

on Dudley Street. So there's definitely going to be additional overflow. The curious thing to me is that if that lot was just a parking lot, then the apartment buildings could be conformed in the amount of parking they have for the units, and now it actually would be a reduction in the parking pressure on the neighborhood. So, I thought that was interesting.

The other thing is that half of the housing -- actually, most of the housing on Dudley Street is big enough for families. There are a bunch of small one-family houses on the opposite side that are all three bedrooms. And triple deckers on this side are typically two- or three-bedroom depending on how they're configured, but they're actually big for a family. Housing with a single bedroom into a two-bedroom sounds like more student's housing and not necessarily something that would increase

the character of the neighborhood.

The last concern is the junk yard that was in the lot. The concern is that were this built, and whatever number of spaces were put in there, commercial interests are taking over. If the junk yard comes back, if there's a need to store stuff, then whatever spaces are left in there might also be reduced. And, again, that comes down to worrying about what we'd actually get versus what we were promised.

BRENDAN SULLIVAN: Okay, thank you.

CONSTANTINE ALEXANDER: Okay.

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

JESSICA CASHTON: So my name is Jessica Cashton. I'm at 67 Dudley Street across from the lot that's in question. Like my neighbors, and there are many more neighbors who are not here today who have concerns about the parking, the parking is

limited on my street already. And the one thing that hasn't been mentioned so far is that if you increase the density by the population by introducing two more units, that's potentially four more cars regardless of what you're doing with the parking lot to begin with. Even with those four more cars I'm worried I won't be able to park on my block anymore. That's already an issue. I can't park on the block during the winter. That's already an issue. Introducing four more cars in the neighborhood would already be a problem. And then on top of that, we're talking about taking a parking space. That's what I wanted to add to the comments.

I also wanted to say in terms of what's going on in the neighborhood, yes, there are triple deckers on the side street in question, but the majority of the houses on the street are only two stories high. Sure, it's not necessarily out of line with what's

happening on that side of the street, but the majority of the houses on the street are very small. Most people call them cottages. They're pretty small. So in terms of what's going on in terms of the aesthetics, I'm not sure that it's necessarily in line with the overall neighborhood.

And then I have some questions that I don't think have been answered yet. So, one question was if this project is approved, does the landscaping that's being proposed have to happen? Will you enforce that it will happen? Because that's something that, you know, a builder runs out of money, they have to revise the plan and something happens and --

BRENDAN SULLIVAN: The answer is yes, or they would be subject to not getting a Certificate of Occupancy.

JESSICA CASHTON: Okay. Well, that's one question I had.

And then another question I had was if there's a concern, as it sounds like there might be from the owners and the architect, that there's, that they're concerned about the issue around random parking, which I don't -- I think it's not necessarily that there's a concern about random parking, I think there's a concern in the neighborhood that the lot is already full. So doing anything to change that is a problem. But if there's a concern about what's happening in the lot, why isn't that just to be addressed? Why isn't there striping done? And why isn't there some kind of organization done for the parking lot so that that can be addressed issue separate from whether there's any building?

BRENDAN SULLIVAN: Thank you.

Anybody else wish to speak on the matter?

SUSAN DILLARD: Good evening. I'm

Susan Dillard (phonetic). I am at 76 Dudley Street, one of the triple deckers on the corner of Reed Street. I join my neighbors in the concerns they've already expressed by parking and about traffic flow. In addition, I just want to, I guess, join some of your concerns about the question of hardship because, you know, I think that when one buys a lot, one knows the constraints of building on it. And the fact that you bought it and it was not buildable does not necessarily make it a hardship to build on it.

The second point is in terms of one's opinion about what is an eyesore, because I think in our neighborhood having a parking lot, an open parking lot is important, and it's certainly relieved the street parking for many years on that particular block of our street, so I don't consider the fact that it's an open air parking lot to be an eyesore. Somehow I think the parking is organized. I

thought that there was parking on the street. But it's a well-maintained lot. It's not that it's an eyesore because, you know, people dump on it or something like that. I don't think simply because it's a parking lot one should consider it an eyesore. So, those are the two additional points I wanted to make.

BRENDAN SULLIVAN: All right, thank you.

Anybody else wish to speak on the matter? Mr. Brandon.

MICHAEL BRANDON: My name is Michael Brandon. I live at 27 Seven Pines Avenue. I'm the clerk for the North Cambridge Stabilization Committee. Our chair Richard Clarey was actually rushed to the hospital earlier today with a heart problem, so I'm speaking on his behalf. He's going to be okay we think.

First, I wanted to wish the Board Happy

New Year. I don't think I've been before you this year, and also thank you and Sean and the staff for enforcing the posting requirements, the notice posting requirements at the site rigorously. I know you've heard at least one other case, and I think there's another case coming tonight, where applicants are not complying with that, and it's a very real issue. Just have a very controversial case that will be coming before you and there are new residents moving in and they're not notified by mail unless they read legal ads regularly, they have no inkling. Because the written note -- the mail notices go out based on the previous year's ownership records. So thank you for that.

We did have Mr. Regnante and my neighbor Bill and the owners out to one of our meetings. They were very cooperative in postponing the Historical Commission hearing coming before us. We had a meeting out at the

lot where people could come. They laid out the lot, showed where the building, proposed building would be, and then we had a public forum about what the issues are. And the neighbors that are here now, I think, gave you a good sense of what the concerns were and you intuitively, and through being familiar with the site, understand what those mainly are: Traffic volume. And not huge increase in volume, but traffic flow would change dramatically.

The Traffic Department, as far as I know, has not been consulted.

There are existing problems with cars exiting especially when there's snow on the street, but even without exiting onto Dudley Street and hitting parked cars and knocking mirrors off.

There's a severe problem on exiting Mclean Place onto Cedar Street because it's a blind corner. I haven't checked to see

what the records are, but I'm sure there must have been collisions there as a result of that.

This would basically open that link between two small streets, Dudley Street and Cedar Street. Certainly it may make sense as one neighbor wanted to have the proposed exit go one way onto Dudley, but it may not for other reasons and flow elsewhere.

Traffic, parking capacity was probably the loudest issue; that there's not enough parking on the street. We, the owner made a lot of misrepresentations about what the current parking situation is. The suggestion that his paying taxes on a lot he's not deriving income from is not accurate. As Mr. Regnante mentioned, there are in fact 10 commercial parking spaces that are licensed by the License Commission for rental as commercial parking, open air parking license. We had a lot of trouble trying to

nail down specific of who owned that license, how many cars. There was originally 12. And I think the written application here may still say 11. It's in fact 10. So he is, as clear as we can tell, deriving income from. It's not clear who the spaces are being rented to. We've been given various stories. He, Mr. Flori initially said that none of the tenants were renting spaces. None the residential tenants. And a couple of the tenants that came to our meeting said that's not true. He had offered to rent them for additional rent, you know, include them in their parking spaces. The suggestion -- in fact, the existing, the residential requirement of one space per unit, in fact, doesn't apply as near as I can interpret the Ordinance because they were grandfathered. And these apartments were built before the parking went in. So basically what he has is a commercial parking lot there that's

grandfathered for that use in the residential zone. It's probably, as the Board pointed out, the highest and best use.

Now, unfortunately it's what many people, including me, consider an eyesore was worse of an eyesore. The junk yard you were talking about, mentioned, was installed in 2003. I think it was fenced off a third of the lot and it was literally -- he was calling it a storage area. He claimed that Ranjit the Inspectional Services Commissioner gave him permission to do it. And I'm sure that is not the case. It's a residential zone. And literally junk was stored in there. If you go on Google Maps, you can look down and see building materials. I'm told there were old toilets and so forth. Snow removal equipment, plows, and so forth.

So the good thing that's come out of this is because of coming before this Board and the Historical Commission -- and also

violated -- the parking lot itself is actually a landmarked lot or a parcel in conjunction with the adjacent, what used to be the Trotting Park Motel -- hotel (phonetic).

So....

BRENDAN SULLIVAN: In conclusion.

MICHAEL BRANDON: I'm going to wrap up because I see where this is going to go. There are many details that have not been addressed in the application and even like landscaping plans as far as the details, our Board, our neighborhood committee stands ready if the Board sees fit to grant relief or consider further relief based on the discussions and would like us to provide an additional forum to discuss landscaping, parking issues, perhaps a parking demand study, but don't really need it.

BRENDAN SULLIVAN: Do they traditionally take a vote or are they more of

a sounding board?

MICHAEL BRANDON: As far as the neighbors you mean?

BRENDAN SULLIVAN: No. The stabilization committee.

MICHAEL BRANDON: Well, we had a meeting and after the proponents left, there was a discussion. And the one thing that was a very clear consensus on was -- the first thing before, even discussing further development of the lot, was that they get rid of the illegal junk yard and clean that mess up.

BRENDAN SULLIVAN: On this proposal here, was there a consensus of the committee?

MICHAEL BRANDON: Well, that was the first thing. There was a sense from some people that, you know, three-story building was okay. Perhaps others wanted a one-story building. To the extent that there was any consensus on that, it was that it was too soon

to discuss the specifics. People might be open to supporting variances down the line once those other issues were resolved.

BRENDAN SULLIVAN: All right.

MICHAEL BRANDON: The other suggestion that was made was that they rope off the lot, go through a winter with snow, and this hasn't been that winter, but to see, you know, how -- with the lot reopened, you know, how it would conceivably function if a house were added.

BRENDAN SULLIVAN: Okay, so the ideas were all over the lot, if you will.

MICHAEL BRANDON: For what?

BRENDAN SULLIVAN: The ideas that were discussed were all over the lot?

CONSTANTINE ALEXANDER: Not this lot.

BRENDAN SULLIVAN: Figuratively speaking.

MICHAEL BRANDON: Well, no, no, no.

BRENDAN SULLIVAN: Okay. All right. So, anyhow, okay, I get it.

MICHAEL BRANDON: So there was no consensus up or down vote that --

BRENDAN SULLIVAN: Okay.

CONSTANTINE ALEXANDER: Okay, we got it.

MICHAEL BRANDON: -- consensus not ready for prime time.

BRENDAN SULLIVAN: Okay.

MICHAEL BRANDON: And a strong sense that the parking -- people wanted parking, you know, that's my assessment. There was no vote.

BRENDAN SULLIVAN: Great, okay.

MICHAEL BRANDON: Thank you.

BRENDAN SULLIVAN: Thank you.

Anybody else who wishes to speak on the matter?

(No Response.)

BRENDAN SULLIVAN: I see none and

I'll close public comment.

There is correspondence from Cambridge Historical dated December 1st. (Reading) Case No. 10181, 64 Dudley, 1-5 Cedar Square, 31 Cedar Street, the property at 64 Dudley and 1-5 Cedar Square as a designated Cambridge landmark where exterior alterations are subject to review and approval of the Historical Commission. After public hearing the commission voted to approve the proposed two-family house parking arrangement and landscaping. See Certificate of Appropriateness attached.

And the plan, the parking arrangement and landscaping that they approved was -- oh, okay. The December 27th plan showing 13 or 18 parking spaces.

ATTORNEY THEODORE REGNANTE: Right.

BRENDAN SULLIVAN: So they -- okay. And that's, I believe is the sum and substance of any correspondence.

You don't have any other correspondence to add? Any petitions?

ATTORNEY THEODORE REGNANTE: No.

BRENDAN SULLIVAN: Okay.

ATTORNEY THEODORE REGNANTE:
Nothing further.

BRENDAN SULLIVAN: Let me close public comment.

Any questions from the Board at this point?

THOMAS SCOTT: Just a question. So the 10 commercial spaces that they mentioned, they're basically being --

ATTORNEY THEODORE REGNANTE:
There's a doctor, a physician in one unit. There's a chemical company in another unit. And the third one is a psychologist.

THOMAS SCOTT: And those spaces are basically spoken for and --

ATTORNEY THEODORE REGNANTE: Yeah, during the day. I mean, they're not there

all day.

THOMAS SCOTT: Okay.

BRENDAN SULLIVAN: Anything else?
Any final words, rebuttal?

ATTORNEY THEODORE REGNANTE: No. I hear you loud and clear. The only thing, perhaps if it were appropriate, if you wanted to continue this for a period of time over the winter to see the way it's working out, I would have no objection to that. You know, continuing until, I don't know, April or May. We have been trying to work with the neighbors. We know that it's very controversial. You know, you very well pointed out the substantial legal issues that exist here. The problem is we really haven't had a clear consensus from folks as to what they -- what they could live with there. So perhaps after a winter and seeing the way things work out, perhaps we can revisit it and perhaps, you know, my folks want to work with

the City of Cambridge and want to work with their neighbors.

BRENDAN SULLIVAN: Yes. And I'm not sure that would bear any fruit only because I think that the numbers are too glaring for me. That the proposal in its present form, and I'm not sure how much you can change it to make it any more amenable or workable for your client. I just can't get over that hurdle with the present proposal.

ATTORNEY THEODORE REGNANTE: One suggestion, Mr. Chairman, was to make it a single-family.

BRENDAN SULLIVAN: Yes, and, again, it's the taking away of the parking which is I think is a huge amenity for the neighborhood, for those apartments, that, you know, it's one thing if you have a lot and you cannot provide all the necessary parking, but you have parking and you take it away, is --

ATTORNEY THEODORE REGNANTE: Well, that's why one suggestion might be for us to monitor it over a period of, you know, three or four months or four months or five months and see if it's really a problem. It does not appear -- I mean, I was there this evening, and there were, you know, six cars.

BRENDAN SULLIVAN: Yes. Well, if you go by my house, there won't be any in my driveway, but that's a snapshot in time.

ATTORNEY THEODORE REGNANTE: No, but I mean with the commercial users there.

BRENDAN SULLIVAN: No, I understand. I understand.

CONSTANTINE ALEXANDER: You can tell from my comments and my questions I can't support this petition. There's too much relief being sought, no legal basis for the relief, and I see a detriment to the neighborhood, I really do, with this parking issues. So I think this is a classic case of

where the land should stay the way it is. Can't put any buildings on it. I'm opposed to it. And I don't think waiting to see what the weather will bring over the next several months will change my mind. I'm opposed.

THOMAS SCOTT: Is the lot posted as private property so that not anybody can just pull in?

ATTORNEY THEODORE REGNANTE: There's no sign posting.

THOMAS SCOTT: So, are neighbors allowed to park in here unless they have a commercial agreement of some kind? Can anyone park in here?

ATTORNEY THEODORE REGNANTE: We haven't been policing it on a daily basis. Neighbors are parking in there. We haven't been towing them away. I mean, part of the proposal, if the Board had been inclined to go along with it, was to have them, you know, impose conditions as of the use, we were going

to actually designate where the commercial spaces would be and, you know, who could use what spaces. Those would all be conditions that we thought might be appropriate.

BRENDAN SULLIVAN: Of tidiness on the lot which I think up to now has been lacking, that's all.

THOMAS SCOTT: I guess what I'm saying is your proposal to monitor the lot, what good is that if in fact no one's allowed to park there unless you have a commercial --

ATTORNEY THEODORE REGNANTE: Well, we would assign spaces.

THOMAS SCOTT: To the residents? Okay.

ATTORNEY THEODORE REGNANTE: To the residents and the commercial users so that the space would be assigned, we'd actually have a name on it is what we would do.

THOMAS SCOTT: Okay.

BRENDAN SULLIVAN: Mahmood, what

are your thoughts?

MAHMOOD FIROUZBAKHT: Well, I think I wouldn't be able to support this case in its current form. And not that I'm -- I would be opposed to the idea of introducing density into this lot. I mean, it's a big lot. So, but I think under the right circumstances, which are not met tonight, you know, and I don't know whether they could be, frankly, you know, given the neighborhood opposition. But for me to be persuaded, you know, I'd have to see that the parking issues were addressed and there's a clear parking program and that, you know, that -- I think that's the major area of relief that you need to address.

Dimensionally I think, you know, I think there's a demand for housing in this city and, therefore, you know, I think there's, you know, there's definitely an argument to be made that it's appropriate to consider, you know, a modest structure on

this big lot as long as you address the parking issues which I don't think are addressed tonight.

BRENDAN SULLIVAN: Mr. Heuer.

TAD HEUER: I would agree. I think that, you know, in theory I like the idea of urban in-fill. I think it's viable under the right circumstances, but also, as I mentioned, have an Ordinance that rightly or wrongly doesn't provide for this type of urban in-fill and not just kind of the margins from where we sit, but on each of the major items we think about. You know, we -- every -- we look at floor to area ratio. We look at lot area per dwelling unit. We look at parking. We look at dimensional relief. How far is it from the lot lines? You know, most of the cases we hear for relief come in and they say I'm a couple inches over on my lot line but that's it. Or I'm adding a dormer and it's only going to add 25 square

feet, and that's a 0.01 increase in my FAR. That's what I think we're here to do as a Zoning Board. The request here, you know, while maybe theoretically and architecturally in urban planning aesthetically admirable, I just think is well beyond the kind of relief that a Zoning Board safety valve should be performing. I think this kind of relief is really something that the City Council meant it, they need to have written an Ordinance, you know, for instance, like the Townhouse Ordinance where they've gone in and said, you know, we'll allow this kind of density as long as it's done this way. But prior to something like the Townhouse Ordinance, I don't think we can just say we think that makes a lot more sense. You know, we're not unfettered in our discretion, we're limited by what the city has put forth in its Ordinance and we grant minor relief. We don't grant relief that essentially runs

through four or five sections of the Ordinance and not just on minor aspects, but on very large aspects.

Here we have a FAR 0.37, and we're already well over and we're adding even more. I can't remember a time when we've granted three times the FAR on a lot. Well, I'm thinking of one, but I wasn't here. Most people were --

CONSTANTINE ALEXANDER: There was one. There was one.

TAD HEUER: So I think what I'm saying is I very much admire the attempt to do something with this lot, but I don't think that the moving pieces that are required here, you know, getting the density takes away the parking that I think is viable. You know, having enough parking doesn't give you enough space to put on a house. And I do think it's worth noting that partly it may depend on the starting point for which one use

this. Certainly the petitioner is viewing it as an empty, unbuildable lot that's a substantial size. But the lots are merged, that's just a fact of life, and there are many more units on that lot. And if that lot were vacant today, the petitioner could possibly build. So, in a way the petitioner is getting much more use out of that lot than would ever be required, allowed today and, you know, I think that when we have a parking requirement and we have a number of units that can use parking, or will use parking regardless or not, as the Chairman said, it's one thing to say we have a tight lot, we can't provide parking, we want to put in housing, it's another thing to say we have a lot of housing that has parking, we're going to take it away in order to give more housing. I definitely recognize the balance, but I don't, I don't think it struck here. And unlike my colleagues, I'm not sure I can see

a petition in which it would be struck. I cannot envision the situation where those numbers actually work as much as you've tried to make it work and work with the neighbors to reduce the parking spaces, reduce the size, and everything else. I'd say that you've done everything that you could, but I'm not just sure it gets me far enough tonight.

ATTORNEY THEODORE REGNANTE:

Understand.

BRENDAN SULLIVAN: Let me make the motion to grant the relief requested.

The Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner because it would preclude the petitioner from proceeding with the plan to provide two housing units on the lot as per the plan submitted.

The hardship is owing to the fact that

this is a narrow lot and it has some inherent restrictions and constraints to accommodate two housing units, and the parking and the required parking for the other structures on the lot.

The Board finds that desirable relief may be granted without substantial detriment to the public good because it would provide two housing units and a quite an aesthetically pleasing landscaped lot which would be an amenity to the neighborhood.

The Board finds that relief may be granted without nullifying or substantially derogating from the intent or purpose.

All of those in favor of granting the relief requested.

(No Response.)

BRENDAN SULLIVAN: All those opposed?

(Show of hands).

BRENDAN SULLIVAN: Five opposed.

(Sullivan, Alexander, Heuer, Scott, Firouzbakht.)

BRENDAN SULLIVAN: So that the petition is denied.

The Board finds, for the record, that the petitioner has not established the statutory requirement for meeting the hardship provision as required by the Ordinance.

The Board also thinks the nature of the reduction in parking and the increase in density would derogate from the intent and purpose of our Zoning By-Law.

And the fact that the special circumstances that have been cited by the petitioner really do not go to the hardship. They don't meet.

Okay, anything else?

Tad?

Thank you.

ATTORNEY THEODORE REGNANTE:

Mr. Chairman, I just would like to say that I would like to commend the Inspectional staff, especially Mr. O'Grady, who was very helpful in helping us define the issues here even though you objected and not supported, they helped us to understand it.

BRENDAN SULLIVAN: And, again, you may go back to the drawing board and come back with something different after digesting all of what you've heard tonight.

ATTORNEY THEODORE REGNANTE: Thank you very much.

BRENDAN SULLIVAN: Thank you.

* * * * *

(8:25 p.m.)

(Sitting Members: Brendan Sullivan,
Constantine Alexander, Tad Heuer, Thomas

Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case No. 10047, 64 Dudley Street.

The petitioner has requested a withdrawal.

All those in favor of accepting the withdrawal.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer, Scott, Firouzbakht.)

* * * * *

(8:25 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas

Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case No. 10151, 64 Dudley Street.

ATTORNEY THEODORE REGNANTE: Same request.

BRENDAN SULLIVAN: And, again, the petitioner has requested to withdraw that case.

All those in favor of accepting the withdrawal.

(Show of hands).

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer, Scott, Firouzbakht.)

* * * * *

(8:25 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas

Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case No. 10187, 66 Prentiss Street.

CHRISTOPHER SHACHOY: Good evening, Mr. Chairman, Members of the Board. We're here tonight -- my name is Chris Shachoy. I live at 120 Brattle Street in Cambridge, and we're here tonight concerning a property at 66 Prentiss Street. This is an existing three-family home. It has three approximately 11, 1200 square foot apartments. The building has been somewhat delapidated and somewhat disarray and we're in the process of renovating the buildings. And our plans, should we be allowed to proceed, would include closing in two of the three rear porches that remain open and relocating the field of windows in the setback in accordance with the plans that have been submitted which I have a copy of if anyone wants to review.

CONSTANTINE ALEXANDER:

Mr. Shachoy, how big are these porches, roughly, the dimensions of the porches?

CHRISTOPHER SHACHOY: I would say that they're maybe five-by-ten.

CONSTANTINE ALEXANDER:

Five-by-ten? You don't occupy the building right now?

CHRISTOPHER SHACHOY: The building is vacant at the moment. Right now it's in the process of being renovated.

CONSTANTINE ALEXANDER: Vacant. Were the porches used by the residents?

CHRISTOPHER SHACHOY: Well, no, they weren't. One of them had already been enclosed.

CONSTANTINE ALEXANDER: The second floor.

CHRISTOPHER SHACHOY: The second floor. And we have a twin building closer to Mass. Ave. and Oxford Street where our

neighbor has essentially done a similar construction where he's closed in his porches to basically provide additional living area and closet space for mechanicals, laundry, things that are more 21st century items as opposed to when the building was built back in the turn of the century. You know, perhaps you see a porch like that to dry clothes or something of that nature.

BRENDAN SULLIVAN: I've been on the record as saying I hate when people close in rear porches in three families only because I have a three-family and I maintain my porches, and my tenants sit out there both front and rear quite regularly and they enjoy it. Well, anyhow.

CHRISTOPHER SHACHOY: Well, we have no intention, Mr. Chairman, of enclosing our front porches. We're happy to have them and would like to keep them.

BRENDAN SULLIVAN: My only comment,

observation is that when the back -- and I think anything would be better than what it is now, but what happens when rear porches get enclosed is that you tend to end up with a blank wall. And especially in this situation because you're also blocking up three of the other windows. And I guess --

CHRISTOPHER SHACHOY: Well, we're adding two new ones there.

BRENDAN SULLIVAN: One of the -- I'm sorry. You're doing what? You're adding these two here?

CHRISTOPHER SHACHOY: Yeah, we're putting two above the door that are not there presently. And, yeah, we're adding one presently. And we're down one window.

BRENDAN SULLIVAN: From an aesthetic standpoint because it's really not liking blank walls, if it's possible to put windows in there. Now, I know they're in closets --

CHRISTOPHER SHACHOY: They are.

BRENDAN SULLIVAN: -- but, I just think that it would be a little bit more aesthetically pleasing, you know, put in a window and you can sort of block it up from the inside. But, it's just, it doesn't look so stark, so bland I guess.

TAD HEUER: I would agree. We've done this with several other petitions I'm remembering in the recent past where they have said this window is in the closet and we've decided aesthetically you're in a tight neighborhood, you're backing into somebody else's property and you're backing off into a woodlands or something, someone else is looking back at you. And to, you know, create, particularly where it's in a setback, you create a more aesthetically pleasing visualization for your rear neighbor even if the interior is never -- even if the occupants never use it as a window, it's a closet above

a sink or whatever it is.

CONSTANTINE ALEXANDER: I think it's especially true you really are close to your lot line. You know, one lot line you're three feet, nine inches away, and so the aesthetics are even more important there. So I agree with both of what my prior colleagues have said. There are some issues here. I don't usually -- I'm troubled by when we talk about enclosing porches.

MAHMOOD FIROUZBAKHT: What's the visibility from some of the other properties and/or the street to the back lot?

CHRISTOPHER SHACHOY: There's one house that's immediately behind us that comes to mind. We met with all the neighbors and we've shown them our plans, and they said that they wanted to look at them. And no one has raised it as an issue.

TAD HEUER: Well, that's probably because they're thrilled this house isn't

going to continue looking like this house because of what you're doing to it, which I think is a good thing.

CHRISTOPHER SHACHOY: I just have a hard time --you know, I recognize what you're saying with the visual standpoint but it is the rear of the house and it is in closets. There's really no -- I mean, utilitarian standpoint with respect to this particular house. There's really no sense or purpose of putting windows in other than the an aesthetic. And it is the back of the house. If it's a matter of, you know, whether our proposal prevails or not tonight, I'll put as many windows you want in there. I don't really -- it's not going to --

BRENDAN SULLIVAN: And you may walk around and say it was kind of a silly thing to do because it makes -- but for the few of the times that I've sat on this Board and we have okay'd something similar to yours, and

I do always go back and look at what we approved, even it may be years later, and I sort of critique whether I voted right or wrong or something like that and how it could have changed. And I've come away with a couple of instances saying, you know, it looks -- it doesn't look right and how could we have approved that. And a couple of times I like the idea of well, let's put in a window. Well, yeah, but that's silly because it's in a closet. Well, you could blank it up inside of the closet, but it would improve the appearance. Because you're asking to alter the appearance, the natural appearance of a three-family house, and, you know, you're saying well, okay, well, we just want to replicate on the first or third floor what somebody did on the second floor, but I just think aesthetically it would take the edge off of enclosing those porches for me if there was an element there, an architectural

element, albeit a window, that would then sort of -- and, again, maybe a little piece of jewelry, but I think overall it would make what we did, make it look a little bit better. And does it hinge, I think for me I think I would like to see it there.

Tom, you're the resident architect here.

THOMAS SCOTT: Do you think it would have to be a full double hung window or could it be a smaller, like a half window? You know, where you could put it up higher in the closet where it wouldn't really interfere with any of the activity of the closet?

CHRISTOPHER SHACHOY: I almost think if we're going to do it, we should maybe think of where we proposed removing the three.

THOMAS SCOTT: Put those back?

CHRISTOPHER SHACHOY: And just put them back exactly the way they were.

THOMAS SCOTT: Because that closet is a lot bigger and could kind of sustain having a window in it I think.

CHRISTOPHER SHACHOY: The windows that we're putting in we already did the one elevation. I don't know if anybody saw it. But you go there, they're a black grid, you know, two over two, you know, nice quality double wood window as opposed to the, you know, vinyl ones that are in there now. So it would, just by virtue of what we're doing will enhance the aesthetic ability considerably I think. And the whole building will be re-collaborated. And, you know, I think it's going to look terrific, but I'm a little biased. But if you guys would like us to leave those three double hungs, I have no objection to it.

BRENDAN SULLIVAN: Well, I mean I would. I think -- I mean, do you understand what I'm coming from?

THOMAS SCOTT: Absolutely.

Because I mean if this is your backyard, it's basically putting up a Green Monster, you know, a big wall, a big blank wall in the backyard. And having some articulation to the, you know, to the elevation really enhance it much.

CHRISTOPHER SHACHOY: And I'm happy to add windows. So I would propose that in lieu of the three that we're closing in there, we just three double hungs to match the ones that we're putting in through the building.

BRENDAN SULLIVAN: Okay.

Gus, your comments?

CONSTANTINE ALEXANDER: I'm on board.

BRENDAN SULLIVAN: Mahmood?

MAHMOOD FIROUZBAKHT: Wonderful.

CHRISTOPHER SHACHOY: We'll have the elevation as opposed to the two that --

CONSTANTINE ALEXANDER: Good

suggestion.

BRENDAN SULLIVAN: Let me run through all of this.

Is there anybody here who would like to speak on matter at 66 Prentiss Street?

(No Response.)

BRENDAN SULLIVAN: I see nobody, and there are no letters of correspondence. No petitions.

So let me close public comment and furtherance of discussion. I'm going to markup a drawing here that will basically -- also basically say new window same as -- I'm just going to mark these for lack of anything else, A, type A I guess. So you see what I'm doing here? I'm just marking these type A, type A. I'm just going to mark these A, A, A, something like that.

CHRISTOPHER SHACHOY: That's fine.

BRENDAN SULLIVAN: And now if you get into that, and I don't know if you would,

that there was a problem with the size of the windows, construction or whatever it might be, you'd have to come back and talk to Sean before the building inspector picks up on it and then we can address that issue if it is an issue at that time.

All right, so that's it basically. You're going to add those two windows, these three windows, so we have five windows there, and then you're putting in --

CHRISTOPHER SHACHOY: There will be a nine light door at the bottom.

BRENDAN SULLIVAN: That's right. And then there's these here, you're changing these openings here. Is this in the side yard setback also?

CHRISTOPHER SHACHOY: That's in the side yard on the right side. Along the walkway leading to the house in the back.

BRENDAN SULLIVAN: Okay.

CHRISTOPHER SHACHOY: And that's

really just essentially a function of the fact that we're reconfiguring the interior layout and the windows. The windows as they currently sit, fall where there are walls. We just have to shift them over a little bit.

BRENDAN SULLIVAN: Yes.

CHRISTOPHER SHACHOY: And the only other item that we didn't talk about is we're installing window wells.

BRENDAN SULLIVAN: In the basement.

CHRISTOPHER SHACHOY: In two locations in the basement where we have 34 by 22 windows that are going to be 34 by 48.

BRENDAN SULLIVAN: Yes.

CHRISTOPHER SHACHOY: They probably won't be any more visible than they are.

BRENDAN SULLIVAN: Okay. Any questions, concerns by members of the Board? Mahmood, anything else?

MAHMOOD FIROUZBAKHT: No, I'm good.

BRENDAN SULLIVAN: Tad, anything?

TAD HEUER: No.

BRENDAN SULLIVAN: Let me make a motion, then, to enclosing the porches on the first and third floors as per the plan submitted, and also to relocate the windows in the related setbacks as noted on the plan which is dated 8/01/11, and titled, "Proposed renovations 66 Prentiss Street," and initialed by the Chair with the changes as noted.

The Board finds that the requirements of the Ordinance can be met.

No traffic generated or patterns of access or egress would not cause congestion, hazard or substantial change in established neighborhood character.

The Board finds that continued operations of or the development of adjacent uses as to the Zoning Ordinance would not be adversely affected by the nature of the proposed use.

There would not be any nuisance, hazard created to the detriment of the health, safety, and welfare of occupants of the proposed use or to the citizens of the city.

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

All those in favor of granting --

CONSTANTINE ALEXANDER: Let me make another finding, I think. This is under 8.22.2c. So we've got to make further finding that what is proposed will not be substantially more detrimental to the neighborhood than the existing situation. The existing, non-conforming use. You want to add that to the motion.

BRENDAN SULLIVAN: So said. Okay.

All those in favor?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer, Scott,
Firouzbakht.)

CHRISTOPHER SHACHOY: Thank you.

* * * * *

(8:40 p.m.)

(Sitting Members: Brendan Sullivan,

Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case No. 10196, 43 Larch Road.

Please introduce yourself, please spell your last name for the record.

ALLEN JOSLIN: Sure. My name is Allen Joslin, J-o-s-l-i-n, architect at Epstein Joslin Architects in Cambridge, Massachusetts. I'm also a resident at 36 Bank Street, Cambridge, Massachusetts. I'm the architect on this project representing Lewis Cantley and Vicki Sato at 43 Larch Road. Both of them are on a business trip out of the country and I urged to them that we move forward on this because of -- and you'll understand as I describe the urgency of this project for them.

BRENDAN SULLIVAN: Just one, the petitioner is not here, obviously you're going to speak on their behalf.

ALLEN JOSLIN: Yes.

BRENDAN SULLIVAN: That if this moves along and we were to continue this matter, that we are going to have to reassemble the same five members which schedule-wise may be somewhat of a problem. Not knowing that yet. Whereas if you were to continue it from this point, it could be scheduled at an available date that maybe the same Board or a different Board would assemble. So that's my only caveat.

ALLEN JOSLIN: I understand and I, I'm hoping that the nature of this case is something that there will be understanding.

BRENDAN SULLIVAN: Only because in their absence to answer any -- well, anyhow --

ALLEN JOSLIN: I'm sorry, I've also known them for 30 years. I've worked with them on this house and others and are personal friends. So I know their family situation

very well and can also answer to those questions.

BRENDAN SULLIVAN: Okay. Then we'll proceed.

ALLEN JOSLIN: Okay?

BRENDAN SULLIVAN: Yes.

ALLEN JOSLIN: Basically the background is it the owners, the wife's mother passed away. Her father is elderly. And what they would like to do is bring him into the house so he can be, he can live with them and be cared for there. In order to do that, after carefully analyzing the available space on the first floor of the unit, he does need assistance. He can't, he can't use stairs and use the upper floors. The desire is to provide a bedroom with handicapped accessibility as well as a handicapped accessible bathroom facility in a quadrant of the house that gives him privacy and the dignity of living amongst them and

with their family activities.

The -- I have forwarded upon request, I think, a recent request -- a plan of the existing house, and I will orient it this way. Larch Road. Behind them is Fresh Pond Parkway, and this is the first floor of the house. It's comprised of an entry, which is up some steps from the street and, therefore, there's very little room to get -- there's no room to get a handicapped ramp directly from the street to the front door, directly in front.

From the main entry there's a small powder room. It's the only restroom facilities on the main floor. There's a living room, dining room, kitchen, breakfast room, and a study.

In this corner we have a small study which is about eight foot in width, and a laundry room in that quadrant. And this is the area in which the modification to the

house is to take place.

We looked at whether this portion of the house could be used, which has the larger footprint for a bedroom. The problem is it's in and amongst the public area of the residence and has no access to restroom facility. The only facility is that small powder room which is accessed through the stairway.

So what we've done within the design is basically converted the laundry room into an accessible bathroom. We have expanded the house, the front wall to the line of the front -- the existing front wall of the other portion of the house, and we've added to the side towards the parking court so that one can actually inhabit that as a legitimate bedroom and sitting area. And the laundry room, which has been relocated because of the loss of the -- or because of the using that as a bathroom has been placed in the mudroom, a new

mudroom that occurs outside this existing door.

And so this is in your packet. You'll find a more detailed plan of that. And basically the existing stair, existing closet, existing powder room. This is the laundry room which has become the bathroom. This bay window has been added. That's the extension. And it's that, as you can see, it goes no further than the existing face of the house. And then we have added a bit of space in this bedroom towards the parking court so that now we have bedroom area for a bed and a small sitting area, a well lit windows and garden.

And then the stair, we've reconfigured the stairs that got into this doorway back -- the side doorway so that one can use a handicap ramp or integrate these stairs with a ramp which has been placed across the front that allows one access from the parking

area to the porch of the front of the house. So now one can -- this house has become accessible.

And then the laundry room is simply that mudroom that's off the existing door.

The violations or the areas in which this does not conform to Zoning is that it, it -- some portions of it are taking place beyond the setback line. You can see this area in red is the front yard setback and this corner, small corner here is where the addition extends into what is called a front yard on that corner site.

To place you in the context of the neighborhood, this is the house, 43 Larch Road. Here is Fresh Pond Parkway, Larch Road. They are at this corner. A rather unique geometry site.

The issue on the setback is, while Zoning has a 25-foot setback from the front -- to the front yard, it -- that 25 feet

extends well behind all of the facades on Larch Road. And, in fact, the 42 Larch Road is actually set back more than any of the other houses along that street.

BRENDAN SULLIVAN: You actually have two front yards.

ALLEN JOSLIN: Yes. And the second front yard exactly is along Fresh Pond Parkway.

So what we've done, as I said, I've worked on this property for quite sometime and know -- I have a strong sense of where the weak and strong points are and the sensitive areas. This addition, both this addition has been done away from any of the neighbors so that it has no impact to the direct abutters. It doesn't extend beyond the edge, the face of the building, which are precedent in this neighborhood rather than using the setback line as the standard. And then this yellow line which represents the

25-foot setback on the second front yard on Fresh Pond, again, our addition is staying within the setbacks that have been established by the original structure.

It turns out that these images provide you views of that addition. These are the photographs of the house as it currently stands. There's the front door.

This area which is the study/laundry room is what is being expanded to what you see here in this upper sketch. We're adding the bay window out front. We're putting a new roof to actually help with snow removal. They have problems now with this flat roof.

And on the side you can see that we have integrated the handicap ramp within an element that looks like a porch so that it's not calling attention to itself as a, quote, truly functional feature.

The stair comes up. This is the little porch into the mudroom, laundry room. And

then into the house this is the parking court which will remain as such, and it doesn't disturb the functioning of that yard for parking.

And then this is some -- the view of Fresh Pond Parkway. And in fact, the primary element, architectural element is this wall that's been existent for sometime. The reason for that wall has to do with safety issues along Fresh Pond Parkway and the acoustics of that setting.

So, that is the direction which the addition is taking place. I think you can see from this image that in essence the addition is rather unnoticeable in relation to the foreground feature. And at the same time some architectural feature we will be able to further improve the aesthetic of the house as we do this which is the intent.

CONSTANTINE ALEXANDER:

Mr. Joslin, isn't there also a technical FAR

issue?

ALLEN JOSLIN: The current house does not meet FAR when you count the unfinished basement space. Without the unfinished basement space, it would meet FAR but FAR I believe --

CONSTANTINE ALEXANDER: Yes, you're -- I'm not sure the numbers are right. You're in a 0.5 district and you're in a 0.57 now, and you're going to go to 0.59.

ALLEN JOSLIN: Yeah, that's right.

CONSTANTINE ALEXANDER: So a slight increase, basically a slight --

ALLEN JOSLIN: That's correct. I'm sorry, yes, absolutely.

So in terms of the hardship it has to do with allowing this house to accommodate an in-law bedroom. It's not an apartment. There's no room for kitchens and the like. It's not -- its intention is not for any kind of rental purpose or income purpose. It has

to do with keeping a family member close.

Currently the father is brought to the house on a regular basis. They're taking care of him now at his larger house in Belmont and they would like to move him as quickly as they can because he's living by himself with people coming in to care for him there.

TAD HEUER: How many people are in the house right now?

ALLEN JOSLIN: It's -- the family is four. It's a husband, wife, and then the two -- they have two children both of whom are out of college and they don't live at the house but they live in Cambridge. So it's really two people in the house.

TAD HEUER: Right. How many bedrooms does the house have currently?

ALLEN JOSLIN: One, two, three, four. Four bedrooms.

TAD HEUER: And the house is currently 5700 square feet?

ALLEN JOSLIN: Yes.

CONSTANTINE ALEXANDER: Any of those bedrooms on the first floor?

ALLEN JOSLIN: No, that's the point.

CONSTANTINE ALEXANDER: That's the point, exactly right.

ALLEN JOSLIN: That's the issue. It has to do with being able to have somebody who's -- who is disabled to live with them. And that's -- unfortunately they can't -- what is happening is the study will be moving up to take one of those spaces up in the upper floors.

BRENDAN SULLIVAN: Anything else?

ALLEN JOSLIN: I mean, I understand your question and we looked for ways in which one can try to put a bedroom into the envelope of the -- into the existing envelope. I think you can see in this quadrant it doesn't have the capacity for a bedroom, bathroom. To get -- there's really no place to get a

bathroom in this area that's the main stair going up through the house.

TAD HEUER: How large square footage wise is the room that's being expanded now? So you have the laundry room. The room it opens into is what currently?

ALLEN JOSLIN: I'm sorry.

TAD HEUER: So you have here, this room right here. That's a study.

ALLEN JOSLIN: That's the study study. And the study is the larger rectangle. And the smaller rectangle within that is the laundry room, and then closet space.

TAD HEUER: And how big is the study at the moment?

ALLEN JOSLIN: Eight feet wide.

TAD HEUER: By how deep?

ALLEN JOSLIN: I don't -- I could try to.... This is a rough figure. It's about 14 feet, 12 to 14 feet.

TAD HEUER: Legal bedroom size?

ALLEN JOSLIN: This dimension from here to here.

TAD HEUER: Right.

ALLEN JOSLIN: The problem is legal bedroom, if small bed, but the issue is wheelchair accessibility and maneuvering, and also that is for this person will be a place that he will be staying in most of the time. That's their kind of sanctuary. You can put --

TAD HEUER: It is a 5700 square foot house.

ALLEN JOSLIN: I understand. We're talking it has to do with accessibility. As I said, they're not -- this is not a -- we're not adding in this house some new fangled McMansion type space. This is a very purposeful program feature which I think, I think we're all facing -- I faced, and many of us have faced in dealing, taking care of

our elderly parents.

TAD HEUER: What about the rear, you're intruding your front yard, have two front yard setbacks you noted?

ALLEN JOSLIN: Yeah.

TAD HEUER: You say your front yard setback is maintained by the existing position of the house. The existing position of the house, if I'm looking at this right, is maybe seven, eight feet off the front yard setback. So I'm not that convinced that looking at that corner room on your Fresh Pond side is --

ALLEN JOSLIN: Here?

TAD HEUER: I'm looking at your overhead. Yes.

ALLEN JOSLIN: Here.

TAD HEUER: I mean, you're in your front yard setback; right?

ALLEN JOSLIN: Correct, yes. Front yard setback in this corner is in the front

yard setback.

TAD HEUER: Right.

ALLEN JOSLIN: And what we -- has been standard and an interpretation on setback has been course, usually either the Zoning setback or what overrides that is the nature of the historic setbacks of the neighborhood.

TAD HEUER: Overrides in what sense? Our sense?

ALLEN JOSLIN: Yes. It's where consideration is granted for the effective.

TAD HEUER: I'm not sure that's right. But --

ALLEN JOSLIN: It has, it has been. I'm not an expert on the Zoning.

TAD HEUER: Right. I don't think that's right.

Can anyone else help me with this?

BRENDAN SULLIVAN: I'm having a hard time agreeing with that thesis.

TAD HEUER: Yes, I don't think that's right. But be it as it may, you've requested relief for the front yard setback that's in front of us. So that's not the issue.

What were your thoughts about looking at the patio area which would not require invading the front yard setback and putting the feature in the rear of the house? Rear is a relative term here.

ALLEN JOSLIN: Here?

TAD HEUER: Yes. In that area away from your other front yard setback and putting it within a buildable area?

ALLEN JOSLIN: That would destroy the basically the liveability of this interior space. Your living room, dining room would now be closed from your yard which would not make a good deal of sense in terms of how one inhabits that yard. They, in fact, many years ago, there was a space there

which was removed because it -- some previous owner had put in a storage container there, and this area was completely dark. The whole notion was they have a property, they have -- they're closed in by Fresh Pond Parkway.

TAD HEUER: Right.

ALLEN JOSLIN: And the noise and congestion there. This is -- these people have been, you know, whatever a nasty setting have been rather loyal to this property by virtue of the fact that they've been able to make it an acceptable and very comfortable place to live.

BRENDAN SULLIVAN: I'll tell you what I think and it's probably along the same line with Mr. Heuer, is the encroachment on the front yard setback especially in an A-1 district. That to me front yard setbacks are purely (inaudible).

ALLEN JOSLIN: Uh-huh.

BRENDAN SULLIVAN: And I think I have always sort of been hands off with me is to encroach on a front yard setback especially in an A-1 District. Where an alternative, now I know you have gone through the alternatives and none of them have been suitable, except for the proposal before us, which makes sense now and makes more sense in the future to have this space which I mean it's -- and, again, I'm not trying to be insensitive here. But I think it's some grand to accommodate. You know, and, again, I look at the study and the laundry room and feel that that could possibly be converted into accommodating a bedroom/bathroom arrangement without encroaching on a front end setback. Or, again, your line of thought is somewhere else that it can accommodate that. So I'm not there yet as far as encroaching on the front yard setback on Fresh Pond Parkway.

ALLEN JOSLIN: Well, let me, in terms of the bedroom dimensions you're thinking there was enough room. It turns out, and we're for a wheelchair to operate, it would require, in the Mass. Official Barriers Board, the standard is a five-foot turning radius. So the room has the -- requires five feet to maneuver to be able to turn around, get out of bed, and turn and to go into the bathroom area, etcetera. In that eight feet, that would allow the bed of three feet and a turn around space and no bureau. We are, we tried laying this out and making that work, and it is dimensionally extraordinarily tight. If it was a child or something, yes, you could without impediment, one could do that.

BRENDAN SULLIVAN: It's an impediment, it's not impossible and I have firsthand experience with a father who was handicapped and in a chair, and we had to take

him in and lift. And his bedroom was much smaller than the one combined laundry and study. But it was doable and we did it for two and a half years.

ALLEN JOSLIN: Yes. And I've had the same with Alzheimer's and it's not a -- it's not a very dignified experience.

BRENDAN SULLIVAN: And I understand that, you know, there is room here. There are resources to do this. It makes a very nice space. And, again, I don't want to be insensitive, but I mean it's a very nice space now and in the future. And I'm just not over that encroaching on the front yard setback. So, anyhow, that's sort of where I'm at.

Any other questions? Mahmood, any questions?

MAHMOOD FIROUZBAKHT: No.

BRENDAN SULLIVAN: Tad, anything further at this point?

TAD HEUER: Where are the stacks in

the house?

ALLEN JOSLIN: Stacks?

TAD HEUER: For your plumbing?

ALLEN JOSLIN: This is right here. This is the laundry room which has plumbing here, and this is plumbing.

TAD HEUER: Right. And so upstairs, the only bathroom is here?

ALLEN JOSLIN: The bathroom upstairs is right here.

TAD HEUER: So it's a one-and-a-half bath house.

ALLEN JOSLIN: Upstairs -- just a moment. Upstairs I believe there's one bathroom. There's a bedroom. There's a bedroom. And there's a bedroom. This is, it doesn't have a second floor.

TAD HEUER: Right.

ALLEN JOSLIN: So, yes, there's one. And on the third floor there's a bathroom.

TAD HEUER: A full bath?

CHRISTOPHER SHACHOY: Yes.

TAD HEUER: So two and a half.

ALLEN JOSLIN: There's a bathroom on the third floor, and a bathroom on the second floor and a powder room and laundry on the first floor.

MAHMOOD FIROUZBAKHT: Do the plans, do you propose to do a half bath for the rest of the space or no?

ALLEN JOSLIN: There is a -- there's a powder room.

MAHMOOD FIROUZBAKHT: So the powder room would remain?

ALLEN JOSLIN: Would remain, and that's for guests. And the handicap bathroom is accessible only directly from the bedroom. And our problem....

TAD HEUER: Is there no -- so given where your half bath powder room is now, can you convert the closet in the study, knock out that wall, and create your full bath out of

the existing toilet and closet space and then the laundry room can either, the laundry can be moved somewhere else and that laundry room space is converted to living space and perhaps a closet. Wouldn't that, yes, you're taking away the powder room for the convenience of guests, but wouldn't that option provide you with a bath attached to that bedroom? That study would become a bedroom and still give you space where the laundry room is?

ALLEN JOSLIN: I'm sorry, are you saying leave the laundry room in this space?

TAD HEUER: No. I don't know where to put the laundry room yet, but it's neither here nor there for me.

ALLEN JOSLIN: The problem, No.

TAD HEUER: But to take out that wall there that divides it from -- allows the powder room to be accessed from the hall, block that up there so the powder room becomes

essentially the toilet for the study and then convert this closet space into a bath space and somewhat here and cuts you off.

ALLEN JOSLIN: And this becomes a closet?

TAD HEUER: Yes, yes.

ALLEN JOSLIN: Yes, it's still, I'm still confronted with similar dimensional constraints. I'm still, I'm still remain constrained in the bed and the, and the maneuvering, again. I usually make -- you can make anybody live anyway you want, I'm not, from a standpoint of trying to design within what seemed to be Massachusetts -- reasonable regulations for Massachusetts and reasonable dignity, I'm trying to work with those dimensions.

MAHMOOD FIROUZBAKHT: Could you show us again where the front setback infringement is? If you don't mind.

ALLEN JOSLIN: I'm sorry, I don't

know if this is legible. Is that yellow line legible?

MAHMOOD FIROUZBAKHT: Okay, so you've got --

ALLEN JOSLIN: There's a yellow line here. And this green area is the existing footprint of the house.

MAHMOOD FIROUZBAKHT: Yes.

ALLEN JOSLIN: This red area is the expansion of that footprint. And what I'm pointing out is that this addition here, the expansion of the room is remains behind the face of the building.

MAHMOOD FIROUZBAKHT: So it's making it consistent?

ALLEN JOSLIN: Yes.

MAHMOOD FIROUZBAKHT: Right.

ALLEN JOSLIN: I'm not, I'm not --

MAHMOOD FIROUZBAKHT: For the Board, what's the problem area? So the other front yard setback which is in the, that's

what, that's Fresh Pond?

ALLEN JOSLIN: Yeah, this is Fresh Pond Parkway.

MAHMOOD FIROUZBAKHT: And you have a big fence there; right?

ALLEN JOSLIN: This is the fence right along this wall.

MAHMOOD FIROUZBAKHT: So I'm trying to figure out which front yard setback is the issue.

CONSTANTINE ALEXANDER: Both. Technically both.

MAHMOOD FIROUZBAKHT: I mean legally, technically both, I understand that, but I guess visually speaking that infringement on the front yard setback it seems like, you know, has very little impact. You've got Fresh Pond Parkway over there. So in terms of massing, in my mind, it doesn't make sense to have massing over there where there's, like, no one on the other side as

opposed to that side where you've got neighbors on the back side. And I guess in my mind I think, well, okay, if you have a problem with the front yard setback, it's this side of the, you know, large roadside and I just, I don't have a problem with it. I don't have a problem with that. I think it looks nice. I think the massing makes sense. And visually I think it's better than what's there now. So I just -- I think, you know, obviously we've got to be careful about, you know, granting relief in certain circumstances, but this one seems quite appropriate to me. It seems like they've done some thoughtful analysis of trying to figure out how to provide for the space given their, you know, their need and this is a sensible spot to put this additional space in. And it just doesn't impact the neighborhood all that much. So I think it's reasonable. I think it's okay.

THOMAS SCOTT: What's troubling me a little bit is it seems like you're building a solarium, not a bedroom. Like, the whole thing is wrapped in glass, including a huge skylight overhead. I'm not quite sure how that relates to what you're telling us you're doing here which is building a bedroom or a living space for an elderly person who, you know, is having trouble getting around. It almost seems like you're building a solarium on the house for the eventual passing of the poor man. I'm not really buying what it is you're doing here. You're telling us one thing, but I'm seeing something totally different.

BRENDAN SULLIVAN: That's my comments earlier where I said not being insensitive --

THOMAS SCOTT: And I'm not either.

BRENDAN SULLIVAN: -- but it's a solution for you now situation, but

in -- you're right, it doesn't read to me as -- and even though it will accommodate, you know, an elderly parent and I, you know, again, I have gone through this and I have all the respect for it, but it says something else to me.

ALLEN JOSLIN: Forgive me but first of all, I'll say the owners aren't asking, didn't come to me and say build me a solarium. So I will own any reference to the windows. If one looks at my body of work, windows are a very important feature. I think, in terms of liveability and how we feel about being in a place, windows are an extremely important feature in light and areas. I know this person is going to spend a good deal of time in this place. I know I would prefer to be in place that has plenty of light and window. The owners had said is this too much? I said probably put some translucent shades on the lower half of the window, but I think he's

going to benefit by feeling, being in bed and being able to see trees around. The design features I put in this house through the years have always been focussed windows towards the few trees, greenery that's around. I don't -- I'm not -- excuse me if I'm trying to make a very high place of quality for this person. I don't think that should be a detriment. I can't see myself closing it up because it doesn't look like -- what I'd like to give this as a gift to somebody who's gonna spend a good deal of time in a very uncomfortable condition. I know we're not all capable of delivering that to all our relatives, I may not be able to myself, but I don't see that a reason for negating the approach to giving space and I don't -- the Zoning I know is an issue of space and how we're using our property. Are we creating detrimental impact on the neighborhood? Have I gone into a setback that's any greater?

In fact, far less than any of the setbacks on the other properties in that neighborhood? I've been very sensitive to the fact. When we build and we do housing, housing developments, there's always a desired, frequently a desire to create a common edge to a street. That's what gives coherence to it. That's what I'm trying to do. Zoning setback has -- it's -- on this neighborhood has absolutely nothing to do with the physical attributes of this neighborhood. That's nothing, no house obeys that setback.

TAD HEUER: And that's because they were built prior to Zoning.

ALLEN JOSLIN: That's correct. Because Zoning was applied to many areas to try to create a standard on areas that hadn't been developed. This neighborhood is a historic neighborhood and we work within the -- the notion is working within the historic character of a place and building

something that suits its context is my approach. And in passed approaches with boards, there is usually then a sympathy with the nature of the physical nature of a place rather than the sheer numbers. I think you raised the concern, you know, about the urbanism and, you know, the --

TAD HEUER: I used to work with the National Trust. I'm there with you.

ALLEN JOSLIN: Exactly.

TAD HEUER: But I'm looking at that with the book.

ALLEN JOSLIN: I understand. And that's why this Board is able to make judgments based on an analysis or a condition. This is a unique parcel. Usually the geometry of this parcel is very --

BRENDAN SULLIVAN: It's very prominent. It's a very prominent site, and the only other site that's common to it is the

opposite corner. The two of them are mirror images of each other.

ALLEN JOSLIN: I'm sorry, this one?

BRENDAN SULLIVAN: No.

ALLEN JOSLIN: This one. This one.

BRENDAN SULLIVAN: I'm sorry, the other corner.

So you're here.

ALLEN JOSLIN: Correct.

BRENDAN SULLIVAN: It could be this one. It's sort of a mirror image of that as far as being prominent.

ALLEN JOSLIN: No, but -- oh, we're talking the setbacks.

BRENDAN SULLIVAN: Here.

ALLEN JOSLIN: The issue of the setbacks come to this house, this house is front door is here, it's not here. The front door is here.

BRENDAN SULLIVAN: Right, but we're saying about the geometry of the site.

ALLEN JOSLIN: Oh, yes. Those two parcels are unique geometries, sure.

BRENDAN SULLIVAN: And, again, both of them are, you know, it's really a quite prominent site.

MAHMOOD FIROUZBAKHT: If we were to make that section look less like a -- have less windows and look more like the rest of the house, would that give, you know, more comfort to be able to sort of justify infringing on that front setbacks? Or design modification, would that sort of make it fit better than what's there now and, therefore, get us to where we may want to get to at some point soon? Or not?

THOMAS SCOTT: Well, you encroach on two front yard setbacks, could the addition have been done with maybe condensing a portion of the design so that you only encroached on one? I guess is my --

ALLEN JOSLIN: Here?

THOMAS SCOTT: Yes.

ALLEN JOSLIN: The reason is you encroach in that area is it had to do with the -- sorry, there's Larch Road. Has to do with the fact that the doorway into the house is here. If I could, you know, if you could have gotten through here, yes. But it's that, it's -- this is the stair, existing stair and get around and that's the existing door to get around into the house.

THOMAS SCOTT: Because really I don't have any problem with this, I guess it's the Larch Road encroachment, but somehow we could have avoided the other one. But I guess from what you're saying is you couldn't have done it without --

ALLEN JOSLIN: It has to do --

THOMAS SCOTT: It has to do with that connection to the house.

ALLEN JOSLIN: Yes. And this stair is the second to get out of the third floor.

BRENDAN SULLIVAN: Talk me through the logistics here for a minute. You come up the ramp and you're coming --

ALLEN JOSLIN: I'm sorry. Excuse me. So this is Larch. This is Larch Road, right here.

BRENDAN SULLIVAN: Oh, I'm sorry. Here's the front porch.

ALLEN JOSLIN: Here's the steps up.

BRENDAN SULLIVAN: Yes.

ALLEN JOSLIN: The existing steps up to the front door which is right there.

BRENDAN SULLIVAN: Yes.

ALLEN JOSLIN: The curb cut is right there.

BRENDAN SULLIVAN: Yes.

ALLEN JOSLIN: And one drives in and leaves one's car here.

BRENDAN SULLIVAN: Right.

ALLEN JOSLIN: So this -- the ramp starts at that level --

BRENDAN SULLIVAN: Yes.

ALLEN JOSLIN: -- and goes up to a flat landing.

BRENDAN SULLIVAN: Right.

ALLEN JOSLIN: And continues to climb finally up to the level of the porch.

BRENDAN SULLIVAN: Okay.

ALLEN JOSLIN: In which you can enter the house.

BRENDAN SULLIVAN: So they come into the front, and then how does he traverse over to --

ALLEN JOSLIN: This is the front hall. This is the kitchen.

BRENDAN SULLIVAN: Yes.

ALLEN JOSLIN: And then into the kitchen. Through this doors right here.

BRENDAN SULLIVAN: And that's all one level?

ALLEN JOSLIN: Yes. That's all one level. It's this which is the funny level

where you have from this ramp, you're coming up, have to continue up some stairs into higher landing which connects you to the existing stairs which is where the door is. And from here you either go continue up to the third floor and down to the kitchen.

BRENDAN SULLIVAN: Okay.

Tom, any other comments or questions?

Gus, any questions or comments?

CONSTANTINE ALEXANDER: No questions, no comments.

BRENDAN SULLIVAN: Let me open it to public comment and we'll get back to it.

Is there anybody here who wishes to speak on the matter at 43 Larch Road?

(No Response.)

BRENDAN SULLIVAN: I see none. There is correspondence in the file dated January 12th. (Reading) Dear Members of the Board: We wish to express our support for the application for the Variance filed by

our neighbors Lewis Cantley and Vicki Sato. Lewis and Vicki contacted us and have provided us with an opportunity to review their plans. We live directly across the street and we have no objections to their modest addition to create handicapped access to their home. Thank you for considering our views on this application. Very truly yours, Katherine and Jim Rafferty.

Okay, I think that's the -- you've spoken to all the neighbors.

ALLEN JOSLIN: Yes.

BRENDAN SULLIVAN: And nobody else was --

ALLEN JOSLIN: Yes, I asked her to speak to all the neighbors which she did.

BRENDAN SULLIVAN: Okay. So silence would be golden from the rest of the neighbors I would think.

ALLEN JOSLIN: Yeah, I asked her if she had received any correspondence. I

asked her to write letters, but I don't think anybody did.

BRENDAN SULLIVAN: Yes, okay.

All right. Anything else to add?

ALLEN JOSLIN: No, I think you understand our approach to this and your sensitivities. I'm hoping that you'll -- I mean, I would like to state again, I do -- I'm not a fan of McMansions. I'm not a fan of bigger and bigger houses. I don't try to build big and big houses. And this is a relatively modest room size configuration. I think we've all known what -- and I hope you can see in this that it's the client's intention not to try to guild the lily in terms of, but at the same time they would like to -- whatever is made there can be made with some quality.

BRENDAN SULLIVAN: Okay. What does the net add? It's a little less than 200 square feet? Two-hundred and --

TAD HEUER: 93.

BRENDAN SULLIVAN: 93? .02
percent; is that correct?

ALLEN JOSLIN: I also wanted to point out that, excuse me, the -- in terms of the ratio of usable open space to lot area, I think the minimum requirement is 50 percent. They have or well -- they actually exceed that minimum. So they're -- this is not reducing their required outdoor area.

BRENDAN SULLIVAN: So that if it were financially and physically possible, you could take this house and the proposed addition, sort of pick it up and reposition it on the lot and probably have a totally conforming house.

ALLEN JOSLIN: Yes, yes.

BRENDAN SULLIVAN: I mean, having gone through the exercise, but it would appear --

ALLEN JOSLIN: With the exception of

the FAR.

BRENDAN SULLIVAN: Yes. That could be done with the exception of the FAR.

ALLEN JOSLIN: Because the FAR is already --

CONSTANTINE ALEXANDER: You don't change the FAR by moving the location.

ALLEN JOSLIN: Sure, right.

TAD HEUER: Have there been any -- just out the curiosity, you've worked on this house before.

ALLEN JOSLIN: For 30 years.

TAD HEUER: -- have there been other additions that have added square footage to this house or have the additions been windows and other things?

ALLEN JOSLIN: What we did is, that breakfast room that you see --

TAD HEUER: Yes.

ALLEN JOSLIN: -- we basically took away where you were saying put a -- could a

room go there. We took that space away and we moved it to the dining room to the breakfast room.

TAD HEUER: Okay.

ALLEN JOSLIN: We traded, we traded locations of that area to make the house more appropriate and organized on the site.

TAD HEUER: All right.

BRENDAN SULLIVAN: Gus, what are your thoughts?

CONSTANTINE ALEXANDER: Well, I've been listening with quite interest to the colloquy going back and forth. In the end I come out where Mahmood comes out. I don't think there's an architecturally better solution that's been presented to us.

I think the relief is relatively modest in terms of how it varies from the Zoning By-Law. I do agree with you about the sensitivity to incursion of the front yard setback. This doesn't have the usual impact

of an incursion of a side yard setback. It's not even going to be noticeable. It's at the end of the street. One of the front yards is Fresh Pond Parkway and with the fence, and in my judgment who cares whether you're slightly encroaching in that technical front yard setback. It's a legitimate need for this. I mean, the issue as always with these kind of cases, is sooner or later the person who is going to occupy the room is not going to be there any longer, but the room will be there. That's true with dormers when we have young people who need another room for the babies and the like. And in the past our view has been if there's a legitimate need and if the relief being sought is modest, legitimate in terms of the people occupying the property right now, I think we've been very understanding and accommodating and have granted relief. And I think this is a situation just like that. So I would support

granting the Variance.

BRENDAN SULLIVAN: Okay.

Mahmood, your thoughts?

MAHMOOD FIROUZBAKHT: I stated my case and with Gus on this one.

BRENDAN SULLIVAN: Okay.

Tom, your thoughts?

THOMAS SCOTT: I think, I mean, the relief is definitely modest. I think the architecture seems to fit well. Like you say, the fence on the Fresh Pond Parkway really kind of takes the curse away from anything you do anyway. So it's not -- it's not a fence. It's not overblown in terms of its height or size. So I'm okay.

I'm still a little suspect of kind of the grandioseness of it for the purpose and, you know, it seems to be a little bit overstated for what the intended use is, but I would be willing to support it.

ALLEN JOSLIN: I'm sorry, I don't

know if I can interject anything at this point?

BRENDAN SULLIVAN: Well, you can hold it, that's okay.

ALLEN JOSLIN: I'll hold.

BRENDAN SULLIVAN: Mr. Heuer. This is like, and the winner is.... And they pull out the card out of the envelope.

ALLEN JOSLIN: I heard that Tad is tough.

CONSTANTINE ALEXANDER: Tick-tock, tick-tock.

TAD HEUER: My initial read before this evening was that I was not leaning favorably. I'm not sure I'm quite leaning favorably. I certainly understand the need. I'm weighing that it's my interpretation of the Ordinance requires is that we, as we always do, we weigh the need of the petitioner of the here and now versus the albeations (phonetic) of the City of Cambridge into the

by-law and the fact that at a certain point in the hopefully distant, but certainly calculable future, this space is being created here is not as though it's a kitchen where the kitchen's just too tiny and appliances now a days need more space. It's a room designed for a purpose. And when that purpose is complete, the room will remain, the house will be larger than it was. It can be returned to being a study space that it was previously, a study is being moved upstairs and moved back down. I tend to agree, when I first saw it, it looked like a construction of a solarium, a very nice bedroom, but one that could be very easily converted to a solarium once the need for a bedroom had passed.

I also recognize that, you know, the space here, the layout of the first floor doesn't have a bedroom. I'm not yet convinced perhaps that the space in the study

couldn't be a bedroom. It certainly wouldn't be a grand bedroom. I think you mentioned the father's coming from a larger house than this one in Belmont, so certainly in terms of relative scale, it may seem smaller than what he is accustomed to. But this is a 5700 square foot house with two people in it. And it's been very rare in my immediate experience that we look to expand houses that are already not only above the FAR, and I think 0.2 is certainly within reason for what we've done in the past, well within reason, but adding on to a very large house when usually we do it because the house is too small for the needs of the individuals, they're having another child or something. It's rarely the house is so large that two people can fit well within its boundaries and more space is required for yet another bedroom and I certainly understand the circumstances.

The fence issue it doesn't get me as far as it does some of the other members of the Board largely because in my view that would just encourage people to fence off properties and say you can't see it so don't worry about it. I don't think that's the intent of the Ordinance, that fences be allowed to minimize otherwise applicable Zoning. So the fact that it can't be seen, yes, in practice somewhat mitigates it, but I am somewhat leery of the precedent that says as long as it's behind the fence you can forget it. I don't think that's the intent of the code.

We had a case several weeks ago with a parking space where they said well, we already have a space there right behind it we'd like to put a parking space and it's in the setback. And I was thinking then and I am now, that simply being able to fence off a parking space and not have it seen wasn't the intent and purpose of the Ordinance, and

I think similarly here.

I share the concern that you're invading the two front yard setbacks. I think that's mitigated by the sense that it's an unusual lot that you usually have one front yard setback to invade. Here you don't. Even though it's invading two side yard setbacks, you're in favor because you're faced with the situation that others aren't. I mean, I'm on the metaphorical fence. I mean, I guess my question is can -- in looking at what you're adding, I really want to have a sense, and I'm not there yet, the study -- the amount of space that you're asking for here is actually -- it's an ideal amount of space. As you said, it's a very nice space. The laundry room isn't being tucked in somewhere. It's being moved around the corner and placed in another location, but it maintains its size. I guess maybe what I'm kind of saying is I'm looking

for some kind of a sense that a compromise was made here recognizing the ideal of what would be great. I presume he's not going to be sequestered in his room. He gets the run of the house. He gets to go in the kitchen. You know, it's not an in-law apartment as you've said. So clearly the notion of him being in this space and it's his space only and he has access to no other space isn't the situation that you have with a one bedroom or an in-law apartment. So the fact that the bedroom itself may not be huge I think could be mitigated by the fact that he has access to the first floor of a very large house. And by definition needs one because that's how he's going to get in if I'm understanding the access correctly.

I mean, I'd like to see --

ALLEN JOSLIN: If he can move on his own, but that's --

TAD HEUER: Sure.

ALLEN JOSLIN: But it's not like run of the house is not quite the phrase I would use.

TAD HEUER: Role of the house.

I just would like --

ALLEN JOSLIN: Just to add one piece for this. It's my understanding and hope, law is extraordinarily useful and important for us. It -- there are reasons that these laws are instigated and setbacks, dimensions, etcetera. The purpose of this body is I think as any of us, I think all of our responsibilities is to look at the specific natures of geometry of property and the things that have been historically built what we have to work around, how we work with them, how we can take care of them, etcetera. I'm hoping that you can see that what we're doing is in essence trying to take care of this particular property and enhance it, not only for these people but for the

neighborhood. In other words, we're not -- anything we're doing here is enhance -- I believe is doing both enhancement of the neighborhood and the enhancement of the -- and supporting the -- that's my goal.

TAD HEUER: Oh, and I agree. We've seen much worse on a weekly basis, you know, don't get me wrong.

ALLEN JOSLIN: It's the opportunity of this Board to look at the law and the, you know, the physical nature of the place. And it can't be just applied --

TAD HEUER: No, indeed.

ALLEN JOSLIN: -- uniformly.

TAD HEUER: I argue those things every day when I go to court. And sometimes I win and sometimes I don't. And I would say the reason I'm on the fence is because of what you've just said. If this were coming in and saying we need 193 square feet and we're just

going to block it out. We're 193 feet fit best, this would be an easy case for me.

ALLEN JOSLIN: Yeah.

TAD HEUER: And the fact that you've done that and you recognized that and you worked this space in this way --

ALLEN JOSLIN: I appreciate that.

TAD HEUER: -- is what's making it difficult for me. You could have made it a lot easier for me, but you didn't. I guess what I'm saying is I wish I could see a bit less space -- understand the hardship I want to make sure that in a strange way we're granting the least amount that is necessary to make a comfortable and usable space, and I'm not quite convinced that that's what we have before us. Nor am I convinced that it couldn't be done in that way. And I'm not sure what my, you know, am I talking tens of square feet here? I mean --

ALLEN JOSLIN: I don't know what

criteria would apply. I mean, that's why the handicap areas board is what I go to and I say, look, these are constraints that we're being asked to do on public buildings and I can't -- you know, so those seem to be the most reasonable --

TAD HEUER: Yes.

ALLEN JOSLIN: -- criteria for -- I don't know any other criteria to use.

BRENDAN SULLIVAN: Well, they have to have a yard stick somewhere and that's what they've set up.

ALLEN JOSLIN: Yeah, yeah.

BRENDAN SULLIVAN: While I'm making a motion, can you make up your mind?

TAD HEUER: Do you have an opinion, Mr. Chair?

BRENDAN SULLIVAN: Yes. Well, I have a vote.

TAD HEUER: Indeed.

BRENDAN SULLIVAN: Let me make a

motion. And we're asking for a Variance.

Let me make a motion to grant the relief requested which is to create a room expansion within the front yard setbacks which will create a handicap accessible sleeping and bath accommodations on the first floor for an elderly parent. Moving the exit stair and porch and relocate a laundry room.

The Board finds that a literal enforcement of the provisions of the Ordinance would preclude the petitioner from expanding the existing residence in a location and in a manner which will allow the petitioner to provide the necessary space and amenity to house and hence care for an elderly, handicapped parent.

The Board finds that the proposed plan as submitted is a fair and reasonable request, and that the addition of 293 square feet which is 0.02 percent in addition to the existing structure.

The Board finds that the scope and the plan is the least disruptive plan to the existing first floor arrangement.

And the Board finds that the addition and the location thereof and the design is aesthetically sensitive not only to the house but also to the neighborhood in general.

The Board finds that the hardship is owing to the non-conforming nature of the structure on the lot which was built prior to the enactment of the current Ordinance resulting in a situation that would require any expansion of the structure to receive some relief from the Ordinance from this Board.

The Board also finds that the structure is burdened further by having two front yard setback requirements which greatly limits any expansion on this lot.

The Board also notes that if it were physically possible and financially

reasonable, this house could be relocated on this lot which would then not encroach on any of the setbacks.

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

The Board notes for the record that the house would be within the allowable floor area with the proposed work if the unfinished basement space were to be voided and not made usable.

On the motion to grant the relief requested as per the plan.

(Show of hands.)

BRENDAN SULLIVAN: Four in favor.

(Sullivan, Alexander, Scott, Firouzbakht.)

BRENDAN SULLIVAN: Opposed?

TAD HEUER: (Show of hand.)

BRENDAN SULLIVAN: One opposed.

(Heuer.)

BRENDAN SULLIVAN: The work will conform to the drawings that I initialed?

ALLEN JOSLIN: Yes.

* * * * *

(9:40 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: Is there anybody here for Cottage Park?

SEAN O'GRADY: Cottage Park?

BRENDAN SULLIVAN: I'm thinking I need to continue cases on those? The general public? I wanted to clear out --

SEAN O'GRADY: Yes, I mean, the only thing you need to clear out is Cottage Park.

BRENDAN SULLIVAN: Cottage Park. Is anybody here for Cottage Park Avenue?

I am not calling Cottage Park. I just wanted to make sure that there was nobody in attendance who was going to have to wait, that's all.

(9:40 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: All right, so we're going to go to Oxford Street. The Board will hear case No. 10197, 78-82 and 82 Oxford Street.

Mr. Rafferty.

ATTORNEY JAMES RAFFERTY: Thank you. Good evening, Mr. Chairman, Members of the Board.

BRENDAN SULLIVAN: Just jump in any time.

ATTORNEY JAMES RAFFERTY: I don't want to be so presumptuous without being invited to do so.

For the record, James Rafferty, R-a-f-f-e-r-t-y on behalf of the applicant Lesley University. Seated to my right is Kevin Murphy. Mr. Murphy is the director of facilities and operations at Lesley. And to my left is the project architect Oliver Radford, R-a-d-f-o-r-d.

This is an application by Lesley

University to allow for some additions to the constructed onto existing structures on Oxford Street. The lot today contains three structures: 78 Oxford Street, 82-F and 82-Rear. The current use of the property is that 78 Oxford Street is currently used as a dormitory by The Threshold Program which is a unique program offered at Lesley University for special needs students. It's a two-year post-high school program and it's an amazingly successful program and it does not have that many students. At the moment I think it only has 50 students. But a big portion of the program is helping students of this demographic to transition into a more -- it's beyond just academic granting. It's to assist them into --

CONSTANTINE ALEXANDER: Allow them independence.

ATTORNEY JAMES RAFFERTY: Right. And the program director is here today, with

some permission, he would perhaps expand on that slightly because it really is very relevant to what's being proposed here.

Today there are two of the structures, the 78 structure, the front one here, and the 82-R are both contained dormitory uses. The plan is to put an addition onto the 78 structure, which Mr. Radford will go through with you. So that will become a dormitory. There is also a proposal to add a small one-story addition to 82-F. 82-F is currently administrative offices for the staff of the program. 82-R would be converted to administrative offices as well. In this district an administrative office for an academic use is permitted upon the issuance of a Special Permit.

CONSTANTINE ALEXANDER:

Mr. Rafferty, how many administrative persons are on that site today and how many will there be if we grant the relief that

you're seeking?

ATTORNEY JAMES RAFFERTY: We asked that question.

KEVIN MURPHY: There's 13 today and only one additional person.

CONSTANTINE ALEXANDER: Only one additional person?

ATTORNEY JAMES RAFFERTY: One additional person. And similarly the student population actually will be reduced by three. There will be three less beds, and the dormitories count students by beds. In the consolidated dormitory there will be actually three fewer residents living on the lot and only one additional staff person.

MAHMOOD FIROUZBAKHT: But all the dormitory beds will be under one roof now?

ATTORNEY JAMES RAFFERTY: It will be a single roof.

KEVIN MURPHY: Consolidated.

ATTORNEY JAMES RAFFERTY: And

completely accessible. If you haven't had an opportunity to review the floor plans, Mr. Radford can take you through. There's a kitchen, because part of this is life skills and living skills. So there's kitchens, there's living rooms, gathering space, common areas. But I asked Mr. Radford to do a little bit of analysis of the relationship of increased GFA in it's 78 Oxford Street. It's admittedly a significant number. It's nearly 1700 square feet. Mr. Radford has, his analysis shows that approximately 1200 square feet of that is related to egress issues, upgrades to code, widened hallway, creating handicap bathrooms. So of nearly two-thirds of the additional GFA results in making this a state-of-the-art facility for these 26 students that live there.

TAD HEUER: So would this be a gut rehab of 78 as well.

OLIVER RADFORD: Yes, it's a gut

rehab of all of the buildings and bringing them up to current code standards. They're all 19th century buildings.

TAD HEUER: Is this similar to what you've done at Wendell and Crockett, also, those dormitories?

KEVIN MURPHY: Well, apparently it was --

OLIVER RADFORD: Crockett is 78.

TAD HEUER: Crockett is 78, okay.

CONSTANTINE ALEXANDER: If we grant the relief, this is where all freshmen are going to operate at Lesley or is there going to be other parts of the campus going to house students?

ATTORNEY JAMES RAFFERTY: Well, currently there's second dormitory location that houses the program. So there are approximately 50 students in the program, 26 of them --

OLIVER RADFORD: 26 will be in 78.

ATTORNEY JAMES RAFFERTY: -- will be in 78. And then there's another location a block away where the --

CONSTANTINE ALEXANDER: And the administrative offices are all going to be devoted to Operation Threshold?

ATTORNEY JAMES RAFFERTY: Oh, solely, yes.

OLIVER RADFORD: Devoted to administrative and the Threshold.

CONSTANTINE ALEXANDER: Essentially this is going to be the sub-campus for Operation Threshold.

OLIVER RADFORD: And it has since the program began.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY JAMES RAFFERTY: Mr. Chairman, with your indulgence I've asked Jim Wilbur, he's the Threshold Program director. He has the greatest command, not that Oliver and Kevin don't, but it's, so with regard to

specific questions, but maybe you can give us, and I urged him, because Mr. Wilbur, you can imagine his career is devoted to this and he's passionate about the program, but he'd like to just perhaps in the context of what they're proposing to do here, what this vision is and how long it's taken them to do this and what they hope to achieve. You've got two minutes.

JAMES WILBUR: Two minutes? Short time for me.

BRENDAN SULLIVAN: We'll give you three like the City Council.

JAMES WILBUR: We've been able to --

ATTORNEY JAMES RAFFERTY: I apologize, did you get his name? Wilbur, W-i-l --

JAMES WILBUR: Jim Wilbur. We've -- this is our -- this fall will be our 30th year and -- on the Lesley campus. And I've been at the program 22 years. And

Crockett Hall which is the 78 Oxford has been the bane of my existence for the entire time. It's an old, two-family house with steep staircases, narrow hallways. The third floor of the residence has no bathrooms. The students have to go up and down. And Threshold students, our students, we say they have special needs -- they're learning disabilities and other special needs. About one-third of our students have some kind of neurological problems. It could be cerebral palsy, left and right side hemiparesis. We have head injury kids. We have kids in wheelchairs. And the -- this 78 Oxford Street is totally inaccessible to any of my students with severe neurological problems, and including many students have come over the years in wheelchairs. And we want to turn this into a state-of-the-art dormitory that meets the standards of -- humane standards for this population. And

that's -- that's really the gist of it. We have our 30th -- we have 640 graduates in the Threshold Program since its first class in '84, they graduated in '84. Sixty percent of those young men and women lived in a five mile radius of 78 Oxford Street. They stayed. And I might add that 94 percent of the young men and women that graduated from The Threshold Program stayed in Cambridge, are employed full time, and as well as living independently.

My students don't move into group homes and subsidized living. They -- we teach vocational skills, independent living skills. And the huge part of what happens with these students -- currently we have students from 16 states and four foreign countries. Our total population at 50 resident students and then there's 20 of our students of a third year that are living in their own apartments off campus. They don't

go home afterwards because where they've grown up, they've never had a peer group before, so they stay. And if you live in Cambridge and if you're walking around Cambridge -- I live over on West Street, West Street in Mid-Cambridge, 02139, well, a few blocks from here, but I walk my dog around 6:30 in the morning every morning. And I'm liable to see five or six people walking around, and they're not walking around, they're on their way to work, on their way -- it's quite a remarkable program. And if you were the parent of a child with this kind of disability, you would know about The Threshold Program.

We do like zero promotion. The reality -- it's harder to get into Threshold than it is to get into Harvard. Thousand inquiries a year, we take 24 kids.

So, it's amazing program. But -- and the curriculum is fabulous, everything is

fabulous, except our housing situation is embarrassing.

I have a young man -- 35 seconds. I have a young man who is just finished, and his father is the -- he's the managing director of a huge finance company, and John brought Charlie to see the school about four years ago. And John looked at me and he goes, you know, if this wasn't the best school in the world, I wouldn't send my dog to this place, looking at our facility. We need our facilities to match the excellence of our academics.

CONSTANTINE ALEXANDER: I read your brochure that was part of the file, and I saw one of graduates, one of his hobbies is taking up interior skydiving.

JAMES WILBUR: Brian.

CONSTANTINE ALEXANDER: Of course, I trust you're not going to allow interior skydiving.

JAMES WILBUR: He's the assistant desk manager at the Inn at Harvard. And I've got to tell you he was quite a piece of work when he arrived from the State of Washington, Brian.

BRENDAN SULLIVAN: How long has Lesley owned the property?

OLIVER RADFORD: I believe they acquired it in 1970.

KEVIN MURPHY: Yes.

OLIVER RADFORD: Early seventies.

ATTORNEY JAMES RAFFERTY: So with regard to the addition and the hardship and the reason we're here is of course as Mr. Wilbur noted, the Board's probably familiar with the fact that Lesley, while it's an institution, the context of their structures are within this wood frame neighborhood. So you can imagine that there would be a greater efficiency if this building were simply taken down in a new, more

rectangular building was constructed. But I would suggest that's inconsistent with the city's land use policy around historic preservation and the manner in which these structures fit into the existing streetscape. In some ways there's a lack of in-efficiency that's resulted here which begins to tell part of the story as to why the hardship is needed. The design, Mr. Radford could go through with you, great effort was made to make sure no encroachment into the rear setback. There is a, the relief also involves a reduction in parking spaces. There's currently seven parking spaces on the site. When the project is completed, there would be only two spaces. Students do not have cars. No student at Lesley has an automobile or is allowed to park on campus, and that's certainly the case with The Threshold Program.

Staff members will be relocated.

Lesley four parking lot. They operate a pooled parking arrangement where their faculty and staff parking lots in the area. About three years ago Lesley, you may be aware, acquired a portion of the Episcopal Divinity School campus over at Brattle and Mason Street. As a result, many of the administrative functions, three or four of those functions that have taken place in what's now referred to as the Doble Campus around Wendell Street. Those administrative offices have moved over to Brattle Street and has freed up parking opportunities as those parkers now park. And those workers work there, and they park those cars there. Lesley is confident that the way it manages its parking program now it can absorb the reduction in space and allow for staff people to park in lots nearby.

You may recall that the provision of the Ordinance around institutional parking

actually allows it to be within 3,000 square feet of the campus. If you -- it seems rather tailor-made for one particular institution because it goes on to describe continuous anchorage and all that if you do the math. But it suggests that in the institutional setting at either end of the city, parkers park at surface parking lots in many cases blocks away from their building. That's the norm and not the exception. And Lesley, Lesley maintains that pattern. They also have parking facilities up in Porter Square where they have the University Hall building, the former Sears-Roebuck site. And so the parking issue Lesley is confident can be addressed.

BRENDAN SULLIVAN: There's always the lot on Wendell Street, too.

ATTORNEY JAMES RAFFERTY: The Lot C.

BRENDAN SULLIVAN: Yes.

ATTORNEY JAMES RAFFERTY: Right,

right. That's the likely lot that Mr. Murphy's contemplates that that's the likely candidate. Oh, you're talking about the lot at the new dormitory?

BRENDAN SULLIVAN: Correct, yes.

ATTORNEY JAMES RAFFERTY: Yes.

People are always saying nice things about the Zoning Board because the High Rise Bakery is there now and it's very popular. Yes, if it wasn't for a lot of really foresight on the part of --

CONSTANTINE ALEXANDER: Also, on the parking if you're only going to add one administrative person to the lot for what's there now, then the demand for additional parking are not made. I mean, that's why I asked the question before, if you were going to say you're going to go from five administrators to say 15, I would say you're going to need a lot more parking is necessary. But that doesn't seem to be the case.

ATTORNEY JAMES RAFFERTY: No, that's not the case. There's really, as Mr. Wilbur has described it, 82-R in particular would serve as kind of an alumni resource for students who graduate from the program. They have a need to come back and get assistance.

JAMES WILBUR: We're going to put our admissions office there, too, because our 82-Front is not accessible. So if someone arrives for an interview, at Threshold in a wheelchair, and they can't come into our building. So we're -- the aid to rear will be accessible as well. And that's not a good thing.

ATTORNEY JAMES RAFFERTY: So it's two forms of dimensional relief in the nature of the additional GFA, it's 7882. We've broken the -- the 82-Front building has 201 square foot addition, a one-story element in the back. That's depicted there.

OLIVER RADFORD: This is before and this is after. This is the addition here.

TAD HEUER: What's that addition there?

OLIVER RADFORD: This is largely to contain an accessible toilet and an accessible kitchenette and to allow decent circulation rather than trying to squeeze those into the existing body.

TAD HEUER: And your distance between buildings is fine I presume; right?

OLIVER RADFORD: Yeah, from a Zoning point.

ATTORNEY JAMES RAFFERTY: Yes.

TAD HEUER: Yes.

And on your parking for the students, you said, the students aren't allowed to have cars.

OLIVER RADFORD: No, they're not.

TAD HEUER: So the issue that we usually have of -- that we had earlier this

evening with structures that are residential that could change over time depending on tenancy --

JAMES WILBER: No cars never.

TAD HEUER: -- is you own it and will be presumably in perpetuity --

JAMES WILBER: No cars ever, trust me.

TAD HEUER: -- we don't need the parking spaces for the individual beds; is that --

ATTORNEY JAMES RAFFERTY: Correct. And that's a campus-wide policy of the university. No student in any building is given a parking pass or as you might expect, they don't register their cars, they don't get resident stickers.

And so that, then we, there is also some relief associated with the a few windows on one of these walls which are currently conforming today. But when you do the

formula setback by extending the building --

OLIVER RADFORD: That's this group.

ATTORNEY JAMES RAFFERTY: -- that area becomes non-conforming even though it's in the same plane as it is currently.

BRENDAN SULLIVAN: That's the rear, too?

OLIVER RADFORD: Two on that one. And this up here as well.

BRENDAN SULLIVAN: Okay.

Any questions from the Board at this point?

(No Response.)

BRENDAN SULLIVAN: Let me open it to public comment.

Is there anybody here who would like to speak on the matter at 78-82, 82-R Oxford Street? Anybody in attendance? Yes, please come forward and state your name and spell your last name for the record.

LORING BRINKERHOFF: Loring,

L-o-r-i-n-g Brinkerhoff,
B-r-i-n-k-e-r-h-o-f-f. I'm a higher ed. and
disability consultant and I'm a next-door
neighbor. So I'm very familiar with higher
ed. access and people with disabilities, I've
been doing it for 28 years. Threshold
program's nationally, internationally
known. It's terrific. And we all look to
them for the niche that they provide to give
young people a start. So I'm all for it, but
what am I gonna be looking at is why I'm
addressing you today.

So I had concerns with Joel my neighbor
about some landscaping issues that I didn't
feel were satisfactorily addressed when I
went to the informal meeting that they had at
the student union at Lesley. And I was told
oh, well, we'll get to landscaping. And I
wondered if you folks wanted to know about
landscaping upfront when you make a decision
or not, because I was concerned about limbs

being cut down. There are two trees in question that I'm concerned about. And I also wanted some relief with some evergreens or barriers along the fence line. And I was told well, we'll get to that when we get to it. And it would seem to me as a neighbor I would like to have that folded into the plan, but maybe I'm overstepping by asking for that.

The main thing that bothered me was the proposed handicap ramp which the architect knows about here. And I live right here. So here's my view, right here. I'm a stone's throw away. And what bothers me is that I have seen ramps be incorporated into buildings beautifully. And I've worked with colleges and universities on making it look seamless so it's not so evident. And I understand there are grade considerations and there are step considerations, but to me it stands out like a sore thumb. And I would

like to see it folded more into the design of the building. I suggested an elevator lift, and I was told we can't do that outside. The Zoning Board would never go for an exterior lift. So then I thought well, maybe you would work on your portico, because I like the idea of students hanging out. I like the idea of this being a community. Then maybe a wheelchair user would just go inside and then be lifted up. But this design to me seemed like it was sticking out like a sore thumb. And I brought an example that I thought might be nicer which just talks about how ramps can be incorporated into historic buildings.

So those were my concerns; the landscaping, the tree limbs going down, and the handicap ramp looking to me to be excessive. I'm all for access, but I think we can be more creative.

BRENDAN SULLIVAN: Has a

landscaping plan been done at all at this point?

OLIVER RADFORD: Yes, we're working with Howard Associates Landscaping Architect and we're working on all these rating features as we speak. We have not yet got to a plan. Which perhaps we've met with Mr. Brinkerhoff -- two days ago?

LORING BRINKERHOFF: Yes.

OLIVER RADFORD: And perhaps I've might have been a little cavalier in saying we haven't gotten to that yet. We haven't honestly gotten to that yet to the level of plans.

In terms of the ramp, and I haven't had a chance to get back to you since that meeting, but I mean, just if I can indulge everyone for a moment. From the street to the first floor of this building there's a vertical elevation of five and a half feet, and what we've tried to do is for sloping up

at one to twenties slope of the driveway portion and minimizing the length of this ramp. So there's about half of that five and a half feet is taking up, like, changing the grade, and the other half is taking up at the ramp. Because we're trying to maintain these two parking spaces which is one is a wheelchair space and in case there's a student that needs to be picked up and dropped off by a van, and the other is a visitor space for someone coming to the admission's office or a visitor to the program, and they need to have a backup space to turn around, we're very limited in what we can put along this side of the building. I think it was one of the suggestions that was suggested.

There's also an existing curb cut and a mature tree that we're trying to respect not to move or cut down the tree.

That having been said, I'm not sure if you've seen this, this is a ramp of very

similar scale that we did recently on another building. This one happened to be a little narrower because it's a private residence, about four foot width. I can pass that around, too.

LORING BRINKERHOFF: Well, it conforms to the side of the building.

OLIVER RADFORD: It is tucked into the side of the building.

LORING BRINKERHOFF: I like that.

OLIVER RADFORD: I was hoping you might hopefully might display some of your concern about just sort of the bulk of it. It's also, and the mass of it, and it's also, if I can point out, most of the ramp is currently on an area that's paved. So in terms of the green space or the open space, it's minimally protruding passed what the existing is paved. In fact, when I've done a calculation of permeable space on the site, we actually are slightly increasing.

Currently this site has 47 and a half percent of the site is permeable open space. Because we're reducing the amount of paved parking, in spite of the addition of the ramp, we're actually going up closer to 49 or 50 percent. So not much difference, but slightly more on the open space.

BRENDAN SULLIVAN: When might the landscape plan be completed?

OLIVER RADFORD: Probably within the next month. And we -- I think Lesley would be happy to sit down with you and go over it with you.

LORING BRINKERHOFF: That would be great. I have a green thumb.

BRENDAN SULLIVAN: Is there anybody else who wishes to speak? Please come forward.

LYNN RICE: My name is Lynn Rice, and I live at 76 Oxford Street which I couldn't see where the drawings, they were. You know

where I live.

OLIVER RADFORD: Yes. It's just here to the south immediately to the south. This is the existing and --

LYNN RICE: And that's my bay window there. And that's my kitchen window and you're proposing to add that there.

First I'd like to say the Threshold students have been wonderful neighbors and the program's been a wonderful neighbor and we're very close, I couldn't be much closer.

OLIVER RADFORD: Right here.

LYNN RICE: Yes, but they're delightful and cooperative to live with and I appreciate all that. And I appreciated you not tearing it down and not building a boxed structure. You're keeping it within the neighborhood. I appreciate all that. But I have two concerns:

One is the parking. And I know there's alternative parking provided, but one of my

concerns is it's so easy to park close to where you work rather than walking a substantial distance. And I just want to make sure that that's built into the plan. That because it is a street, that there isn't a lot of parked on -- there's not a lot of space to park. So if you take resident parking, that becomes difficult for the residents.

And the other thing is the landscaping thing. I like the design actually, but personally it's a loss. When I look out my kitchen window, instead of seeing space and air and grass, I'm gonna see building.

OLIVER RADFORD: Your window's right here? You have the back porches and then the window.

LYNN RICE: Yep. And my back porches -- I use my little back porches. They're teeny, tiny, but I use them. I use them to eat, to read. They're a living

space. So personally it is a loss to have that extension. I can go with that, though, but what I really want to know is about landscaping and I have the same concerns as Loring here. I want to make sure that the landscaping happens. I want to make sure that no trees are cut down or pruned to the extent that there's less shade. Because it is a loss of green space and affects the neighborhood in a huge sort of way. There's two particular trees I'm worried about because they're --

OLIVER RADFORD: These two?

LYNN RICE: Those two, and then the one that's right between our houses. That one there. And I just want to make sure that something doesn't happen and just becomes necessary to do something in order to get some machinery in there or something. Because the quality of life in that place depends largely on those trees. So I, too, am

interested in the landscaping, and I want to be involved in what happens with all that. And I hope that the landscaping is part of the approval process, that that would be the tradeoff for the loss of green space behind the building. So those are my two concerns, but overall I like the design.

BRENDAN SULLIVAN: Well, thank you.

Yes.

JAMES LEFFORT: My name is James Leffort, and I live also at 57 Gorham Street where Loring Brinkerhoff lives. And so I, too, have a back porch that goes out over this area where I see the back of the proposed changes. I have a dual involvement in this situation. I'm psychotherapist and some of the people that I work with in my private practice are students at Threshold and have been Threshold students for five years. I've been doing this for about five years with those students. And, therefore, I am very

excited that there would be the opportunity for them to serve people who are already graduates of the program by offering them more counseling or more support using the added administrative space that they have at 82-R. So I think that's really a very valuable thing that they are proposing to do, and I really hope that it can happen.

As a neighbor, I feel that the Threshold Program has been a good neighbor of ours. I'm not any happier about disturbances than any other grouchy neighbor in our neighborhood, and I haven't had them. Looking out as Loring described, I think it would be great if the configuration of the ramp could be made closer to the building. There is at present a grassy area behind 78 Oxford Street, and that is going to be reduced as a result of this project. And yet there will be some grassy offset because of the elimination of the parking spaces. When you

have the handicapped -- when you have the handicapped ramp jetting out, it kind of intrudes a little bit into our vista of what grassy space would still be there. And I think that my bottom line is that Threshold is allowed to be able to go ahead and have this expansion, but if it can be done in a way that the ramp is closer to the building, it will really allow us to enjoy whatever grass will then be in our view as a result of the elimination of the parking spaces. So that's basically what I have to say.

BRENDAN SULLIVAN: Okay, thank you. Is there anybody else who wishes to speak on the matter?

(No Response.)

BRENDAN SULLIVAN: I see none, and there's no correspondence in the file.

Let me close public comment at this time.

Any questions by members of the

Board --

CONSTANTINE ALEXANDER: No questions.

BRENDAN SULLIVAN: -- at this point? Mr. Rafferty?

ATTORNEY JAMES RAFFERTY: Well, I might have Mr. Radford just touch upon the handicap ramp issue because it has been a source of great study and as you notice, there are certain constraints that are necessitating it in that location. So I wouldn't want abutters to think it wasn't for a lack of effort.

OLIVER RADFORD: Yes, and what I have here, and I can show it to you or to the Board, these were three alternative schemes that we looked at for ramps. And the one that we're presenting is the smallest of the three. Because as you may know, when you turn a ramp, you have to have a sizable landing and they get bigger and bigger and

bigger in each of these configurations. As I sort of explained, you know, the driveway footprint of the grading of not just getting to this building but also trying to get to two -- three buildings with different floor levels. There really was very, we're kind of maxed out on all the grading from the street up to here. So there really isn't a feasible location on the site to move any of this stuff. So the only option would be to start pushing the ramp further into the backyard or to get into an interior elevator. What I might have said to you on Tuesday wasn't that the Zoning Board wouldn't allow a lift, a wheelchair lift, but simply the access for it wouldn't allow for a wheelchair lift for an entrance to a building. You have to have an elevator. Which obviously it cost a lot more, but it would also consume more square footage in a very tight building.

BRENDAN SULLIVAN: What about the

landscaping?

ATTORNEY JAMES RAFFERTY: Obviously the plan is not yet finalized but we'd be happy to submit it for review by the Chairman.

CONSTANTINE ALEXANDER:

Mr. Rafferty, why can't we just continue this case until you come back, or your client comes back with the landscape plan so we can see the whole thing all at once? I hate to see it do this piecemeal particularly since the neighbors have taken the time and have concerns about the landscaping issues.

THOMAS SCOTT: You know, and the landscape plan might address the issue they have with the ramp.

CONSTANTINE ALEXANDER: Exactly.

THOMAS SCOTT: You might be able to screen it with some landscaping material. And if you can show them that, they might have a better opinion about the solution.

ATTORNEY JAMES RAFFERTY: Well, I

would say to answer the question why couldn't you? There's no reason we couldn't. Our preference would be obviously to resolve the matter today, but I think that's certainly an opportunity to be responsive to those concerns. I'm sure Lesley would recognize the importance of the project, and I think given all of the issues that are contained in the application to reach consensus with the neighbors on this ramp and the landscaping would be advantageous.

CONSTANTINE ALEXANDER: Well, lesley has a demonstrated policy with working with neighbors. They really are good neighbors. I think this would be one more indication of that.

BRENDAN SULLIVAN: Mahmood, any thoughts on this?

MAHMOOD FIROUZBAKHT: I mean, I think to the extent that we need to continue to let these issues be figured out, I'm

perfectly fine with that.

BRENDAN SULLIVAN: Tad, what are your thoughts?

TAD HEUER: I think that sounds reasonable. My only question is whether -- I know we don't like doing things piecemeal. Is there any value -- since the landscaping seems to go with the Special Permit, is there any value to Lesley to granting the Special Permit tonight if there are no issues in terms of being able to start work on the conversion --

ATTORNEY JAMES RAFFERTY: There's a tremendous time, and I'm sympathetic. The time period from today to getting a Building Permit and you know the way the academic year works to get it done to get it ready for the following year. That, there is a tremendous advantage to allowing the construction, and I think the issues we're hearing are relevant but not directly related to the relief. So

if there would be an opportunity to condition the relief upon, I don't know how you do it.

BRENDAN SULLIVAN: Well, three of the people have presumed standing so that if relief were granted, there is a bureaucratic period of typing up the decision and getting it signed. And then there's the appeal period which would be some eight weeks out from tonight somewhat?

SEAN O'GRADY: Six to eight, yes.

BRENDAN SULLIVAN: The alternative would be to continue this matter for a more detailed landscape plan. That hearing would not happen to March 8th at the earliest.

ATTORNEY JAMES RAFFERTY: That was my question, given the limited nature of what would remain to be deliberated upon whether there would be a small opening.

BRENDAN SULLIVAN: Can you maybe take 15 minutes, maybe parties concerned can go in the back room and maybe talk about both

your schedules and your concerns and what have you, let us proceed with the agenda and come back?

CONSTANTINE ALEXANDER: Before we do that, just a question. Is it possible to have the case heard as a continued case earlier than March? The second hearing in February, for example?

BRENDAN SULLIVAN: I'm not here.

CONSTANTINE ALEXANDER: You're not here. That's the answer then.

ATTORNEY JAMES RAFFERTY: The first hearing in February?

CONSTANTINE ALEXANDER: I won't be here.

ATTORNEY JAMES RAFFERTY: If the issue is -- we have to, we could proceed with four, and I would never mean to offend you by excluding you. But we'll see how we do.

CONSTANTINE ALEXANDER: It's up to you.

BRENDAN SULLIVAN: Why don't you huddle. I think that would be more productive and then come back.

ATTORNEY JAMES RAFFERTY: Thank you.

BRENDAN SULLIVAN: So on the motion to recess this. Well, the Council goes in recess. We can go in recess. The motion to recess this hearing until a more suitable few minutes from now.

CONSTANTINE ALEXANDER: We don't need a vote. The Chairman has the authority to do that.

BRENDAN SULLIVAN: So we'll continue this matter when you come back.

(Case recessed.)

* * * * *

(10:20 p.m.)

(Sitting Members: Brendan Sullivan,

Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case 10198, 1280 Mass. Avenue. Whoever is going to speak.

ATTORNEY CRISTINA SERRANO:
Cristina Serrano. I'm here from Wayne, Richard and Hurwitz on behalf of the petitioner ZRC Operations Company, Inc. I'm here with Francisco Diaz.

FRANCISCO DIAZ: I'm here we're Qdoba Mexican Grill, I'm the original manager from there, the Qdoba here for the office in Boston and Cambridge area.

BRENDAN SULLIVAN: I would think that the reason that you're here, and I don't mean to take your thunder, is because there has been a change in ownership of the franchise; is that correct?

FRANCISCO DIAZ: That is correct.

BRENDAN SULLIVAN: And that the

previous case which was 9341 back in September of '06 there was a requirement that should such change occur, you would have to come back for eye Special Permit.

ATTORNEY CRISTINA SERRANO:

Correct.

BRENDAN SULLIVAN: That's why you're back here is to apply with that requirement.

FRANCISCO DIAZ: That's correct.

BRENDAN SULLIVAN: Okay. Anything going to change at all? Well, you have your presentation.

ATTORNEY CRISTINA SERRANO: No. Actually I'm hoping to not have a presentation. This is a continuation of the exact same operation that has been occurring and will continue to be a Qdoba Mexican Grill. The only change is the actual change in ownership from Chair Five Restaurants, LLC to ZRC Operations Company, Inc.

BRENDAN SULLIVAN: Okay. So other than that, the general public will not notice any change.

ATTORNEY CRISTINA SERRANO:
Absolutely not.

BRENDAN SULLIVAN: Other than probably an improvement of whatever.

ATTORNEY CRISTINA SERRANO:
Exactly. It will become even more fabulous more so than it already is.

BRENDAN SULLIVAN: Okay. Is the facade going to change, the lettering, any decor?

FRANCISCO DIAZ: No. There is no change whatsoever. Nor in -- not even in management. Actually ZRC Operations Company made the mistake to keep me on board with them. And so --

BRENDAN SULLIVAN: So it's just basically corporate?

FRANCISCO DIAZ: Correct.

Correct. What happened is the franchisee sold it, sold it back to the franchisor and that's really basically what transpired.

TAD HEUER: Have you found over the last five years there's been a need for these services in Harvard Square?

ATTORNEY CRISTINA SERRANO: I think there's always a need for --

TAD HEUER: Is it full? You've had a steady clientele.

ATTORNEY CRISTINA SERRANO: I think so. I know I personally frequent burrito owe establishments on a regular basis. And I really do think there's a constant need. I know actually Qdoba continues to expand in Cambridge and in Boston. And so this is a restaurant that will be kept for quite sometime.

TAD HEUER: But particularly in Harvard Square you find a lot of -- is it Harvard students?

ATTORNEY CRISTINA SERRANO: You know, I do find that this area does have a pretty consistent clientele. They seem to have a pretty steady flow of students and pedestrians.

TAD HEUER: Even with all of the other options out there people are still filling Qdoba.

FRANCISCO DIAZ: We have a good relationship with Harvard University overall. A lot of the faculty and students come all the time. Tourists, they are in this area a lot and they come for a very quick bite. There are a lot of other options, but definitely has to be about the location. I think we have very little location, and it's a very quick option. They're in and out very quickly. We have facility to provide all the services that they might need; baby changing stations, restrooms, that kind of thing that is always needed as people are going around

the square. So we've been doing very well. We're very happy to be in Cambridge and we continue to be very involved with the City of Cambridge, with the Harvard Business Association as well. It's been, it's been great.

BRENDAN SULLIVAN: The fact that you're still a viable entity is testimony enough to the fact that there is need because you are frequented and the business is quite stable.

FRANCISCO DIAZ: Correct.

BRENDAN SULLIVAN: I would think.

TAD HEUER: I would think so, too.

BRENDAN SULLIVAN: I would think.

TAD HEUER: Let's see if the rest of the Board agrees.

BRENDAN SULLIVAN: Well, let me, unless you have anything else to add.

ATTORNEY CRISTINA SERRANO: Just that we did actually go to the Historical

Commission and they noted that they didn't actually need to give any sort of approval because there's no sign change or exterior change.

BRENDAN SULLIVAN: Let me open it public comment.

Is there [anybody] here who wishes to speak on the matter?

CONSTANTINE ALEXANDER: Chipotle doesn't want to offer any comments?

(No Response.)

BRENDAN SULLIVAN: There is correspondence from the Cambridge Historical Commission. (Reading) The property is located in the Harvard Square Conservation District where exterior alterations are subject to review and approval of the Historical Commission. Exterior alterations were reviewed and approved. And that matters of use are not within the jurisdiction of the Historical Commission.

And there's a Letter of Appropriateness in the file.

There was correspondence received from Liza Paden Community Development Department regarding the Harvard Square Advisory Committee and the Harvard Square Advisory Committee is no longer advising.

SEAN O'GRADY: Yes. The official answer is: Please refer to the last case where it was supported by the -- with the caveat that, yes.

BRENDAN SULLIVAN: That was one of the requirements that you were supposed to get some language or an opinion from them.

TAD HEUER: They're now defunct which would have made it difficult.

ATTORNEY CRISTINA SERRANO: Yes.

BRENDAN SULLIVAN: So, in the past it's been a stumbling block that you would have had to produce that. Well, Mr. O'Grady was pro-active in that regard and contacted

them on your behalf, and the comment came back that there was no comment.

ATTORNEY CRISTINA SERRANO: Thank you.

FRANCISCO DIAZ: Appreciate it.

BRENDAN SULLIVAN: That is the sum, substance on the correspondence. I will close public comments.

Do you have anything to add?

ATTORNEY CRISTINA SERRANO: No, I think we're good.

BRENDAN SULLIVAN: Okay, comments by the Board?

CONSTANTINE ALEXANDER: No comments.

THOMAS SCOTT: Good.

MAHMOOD FIROUZBAKHT: I'm hungry.

ATTORNEY CRISTINA SERRANO: Do you want an burrito?

BRENDAN SULLIVAN: And nobody brought anything.

Let me make a motion to grant the Special Permit to ZRC Operations Company, Inc. to continue the operation of a fast food order establishment Qdoba Mexican Grill at 1280 Massachusetts Avenue.

The Board finds 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 character.

The Board finds that it is in a retail district with strong pedestrian traffic, and that the petitioner does not expect that there's any changes to the existing traffic pattern.

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.

And there would not be any nuisance or hazard created to the detriment of the health, safety or welfare of the occupant of the proposed use or to the citizens of the city.

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

Now under the Fast Food Ordinance, is that 11-something?

ATTORNEY CRISTINA SERRANO: 11.3.

BRENDAN SULLIVAN: There is some findings --

CONSTANTINE ALEXANDER: Brendan, maybe to time you can just say they're going to operate the business the same as before, whatever findings were made last time --

BRENDAN SULLIVAN: With the same requirements and restrictions that were imposed in the earlier case are references No. 9341. And also that this permit is

issued to this applicant and cannot be transferred to any other owner or franchisee. And that if the business is sold, sublet or re-franchised, a new and Special Permit shall be sought.

Anything else to add?

CONSTANTINE ALEXANDER: No, that's it.

BRENDAN SULLIVAN: All those in favor of granting the Special Permit.

(Show of hands.)

BRENDAN SULLIVAN: Four in favor.

(Sullivan, Heuer, Scott, Firouzbakht.)

BRENDAN SULLIVAN: Any against?

CONSTANTINE ALEXANDER: One against.

(Alexander.)

TAD HEUER: In the face of undisputed evidence of need, Mr. Alexander still votes in the negative.

BRENDAN SULLIVAN: Okay. And it's granted.

(10:30 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: Case No. 10199. Mr. Embry.

ATTORNEY BRUCE EMBRY: There was a question about when did you look for the signage?

CONSTANTINE ALEXANDER: Last Sunday.

ATTORNEY BRUCE EMBRY: The sign was issued, picked up, and installed originally on the 22nd of December. At that time there was a construction fence around the exterior of the building to keep pedestrians from getting close to the building, and the sign was on the fence. And last Friday --

BRAD TOOTHMAN: Friday.

ATTORNEY BRUCE EMBRY: Sorry, the fence contractor took down the fence because the work had been done, and he forgot to take the sign off the fence and that's when I got a call from Mr. O'Grady saying somebody looked for the sign, they didn't see the sign. This by the way is Brad Toothman. He's the regional manager for Chipotle here in New England. And I referred the matter to Brad, he went, got the sign, and immediately put the sign back up Monday morning, and that's what occasions the absence of the sign on Sunday.

BRENDAN SULLIVAN: Actually I went by on Saturday and I didn't see a sign.

ATTORNEY BRUCE EMBRY: Because it came down on Friday.

BRAD TOOTHMAN: It was after. It was in the evening like at six o'clock after business closed.

BRENDAN SULLIVAN: Okay, case No. 10199, Two Cambridge Center, Chipotle

Mexican Grill of Colorado, LLC.

Mr. Embry.

ATTORNEY BRUCE EMBRY: Thank you very much. We are here to petition for a fast food Special Permit for this Chipotle location at Two Cambridge Center. The building in which this location is located is in the MDX Zone -- sorry, MXD Zone which is this particular area of Kendall Square. Under the particular section of the Zoning Zct which describes what is permitted in the MXD Zone, retail and consumer service establishments, including fast food establishments, are actually permitted provided that they meet certain criteria under the Section 14.21.3 of the Act.

We meet all of those criteria with the exception of having a Special Permit granted. This is not located in a separate structure. The location doesn't exceed 3,000 square feet gross. There aren't three Chipotles in the

MXD Zone. And that puts us back into Section 10.40 and 11.30 of the Act.

Simply to comment on 11.30 and 10.40 in general rather than sort of recite all of the various subcategories here, the concerns in those two particular provisions as they would reflect on this particular location have to do with traffic congestion, pedestrian safety, and they're just sort of the general aesthetic of the location.

This is -- this particular store would be virtually entirely walk-in trade. There is anticipation that there would be almost no drive-up or drive-in traffic.

The building in which it is located has retail on the ground level, office space above, a hotel adjacent in the rear, and it's essentially surrounded by MIT office facilities and other office buildings.

There are dormitories within walking distance. There's a large residential

community within walking distance as well. So there's, there's no anticipation that there would be much, if any, drive-in traffic. There's no drive-through facility, so we don't think that the Ordinance is offended by creating any traffic issues, parking issues.

Pedestrians passing by the location are managed by the sidewalk. There's a traffic light about going back and forth. There's a subway stop across the street. There's a subway stop virtually adjacent across this little plaza, but all the back and forth across Main Street is regulated by a traffic light and a walkway that is essentially in front of this particular location.

So we don't think that there are any traffic issues. We don't think that there are any pedestrian safety issues. The facade of the building has just been renovated by the landlord in conjunction with

reviews and approvals by the ISD and the MXD review process.

Chipotle is not going to do anything to the exterior of the building that would require any Special Permitting or a Variance. It's all going to be signage that is of right. So, that is essentially the presentation.

TAD HEUER: Is there any outdoor seating there for other uses now or would this be the first outdoor seating area?

BRAD TOOTHMAN: There are some seats there, but not for outdoor seating, but we will be the first. There's many more to go I guess in the overall plan. You know, they took down the building that used to be the fire escape for upstairs. Above us is the banquet hall for the Marriott.

TAD HEUER: Right.

BRAD TOOTHMAN: And they took that down to open it up to be more pedestrian friendly.

ATTORNEY BRUCE EMBRY: If I gather your question correctly, there's going to be some specific outdoor seating for this location is what's intended.

TAD HEUER: Right.

ATTORNEY BRUCE EMBRY: There's that sort of little plaza that this abuts on.

TAD HEUER: Right.

ATTORNEY BRUCE EMBRY: And there will be public seating --

BRENDAN SULLIVAN: Seating.

ATTORNEY BRUCE EMBRY: -- in that plaza.

CONSTANTINE ALEXANDER: Do you need other relief for outdoor seating? Not relief but a permit from another Board besides ours?

ATTORNEY BRUCE EMBRY: Not that I'm aware of. This seating is not located in the sidewalk.

CONSTANTINE ALEXANDER: Oh, I see.

ATTORNEY BRUCE EMBRY: It's back.

CONSTANTINE ALEXANDER: Okay, I see.

ATTORNEY BRUCE EMBRY: It's back off the sidewalk.

TAD HEUER: Oh.

BRAD TOOTHMAN: That whole seating area, that whole area, it's actually part of that plaza.

ATTORNEY BRUCE EMBRY: It's been nicely renovated by the way.

BRAD TOOTHMAN: Yeah.

CONSTANTINE ALEXANDER: I thought it was going to be on the sidewalk.

BRAD TOOTHMAN: It's actually on the side.

TAD HEUER: Okay.

BRENDAN SULLIVAN: All right. Let me open it to public comments.

Is there anybody here who would like to speak on the matter at Two Cambridge Center?

(No Response.)

BRENDAN SULLIVAN: I see none and there's no letters of correspondence in the file. So we'll close the public comment.

You have nothing else to add, delete, rebut, change?

ATTORNEY BRUCE EMBRY: No, sir.

BRENDAN SULLIVAN: No? Okay.

Let me just go through some pro forma.

In considering applications for a Special Permit for fast order food establishment, the Board shall consider the following requirements:

The operation of the establishment shall not create traffic problems, reduce available parking, threaten the public safety in the streets or sidewalk, or encourage or produce double parking on the adjacent public streets. And testimony has said it will not and we probably agree.

Physical design including color and use

of materials shall be compatible with and sensitive to the visual and physical characteristics of other building, public spaces, and uses in the particular location.

And it can be safely said that the use of the building and the construction is not inconsistent with the urban design objectives as set forth in Section 19.30.

The establishment fulfills a need for such a service in the neighborhood or in the city. And we could say probably yes.

The establishment will attract patrons primarily from walk-in trade as opposed to drive-in or automobile-related trade.

The Board finds that the establishment shall, to the greatest extent feasible, utilize biodegradable materials for packaging of food and in utensils and other items provided for the consumption thereof.

The establishment shall provide, convenient, suitable, and well-marked waste

receptacles to encourage patrons properly to dispose of all packaging materials, utensils, and other items provided with the sale of food. And the establishment complies with all state and local requirements applicable to the ingress, egress and use of all facilities on the premises for handicapped and disabled persons.

And it's all the affirmative to those I would presume?

ATTORNEY BRUCE EMBRY: Correct.

BRENDAN SULLIVAN: So being that you comply with Article 11.31, granting of the Special Permit, the Board finds that it appears that the requirements of the Ordinance can be met.

Traffic generated or patterns of access or egress would not cause congestion, hazard or substantial change in the established neighborhood character.

That 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.

There would not be any nuisance, hazard created to the detriment or the health, safety or welfare of the occupants of the proposed use or to the citizens of the city. And the proposed use would not impair the integrity of the district or adjoining districts or otherwise derogate from the intent and purpose of the Ordinance.

Another requirement would be that should the ownership, the franchisee change from the present applicant, that a new Special Permit would be required.

Any other conditions?

Mahmood, anything?

CONSTANTINE ALEXANDER: I'm sorry, did you mention the fact that if they transfer ownership, that they have to come back?

BRENDAN SULLIVAN: Yes.

Anything else to add?

All those in favor of granting the
Special Permit.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer, Scott,
Firouzbakht.)

* * * * *

(10:45 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case No. 10200, 15 Clinton Street.

Is there anybody here for that case?

Whoever is going to present if you would state your name, please, spell your last name for the record.

IVAN BEREZNICKI: My name is Ivan, I-v-a-n, last name, Bereznicki, B-e-r-e-z-n-i-c-k-i. I'm the architect of the project. Leslie Bosworth and Nipun Nanda are the owners.

BRENDAN SULLIVAN: Okay.

IVAN BEREZNICKI: This is a single-family house, existing, it will

remain a single-family. And we have one wall on the property which is non-conforming on the side yard setback. Required setback on this case is 12 feet. We need three feet.

We are proposing to make some minor changes in hopefully that wall. There are five existing windows that will be bricked in. The first floor is brick construction, and we are proposing four new windows, two in the brick wall, two additional windows in the wall, in the frame wall above. And we are also moving a distance of about a foot, we're moving about five windows.

We are also proposing two sets, three skylights each, in a sloping roof facing the north slope, and a direct vent for a concealed combustion gas fireplace. And that's it.

BRENDAN SULLIVAN: So you're rearranging the deck chairs on the inside of the house, are you? Hence --

IVAN BEREZNICKI: We are, correct.

BRENDAN SULLIVAN: -- and changing the windows around?

IVAN BEREZNICKI: If you were to go to the -- toward the back -- actually, if you go all the way to the back, the last page, you will see the proposed elevation. And if you go one page forward, you'll see the existing elevation.

TAD HEUER: Let me just ask you, and it doesn't apply to the Special Permit application, where are you getting the additional 1200 square feet?

IVAN BEREZNICKI: We are getting it down in the basement.

TAD HEUER: Okay. I was looking around the building and it seemed to be all the same windows.

IVAN BEREZNICKI: Yes. What's happening there is it's a six-foot, eleven headroom right now. So it's underneath the statutory seven and we're proposing seven.

TAD HEUER: And your neighbors on your three-foot setback line have you spoken with them?

NIPUN NANDA: Yes, we have. And they were totally okay with it -- I asked her to provide us a letter and we just didn't get it in time. I walked. We walked --

TAD HEUER: Okay.

BRENDAN SULLIVAN: Is it near the lot line that would require a sprinkler system or a space between buildings maybe?

THOMAS SCOTT: I think it's space between buildings.

IVAN BEREZNICKI: The side yard.

BRENDAN SULLIVAN: Okay. Yes, that's what it is, space between buildings. It's not lot line. It's space between buildings.

All right, let me open it.

Any questions from anybody at this point?

(No Response.)

BRENDAN SULLIVAN: Let me open it to public comment.

Is there anybody here who would like to speak on the matter at 15 Clinton Street?

(No Response.)

BRENDAN SULLIVAN: I see none. I'll close public comment. There is no correspondence in the file.

Gus, any questions or comments?

CONSTANTINE ALEXANDER: No.

BRENDAN SULLIVAN: Tom?

THOMAS SCOTT: No.

BRENDAN SULLIVAN: Mahmood?

MAHMOOD FIROUZBAKHT: No.

BRENDAN SULLIVAN: You're not going to change any of this now? I mean, this is it.

IVAN BEREZNICKI: This is it.

BRENDAN SULLIVAN: If you change, you'll have to come back. So we want to make

sure that --

IVAN BEREZNICKI: Well, actually let me ask you, there's a possibility that two of these windows will not be built. In other words, two new windows that are supposed to be cut into the wall will not happen. If that were to be the case, would that require any a new hearing.

BRENDAN SULLIVAN: No, it's okay if you take out not do as much relief as granted.

SEAN O'GRADY: Yes, if it's, like for windows, if you just wipe out a window, yes, you're fine.

BRENDAN SULLIVAN: So that's okay.

SEAN O'GRADY: Unless the Board feels --

CONSTANTINE ALEXANDER: If you want to add a window, you have to come back.

IVAN BEREZNICKI: No, no. The only thing is there are two windows that we might not -- two proposed windows that we might not

execute. We might keep the wall as is.

CONSTANTINE ALEXANDER: You add windows or you relocate the windows you show us in the plans, you have to come back.

IVAN BEREZNICKI: Yes, okay.

BRENDAN SULLIVAN: So other than that, then you're okay.

All right, let me make a motion, then, to grant the Special Permit to install several new windows and skylights as well as remove several windows in walls within the required side yard setback as per the plan submitted and initialed by the Chair.

The Board finds that the requirements of the Ordinance can be met.

Traffic generated or patterns of access or egress would not cause any congestion, hazard or substantial change to the established neighborhood character.

Continued operations of or development of adjacent uses as permitted to the Zoning

Ordinance would not be adversely affected by the nature of the proposed use. There will not be any nuisance or hazard created to the detriment of the health, safety, and welfare of the occupants of the proposed use or to the citizens of the city.

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

On the condition that the work be in conformance with the plans as submitted and initialed by the Chair.

All those in favor of granting relief of the Special Permit.

(Show of hands).

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer, Scott, Firouzbakht.)

* * * * *

(10:50 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear in sequence case No. 10201, 10202, and 10203 which is 18, 22 and 27 Cottage Park Avenue.

Ms. Devlin.

ATTORNEY ALYSSA DEVLIN: Hello. I'm here representing the petitioner. We are requesting that the Board continue all three cases until February 2nd. We were made aware that there may have been a notice issue and so there wouldn't be any, you know, possible issue for people that didn't have a notice. We'd like to, we would like to request to continue the case until February 2nd so we can make sure everybody's got proper notice and, you know, get the Board's back up

ASAP.

BRENDAN SULLIVAN: Okay. Noticing the file there is a lot of discussions back and forth and just maybe you can continue those discussions with the applicable parties behind you, to the side of you, so on and so forth.

ATTORNEY ALYSSA DEVLIN: Oh, absolutely. We are absolutely continuing that as well.

BRENDAN SULLIVAN: So that this doesn't necessarily become a forum for an extended --

ATTORNEY ALYSSA DEVLIN: Exactly. Our hope is to have a finalized agreement, which we are this close.

BRENDAN SULLIVAN: Is there anybody here who would like to speak on the matter of Cottage Park Avenue.

(No Response.)

BRENDAN SULLIVAN: I see none. And

there is reference to a letter dated January 11th by Mr. Joseph Hanley requesting a continuance as requested by Ms. Devlin.

Let me make a motion to continue this matter on the condition that the petitioner maintain the appropriate posting signs on the subject properties as per the requirement of the Ordinance.

That the existing signs be changed to reflect the new date and time of seven p.m. on February 2nd. And that any changes to the plan currently in the file, all three files, be submitted by five p.m. on the Monday prior to the February 2nd hearing.

All those in favor of continuing the matter?

(Show of hands).

BRENDAN SULLIVAN: Five in favor.
Thank you.

ATTORNEY ALYSSA DEVLIN: Thank you so much.

(Sullivan, Alexander, Heuer, Scott,
Firouzbakht.)

(11:00 p.m.)

(Sitting Members: Brendan Sullivan,
Constantine Alexander, Tad Heuer, Thomas
Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: Yes.

Let me re-open case No. 10197, Oxford
Street.

Mr. Rafferty.

ATTORNEY JAMES RAFFERTY: Thank
you, Mr. Chairman. We've had an opportunity
to discuss with the neighbors and there was
an alternative ramp that you may recall that
Mr. Radford showed. That's actually seen as
preferable by the rear abutters. So, the
thinking was that we would -- we would
propose to amend our application. It's
already drawn and dimensioned. That would
allow us to hopefully reach a conclusion
tonight on the case.

The landscaping we've agreed that we will collaborate with the neighbors on the landscaping. But the one condition that we would agree to, too, is that one of the advantages of the other ramp is that these AC units would be located underneath that ramp. They won't be located here against this abutter's property. So there would be relocated on this side of the building. We're not exactly sure where, but somewhere along this driveway we could presumably place them. So it would be, it would be this site plan for that ramp, the structure itself, all the dimensional issues presented by the application are unchanged. And we would propose to construct that ramp as opposed to --

BRENDAN SULLIVAN: Would it be possible to get a clean copy, a hard copy of that prior to my signing the decision --

OLIVER RADFORD: Sure.

BRENDAN SULLIVAN: -- a few weeks from now so that a clean copy will be in the file.

OLIVER RADFORD: Sure.

ATTORNEY JAMES RAFFERTY: And it will, I'm guessing it will merely be an enlargement of this.

OLIVER RADFORD: Well, we'll put the air conditioners where we're going to put them, not there.

TAD HEUER: And changing to this ramp, does that do anything to your portico and your square footage you're asking for?

OLIVER RADFORD: No, it's all uncovered.

TAD HEUER: It's all uncovered and it's all exterior changes?

ATTORNEY JAMES RAFFERTY: Within the setback.

TAD HEUER: Okay.

LYNN RICE: Question. Would there

be a return to the Board for the landscaping or is that just on the honor system?

BRENDAN SULLIVAN: It would not be. That is not really before us, and I guess you're only discussion point would be that there will be an appeal period from the signing of the decision. There's a 20-day appeal period. You'll be notified. And that should you not be satisfied, I'm not giving you legal advice, but should you not, then you do have the right to contest the granting of the Special Permit.

LYNN RICE: So that's how that process works?

CONSTANTINE ALEXANDER: What you would do is to be a little more elaborate. You would have to file a complaint in court, or someone on your behalf, to challenge the relief that was granted. And while that case gets resolved, the project would come to a halt. So as Mr. Sullivan suggested to you,

is that if you don't get your landscaping arrangements locked down to your satisfaction before the end of the appeal period, that's how you can enforce it. We would have NO further involvement with regard to landscaping.

LYNN RICE: Okay, sounds like there would be incentives on both sides to make the landscaping plan work. That's what I want to know.

BRENDAN SULLIVAN: Yes, there are incentive.

ATTORNEY JAMES RAFFERTY: There is. And I think Lesley can say they would collaborate completely on the landscaping.

BRENDAN SULLIVAN: And I would think both parties would be reasonable.

All right, is there anything else to add?

ATTORNEY JAMES RAFFERTY: No.

BRENDAN SULLIVAN: Any other

questions by the Board?

CONSTANTINE ALEXANDER: No.

THOMAS SCOTT: No.

MAHMOOD FIROUZBAKHT: No.

BRENDAN SULLIVAN: Let me make a motion to grant a Variance to construct the additions to two existing structures on the lot numbered containing 78, 82-F and 82-R Oxford Street.

The Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner because it would not allow any expansion or realignment of the building to allow the petitioner to adequately provide much needed handicap accessible bedroom, bathroom facilities, accessible common rooms, and code-compliant access to the living, working, and interior barrier of free spaces.

The hardship is owing to the number,

which is three structures on the lot, non-conforming nature of the structures being being cited prior to the enactment of the current Ordinance. And the practical hardship to retrofit these buildings to accommodate interior space to be ADA compliant.

The Board finds that desirable relief may be granted without substantial detriment to the public good.

The Board takes particular note that the existing and proposed uses of the property is to educate and train young adults with diverse learning issues and other special needs who may find independent living challenging, and so to that end the Board finds that the public good is truly enhanced.

And further the Board finds that the purpose of the Ordinance is satisfied by providing housing of this type and a facility of this type to help preserve and increase the

amenities of the city; namely, The Threshold Program.

The Board finds that the request is fair and reasonable and would not nullify or substantially derogate from the intent and purpose of the Ordinance.

And that the work be completed in conformance with the plans as submitted and the amended plan which will be forthcoming, a copy of which is in the file.

On the motion to grant the Variance --

CONSTANTINE ALEXANDER: And the amended plan has to be to your satisfaction as Chairman and so initialed.

BRENDAN SULLIVAN: So said.

ATTORNEY JAMES RAFFERTY: It's this plan. We know the plan.

CONSTANTINE ALEXANDER: No, I thought he was going to go back -- it's this plan but I thought you're going to make some changes to it.

ATTORNEY JAMES RAFFERTY: Only one. We're just going to relocate the air conditioners. It's all designed and located.

CONSTANTINE ALEXANDER: Okay, okay.

BRENDAN SULLIVAN: So on the motion to grant the Variance.

(Show of hands.)

(Sullivan, Alexander, Heuer, Scott, Firouzbakht.)

BRENDAN SULLIVAN: Special Permit.

To change the use of the third structure on the lot from dormitory to academic offices, enlarge the openings on the non-conforming walls, and reduce the required amount of parking as per the plan submitted.

The Board finds that the requirements of the Ordinance can be met.

The Board finds that Section 4.566 permits the use of the property as academic

offices upon the issuance of a Special Permit, and that the existing lot, it has an existing lot status and for the proposed.

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

The Board finds that continued operation of and development of adjacent uses would not be adversely affected by the nature of the proposed use.

The Board notes that the existing program has been in existence at this location for 30 plus years; correct?

KEVIN MURPHY: 30 years.

BRENDAN SULLIVAN: Yes.

The Board finds that there would be not any nuisance or hazard created to the detriment of the health, safety, and welfare of the occupants of the proposed use, and that the proposed use would not impair the

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

On the condition that the work conform to the plan as submitted in the application.

Are there any other additions to that language?

All those in favor of granting the Special Permit as per the application.

(Show of hands).

BRENDAN SULLIVAN: Five in favor.

ATTORNEY JAMES RAFFERTY: That's a Special Permit that also allows for the reduction of parking and the relocation -- all three.

CONSTANTINE ALEXANDER: All things you sought the Special Permit for.

ATTORNEY JAMES RAFFERTY: Thank you.

* * * * *

(Whereupon, at 11:05 p.m., the

Zoning Board of Appeals

Adjourned.)

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C E R T I F I C A T E

**COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.**

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

I am not related to any of the parties in this matter by blood or marriage and that I am in no way interested in the outcome of this matter.

I further certify that the testimony hereinbefore set forth is a true and accurate transcription of my stenographic notes to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of January 2012.

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

My Commission Expires:
April 23, 2015

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