BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, JANUARY 28, 2021
6:00 p.m.
Remote Meeting
via
831 Massachusetts Avenue
Cambridge, Massachusetts 02139

Constantine Alexander, Chair
Brendan Sullivan, Vice Chair
Janet Green
Jim Monteverde
Laura Wernick

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PROCEEDINGS

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(6:00 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan, Jim Monteverde, Laura Wernick and Jason Marshall

CONSTANTINE ALEXANDER: Good evening, and welcome to the -- whatever is today's date -- January 28, 2021 meeting of the Cambridge Board of Zoning Appeals. My name is Gus Alexander, and I am the Chair.

This meeting is being held remotely, due to statewide emergency orders limiting the size of public gatherings in response to COVID-19, and in accordance with Governor Charles Baker's Executive Order of March 12, 2020, temporarily amending certain requirements of the Open Meeting Law; as well as the City of Cambridge's temporary emergency restrictions on city public meetings, city events, and city permitted events, due to COVID-19, dated May 27, 2020.

This meeting is being video and audio recorded, and is broadcast on cable television Channel 22, within Cambridge. In due course, there will also be a transcript
of the public proceedings.

   All Board members, applicants, and members of the public will state their name before speaking. All votes will be taken by roll call.

   Members of the public will be kept on mute until it is time for public comment. I will then give instructions for public comment, and you can also find instructions on the city's webpage for remote BZA meetings.

   Generally, you will have up to three minutes to speak, but this might change based on the number of speakers. I'll start by asking the Staff to take Board member attendance and verify that all members are audible.

   SISIA DAGLIAN: Janet Green?

   JANET GREEN: Janet here.

   SISIA DAGLIAN: Let's see, first case -- Matina Williams? Wait, Matina's not -- Jim Monteverde?

   JIM MONTEVERDE: Jim Monteverde's here.

   CONSTANTINE ALEXANDER: Did we get Matina?

   SISIA DAGLIAN: Well, Shady Hill was not heard, so -- and then Brendan, you're --

   BRENDAN SULLIVAN: Brendan Sullivan, present.

   SISIA DAGLIAN: And Gus you're -- okay, so 9 Shady
Hill was not heard, so just do it...

SISIA DAGLIAN: Laura and Janet, can you do the first case as well?

LAURA WERNICK: I think I'm just doing the first case, and actually I guess I'm supposed to do 544 Mass Avenue.

SISIA DAGLIAN: 544, correct.

LAURA WERNICK: Is that going to be heard tonight, or has that been --

SISIA DAGLIAN: Well, they're going to speak at it. I don't know that it's going to be heard, though.

LAURA WERNICK: Okay. So I'm just here for those two.

SISIA DAGLIAN: Okay.

JANET GREEN: And I can be here for the first case.

SISIA DAGLIAN: Okay. Then we can go ahead.

JANET GREEN: It's someone who lives in my neighborhood, but I don't have --

CONSTANTINE ALEXANDER: Okay, who is on the first case, Janet? Laura?

SISIA DAGLIAN: Laura.
CONSTANTINE ALEXANDER: And Jim, Brendan and myself.

SISIA DAGLIAN: Correct.

CONSTANTINE ALEXANDER: Okay.

SISIA DAGLIAN: And we'll add Laura -- we all add Janet to it?

CONSTANTINE ALEXANDER: Who?

SISIA DAGLIAN: We'll add Janet to the first case.

CONSTANTINE ALEXANDER: Yeah.

SISIA DAGLIAN: Okay.

CONSTANTINE ALEXANDER: All right. The cases for tonight are all continued cases. These are cases that were started previously, and for one reason or another were not resolved, and were postponed due to -- and have been postponed until tonight.

We have a little bit of an unusual situation in that one of the continued cases, the first case, is scheduled for 6:00 p.m., and then the next three are all scheduled starting at 7:00 p.m. So there will be a gap.

We'll finish the first case, I'm sure, long before 7:00 p.m.

So just to advise anyone who's listening in is that after we finish the first case, I'm going to call a
recess for this meeting and will resume at 7:00 p.m. with the remaining cases.
* * * * *

(6:05 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan, Jim Monteverde, Laura Wernick and Jason Marshall

CONSTANTINE ALEXANDER: With that as background, the Chair will now call Case Number 98136 -- 9 Shady Hill Square. Anyone here wishing to be heard on this matter?

SHIPPEN PAGE: I do, Mr. Chairman, thank you.

It's Shippen Page from PAGE & POWELL, representing the petitioner, Carter Bacon.

Mr. Chairman, by way of context, this is an attached dwelling at 9 Shady Hill Square that was subdivided in 1977, as was represented in the supporting statement, and the petitioner is -- it's a nonconforming, preexisting structure that violates side and rear yard setback requirements.

And the petitioner wishes to build a roof over his existing deck, which will add 240 square feet to the overall FAR. It's still well within the allowed FAR, and if it was a -- it's 240 square feet, which represents about 11.7 percent.
Under the applicable zoning ordinance, it exceeds the 10 percent. Hence, he's going for a special permit. It does not intensify the existing nonconformity, because it is allowed within the existing FAR.

But nonetheless, I advised him to apply for a special permit to make sure that he could at least have a chance of getting the relief that he seeks. And it's basically that simple.

And I would welcome Mr. Bacon's further explanation if any, or welcome the Board's questions about it.

CARTER BACON: I hope my application is -- this is Carter Bacon -- thank you for hearing the case. I would hope that the application is straightforward and unambiguous, and I don't have anything to add to what Shippen just said.

CONSTANTINE ALEXANDER: I have just one question. The roof itself, what is its composition going to be, the roof you're thinking to build over the deck?

CARTER BACON: It's going to be -- the composition -- you mean, how will it be constructed?

CONSTANTINE ALEXANDER: No --
CARTER BACON: What's it made of?

CONSTANTINE ALEXANDER: Is it going to be a canvas? Is it going to be wood? Is it going to be -- what?

CARTER BACON: Well, it's a wooden frame deck, a solid deck supported by columns, and it will have a membrane, a rubber membrane covering and gutters, et cetera, and it will have a decorative railing around it.

CONSTANTINE ALEXANDER: Thank you. I have no -- Mr. Page, do you have anything further you wanted to add in your presentation?

SHIPPEN PAGE: I think that suffices, Mr. Chairman, thank you.

CONSTANTINE ALEXANDER: Okay. Members of the Board, any questions? Brendan?

BRENDAN SULLIVAN: [Brendan Sullivan], I have no questions.

JANET GREEN: [Janet Green], I have no questions.

CONSTANTINE ALEXANDER: Jim?

JIM MONTEVERDE: [Jim Monteverde], I have no questions.

CONSTANTINE ALEXANDER: And Laura?

LAURA WERNICK: [Laura Wernick], I have no
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CONSTANTINE ALEXANDER: And neither do I. So I'll open the matter up to public testimony. Any members of the public who wish to speak should now click the icon at the bottom of your Zoom screen that says, "Raise hand." If you're calling in by phone, you can raise your hand by pressing *9 and unmute or mute by pressing *6. I'll wait a few minutes to see if anyone calls in.

[Pause]

No?

SISIA DAGLIAN: No one's raising their hand.

CONSTANTINE ALEXANDER: Okay. Apparently, there's no one from the public that wishes to speak. So I will close public testimony. Deliberations for it, or can I go - should we go right to a vote?

BRENDAN SULLIVAN: We're ready for a vote.

JIM MONTEVERDE: Ready.

JANET GREEN: Ready for a vote.

CONSTANTINE ALEXANDER: Okay. This vote is for a special permit. And so, I'll have to check off the requirements for a special permit.

SHIPPEN PAGE: Would you like me to read those
into the record, Mr. Chairman?

CONSTANTINE ALEXANDER: I'm sorry?

SHIPPEN PAGE: Would like me to read those into the record? I'd be happy to do so.

CONSTANTINE ALEXANDER: You can, sure. Go ahead.

SHIPPEN PAGE: Sure. The petitioner applies for a special permit granting the permit will not be to the detriment of the public interest, because the subject dwelling is a preexisting nonconforming structure built in 1915.

This property and the adjacent property are part of a subdivision plan resulting in nonconformities resulting from side and rear yard setbacks, violating Section 5.31.

The requirements of the ordinance cannot be met because the subject already violates the dimensional requirements of the ordinance.

Traffic generated or patterns of access or egress will not cause congestion, hazard, or substantial change in established neighborhood character, because the petitioner and his family will continue to occupy this as their primary residence.

No change in use is proposed, and the proposed
The roof of the existing deck will add 240 square feet to the building's FAR. It will thereby minimally increase the intensity of the use. There will be no further traffic generated, and the patterns of access and egress will remain the same, and no congestion, hazard or substantial change in established neighborhood character will result.

The continued operation of or development of adjacent uses, as permitted in the zoning ordinance, will not be adversely affected by the nature of the proposed use. The neighbors to either side will not be adversely affected by the proposed addition, and both have expressed support for the proposal.

The nuisance or hazard will not be created but to the detriment of the health, safety and/or welfare of the occupant of the proposed use, or the citizens of Cambridge. An increase of 240 square feet caused by adding a roof covering the existing terrace is quite modest.

No nuisance or hazard would result from the petitioner's proposal, and the addition will provide them with modest additional amenity, particularly during this COVID pandemic.
For other reasons, the proposed use will not impair the integrity of the district or adjoining district, or otherwise derogate from the intent or purposes of this ordinance, because the proposed use does not differ from the use of this dwelling, since it was built in 1915.

The proposed addition complies with and supports the intent and purpose of the ordinance, and in no way impairs the integrity of the district.

CONSTANTINE ALEXANDER: Thank you, Mr. Page. I also would add -- make it part of the record -- that we have received a number of letters, all from abutters or people in the immediate vicinity, and all of which are supportive of the relief being sought. There's no opposition --

SHIPPEN PAGE: Thank you.

CONSTANTINE ALEXANDER: -- in the neighborhood at all. So the Chair moves that based on the findings, as read into the record by Mr. Page, that we grant the special permit requested on the condition that the work proceed in accordance with the hand-drawn plans, I think the four pages in length -- each page of which has been initialed by the Chair.

Brendan?
BRENDAN SULLIVAN: [Brendan Sullivan], yes to granting the special permit.

JANET GREEN: [Janet Green], yes to granting the special permit.

CONSTANTINE ALEXANDER: Jim?

JIM MONTEVERDE: [Jim Monteverde], yes for granting the special permit.

CONSTANTINE ALEXANDER: And Laura?

LAURA WERNICK: [Laura Wernick], yes for the granting.

CONSTANTINE ALEXANDER: And the Chair votes yes as well.

[All vote YES]

Special permit granted.

SHIPPEN PAGE: Thank you very much, Mr. Chairman.

CONSTANTINE ALEXANDER: Thank you.

SHIPPEN PAGE: The Board, thank you.

CONSTANTINE ALEXANDER: Okay, as I said earlier, at this point, we cannot hear case until 7:00 p.m., so the Board will go into recess. We'll reconvene at 7:00 and to deal with the remainder of our agenda for this evening.

Thank you.
SHIPPEP PAGE: Thank you.

[BREAK]
* * * * *

(7:01 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Jim Monteverde, Andrea Hickey and Janet
Green

CONSTANTINE ALEXANDER: Members of the public will
be kept on mute until it is time for public comment. I will
give instructions for public comment at that time, and you
can also find instructions on the city's webpage for remote
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Generally, you will have up to three minutes to
speak, but I may change this based on the number of
speakers. I'll start by asking the Staff to take Board
member attendance and verify that all members are audible.

SISIA DAGLIAN: Jim Monteverde?

JIM MONTEVERDE: Jim Monteverde is here.

SISIA DAGLIAN: Janet Green?

[Pause]

SISIA DAGLIAN: Andrea Hickey?

ANDREA HICKEY: Present.

SISIA DAGLIAN: Janet?

JANET GREEN: Janet is here.
SISIA DAGLIAN: And Brendan?

CONSTANTINE ALEXANDER: Okay. So everyone is here.

SISIA DAGLIAN: And Gus. Okay.

CONSTANTINE ALEXANDER: Hello, we're now going to start with -- we have three more continued cases. And the first one I'm going to call -- I'll generally call two in combination -- 16, well Case Number 017247 -- 16-18 Forest Street, and Case Number 017248 -- 17-19 Forest Street.

We'll take these cases up together because they virtually are identical. Same -- the buildings are very similar; the same relief is being sought and it's just more efficient to do it this way.

So with that, I will ask -- I'll call the cases. Anyone wishing to be heard on this matter?

NICK ZOZULA: Yes, Good evening Mr. Chair and members of the Board. Can you hear me okay?

CONSTANTINE ALEXANDER: I can hear you, yep.

NICK ZOZULA: Great. Good evening Mr. Chair and members of the Board. Attorney Nick Zozula, McDermott, Quilty & Miller. We are the Zoning and Permitting Council on the project.
With me tonight is Rich Rankin, who is the architect from Ci Design. I also see Noam Kleinman is with us tonight, as well as Kayla Pepdjonovic and Bridget Hearn from the property ownership team and the proponent here tonight.

Last time we were in front of you all was July 9, about six months ago, ones projects, and at that time, you know, we had a robust discussion on the project and its merits, and we heard two specific aspects of the project that we got input on.

First was on the affordability component, and second was on bike parking primarily is what we heard. You may recall, Mr. Chair, as well and members of the Board that we are in a basement housing -- in the Basement Housing Overlay District at these properties.

However, we do not technically trigger or need to comply with the basement housing, nor with the Basement Housing Overlay District on a technicality that we're aware of is that we are actually in a Residence B zone, not in a Residence C zone, which is identified in the Basement Housing Overlay District.

So what we've done though is we've looked and
taken to heart what you told us six months ago, and we are complying with as much of the Basement Housing Overlay District components as we can.

And again, on those two specific aspects, on the affordability, first off, we worked with the folks at the CDD, including Jeff Roberts, Swaathi, Linda Prosnitz, to better understand how we can elect to comply with the affordable component of the Basement Housing Overlay.

And so, what we've been able to work with them on is to come back to you and voluntarily comply with that aspect of the BHOD by providing one voluntary IDP unit in each building.

That's our understanding is what's required under the BHOD would be one in each if we were under that. So in speaking with them, you know, if there's a way for us to voluntarily work with Linda's office and comply by providing one in each building where these new units will be.

Secondly will be the bike parking. We are adding 15 new units here. Again, just giving you a brief overview of what we talked about. With a going from 123 units in these two buildings to 138 units. So we'd be adding eight in one building and seven in another, in the basement.
And at the time we were here in July, we were not proposing any bike parking at that time, we hadn't really looked too hard into that.

And so, what we've done is we've taken a deep dive and revisited the plans, and we are able to better utilize some of the other space in the basement where there was laundry rooms and boiler rooms, and things that are not needed anymore for the project in these buildings, and we're able to provide over 50 -- that's 5-0 -- 50 new internal bike parking spaces across both buildings.

What the Basement Housing Overlay District requires is a 1:1 ratio for each new unit that you're proposing.

And we're proposing 15 new units, but proposing 50+ new bike parking spaces internally in those buildings. So more than three, 3.5 times what we need to provide.

I can let -- we do have a bike plan to show you. Rich Rankin -- again, from Ci Design as you can see up here, can walk you through that if you'd like. But you'll -- see that we're kind of taking some old spaces as part of the re -- the new ownership and kind of the redevelopment of the interiors of these.
The laundry is moving into the units. So these big laundry rooms that were needed at one time in the basement just aren't needed anymore. And so, we're able to kind of adaptively reuse those spaces and provide bike parking, which you recall was an important topic six months ago.

So I can let Rich walk you through these if you'd like. Otherwise, the plans remain the same. So I'm happy to go through those plans after this, but those plans that we spoke of six months ago are the same.

So Rich, I'll cede to you if you want to walk through what we're proposing.

CONSTANTINE ALEXANDER: Before you do that --

NICK ZOZULA: Yep.

CONSTANTINE ALEXANDER: -- I must confess to be a little confused.

NICK ZOZULA: Okay.

CONSTANTINE ALEXANDER: You're seeking zoning relief.

NICK ZOZULA: We are.

CONSTANTINE ALEXANDER: A variance of the special permit. I don't see how you presented a case that you're
entitled to receive the variance -- let's go with this is a variance. You -- I know you touched on it in your submission.

NICK ZOZULA: Yes.

CONSTANTINE ALEXANDER: But it doesn't -- they don't deal with the actual statute itself. I mean --

NICK ZOZULA: Well --

CONSTANTINE ALEXANDER: Let me start. I -- and you tell me -- I just, to frame the questions, you have to demonstrate that a literal enforcement of the provisions of the ordinance would involve a substantial hardship.

I don't know what that hardship is, other than the fact that you can make more money -- your client can -- if you have seven more or eight more, depending on which structure we're talking about -- seven more units. That's not a hardship within the Massachusetts law that would justify the granting of a variance.

And then you have to say that the hardship is owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land and structure, but not affecting generally the zoning district in which it is
NICK ZOZULA: Right.

CONSTANTINE ALEXANDER: Again, how do you meet that requirement? How do you -- what justifies us granting the variance under these circumstances?

What you have is you need -- you want more apartments in the building, you've got space that's not being used in the basement, you want to put units down there -- understandable. And from the business point of view it makes sense.

But from a zoning point of view, it doesn't cut it, to me anyway.

NICK ZOZULA: Yeah, Mr. Chair, I remember we had this discussion at length in July.

CONSTANTINE ALEXANDER: Yes, we did.

NICK ZOZULA: And, you know, I think the key word that we would focus on would be you just read it out -- would be, "or structures" right? And so, these buildings are over 100 years old.

We -- this ownership team is working to update the units and bring them up to current standards by a) putting laundry in the units, doing other upkeep and maintenance,
building and life safety things of that nature, and that's
the hardship, because what that has done is by doing those
upgrades has triggered the Architectural Access Board
involvement of a 30 percent rule where you spend more than
30 percent of the building's assessed value, and you then
need to comply with accessibility. So --

CONSTANTINE ALEXANDER: I think that forces you --
again, you come back to the -- I come back to the fact that
you don't have to upgrade your apartment, except maybe from
a commercial point of view --

NICK ZOZULA: Sure.

CONSTANTINE ALEXANDER: -- and the justification
is, well we need to take space in the basement. That's not
how zoning works!

NICK ZOZULA: Well, if I may, Mr. Chair, I
understand that, but would you -- I think the city would
prefer to have an updated building with life safety and
things of modern features, not necessarily a building that --
-- you know, folks don't want to live in.

I get -- I mean, I understand that, and we had
this discussion at length and I respect your opinion.
Obviously, you guys see this a lot more than we do.
But we're trying to comply. By upgrading the building, we need to provide accessible units. And we can't provide accessible units without a substantial financial hardship, which is in the ordinance, as you just read, as one of the standards. It would be a substantial hardship and a building hardship to comply with putting those units in the regular building.

So what we've done is we've come up with a creative way to put them in the basement, which is why we need zoning.

And I would just be remiss if I didn't state that none of these zoning requirements are as a result of making the building bigger, taller, wider, other than an entry vestibule for accessibility. So all of this is going on within the existing building footprint.

CONSTANTINE ALEXANDER: Yeah, but what's important is --

NICK ZOZULA: So this variance isn't asking for really any impingement upon -- they're all existing conditions that we're -- we are making worse, office, with the Floor Area Ratio and the parking, but they're all existing nonconformities to the zoning law.
CONSTANTINE ALEXANDER: I know, but you're taking a non -- and I'll stop and I'll move on --

NICK ZOZULA: Yeah.

CONSTANTINE ALEXANDER: You're taking a building that is nonconforming substantially with regard to Floor Area Ratio and you want to increase it more, make it even more so.

Now, your argument about it is that you're going to improve, upgrade an older building, that would apply to every case -- that was every case we hear.

NICK ZOZULA: Understood.

CONSTANTINE ALEXANDER: We have cases that have got a lot of older buildings, people want to put an addition on for more living space they want to add dormers, and the ordinance says you can do that, but you got to meet the requirements for a variance.

And it's just not because -- it's not -- the case doesn't end if what you're doing is upgrading the quality of the structure. You also have got to meet the requirements of the ordinance. And I don't see it happening here.

NICK ZOZULA: Well, I don't want to beat a --

CONSTANTINE ALEXANDER: No, please respond. I
don't want to drag this debate on. But that's my concern.

NICK ZOZULA: No, no, yeah -- no, I understand. I mean, again, I don't -- you know, I don't want to beat a dead horse because, again, I think we're just doing what we did six months ago, but we would -- our point is we're kind of stuck here between what we've been asked to do by the Architectural Access Board to update the building and zoning, and that's kind of where we are.

You know, we would state that that is a hardship, and it may not be a typical hardship of topography, grade, those types of things, but there is a hardship there that these -- you know, that the structure itself, the shape, their configuration and the outdatedness affect the structure's ability, and that's not typical for every building in the city.

But again, like you said, so -- but I guess to bring it back to my initial talk was -- and intro was that's why we've tried to come back to you with some of the things you asked for last time, which was the affordability component and the bike component.

And that's -- you know, that's why we're here with some changes, which are in direct response to -- other than
what we just talked about, his we've heard last time.

We can't change the applicability, I'm not going
to make an argument, because there is no argument in terms
of the soil or things like that because the buildings have
been there for 100+ years.

So that's where we are. You know, as far as
everything else, it has not changed, other than our
willingness to come back with some things that we heard last
time, which we would hope would help the Board in making its
decision with some of the things we're complying with, so.

CONSTANTINE ALEXANDER: Okay. Again, and you're
correct you have responded to some of the issues that were
raised six months ago --

NICK ZOZULA: Right.

CONSTANTINE ALEXANDER: And of course you're also
right that we would not have this debate, if you want to
call it, six months ago --

NICK ZOZULA: Right.

CONSTANTINE ALEXANDER: -- about the legal
standard. But we are where we are. And I hear you, and I
will keep my mouth shut. I said all I'm going to say about
this part of your case, except when it comes time to taking
a vote, whether we grant you the relief you're seeking.

But anyway, Brendan, do you have any questions?

BRENDAN SULLIVAN: No. I have a lot of thoughts, but not any comments or questions at this time. Okay. Jim?

JIM MONTEVERDE: Just a question. And this relates, or -- and I think you explained this before, but please refresh my memory.

In looking at the plans for the two different buildings, I think I understand, but just so I hear it correctly, when you come to your unit count total, through -- for MAAB, for the Massachusetts Architectural Access Board as you described, you're bound unless you seek a variance from them, to provide group 2A type units, which is what this is all about.

You're proposing to do those in the one building that I'm assuming actually has -- the property line is not hard against the building, so you actually have some room to enter it around the perimeter and get in, and it looks like you have a variance from the Architectural Access Board to use a lift to do the grade transition to get to those apartments, correct so far?

NICK ZOZULA: Yes sir, yes.
JIM MONTEVERDE: All right. And then I see in your description the first page of the application, and there's basically a note that the lower level of the existing building has an existing ceiling of 7'6". In its renovated condition, will that be maintained? Will you still have the 7'6" ceiling in those apartments?

NICK ZOZULA: Rich, I don't know if you want to answer that one?

RICHARD RANKIN: Sure, Nick. Yeah, Richard Rankin, Ci Design, we're the architects for the project. As I think we discussed in a little bit of detail last time, in both buildings, we are actually lowering the floor level within that lower level in order to get the proper clear height within the units, and also to allow for the distribution of the mechanical equipment in the units in that lower level.

So the amount of work to get these units basically livable at that level is going to require slab work along with waterproofing of the slab and the foundation walls.

JIM MONTEVERDE: Okay. Because if I read this correctly, I think the 16-18 Forest has existing 7'6" and the opposite building has an 8'6" ceiling currently.
There's a difference in that ground floor at basement height. Will that be -- will that difference be resolved as you lower those slabs? Or --

NICK ZOZULA: Well, in 16-18 where we have a tight -- the removal of the slab in order to get the clearance, will alleviate that. And we're planning on 8'6" ceiling height --

JIM MONTEVERDE: Okay.

RICHARD RANKIN: -- in the units with some softening. In 17-19 we have some clear height, but with the amount of plumbing under slab drainage and so on that we're putting in, there's really not much slab left after all that takes place. So the idea there was to replace the slab from 17-19 as well.

JIM MONTEVERDE: Gotcha. And then if I look at the site plan for 17-19, if I recall from 6 months ago, the discussion was there was a reason you couldn't put, or didn't want to put accessible units in that building?

RICHARD RANKIN: In 17?

JIM MONTEVERDE: Yeah, correct. Why is that?

RICHARD RANKIN: Yeah. The main reason was that it's -- you know, there's no way, it's a zero-lot line
building basically, and the only entrances are from the courtyard side. And they don't access the lower levels, where, you know, potential units may be.

So we don't have access. There's not a reasonable way to get access to the lower level of 17-19 for accessibility purposes, so --

JIM MONTEVERDE: Okay. That's what puts all the accessible units into the 16-18 building and MAAB has granted you a variance for that clustering.

RICHARD RANKIN: Correct.

JIM MONTEVERDE: Because frankly, that's one thing I would never favor in -- you know, grouping them all in the same location, but I see MAAB has granted that variance.

That said, when you go back to the Chair's discussion, the hardship, the financial, the question there is: We can understand architecturally what it would take to do, you know, either an elevator or what it would take to spared those units throughout the building.

Financial -- I mean, personally, I would not be the one who would be able to evaluate that, because that's really pro-forma in your own construction cost and basis. I have no way to evaluate that.
Is there anything that you've presented in the description here that substantiates that?

RICHARD RANKIN: No, I think we made a presentation previously which identifies kind of our situation, which is a little bit -- for the time probably not so unique, but in this case, we've got four entrances basically to each building, which serve four units each.

So, you know, that also causes kind of a problem, an appliance problem. There's some firewalls and the makeup of the building doesn't allow for door swing clearances and push-pull clearance not that kind of thing.

So as far as a monetary analysis or a financial analysis to show hardship, I don't believe that we've endeavored to try to -- you know, figure out what that might be. It's just a situation whereby the -- kind of the way the buildings are configured; it just causes so much issues to try to make this work.

JIM MONTEVERDE: Okay. You've answered my question, thank you.

CONSTANTINE ALEXANDER: Anything further, Jim?

JIM MONTEVERDE: No, thank you.

CONSTANTINE ALEXANDER: Andrea?
ANDREA HICKEY: Yes. I just had one question. If I could ask Counsel to just very briefly recap for me again the 30 percent figure that you mentioned, and that being the threshold that triggers the Architectural Access Board's involvement? Just for the public and for my own information, can you just briefly run through that again?

RICHARD RANKIN: Yes, yes, Attorney Hickey, I can. I haven't looked at this since we did this the last time, and we went to the AAB.

But the 30 percent rule is if you are doing work to a building that is more than 30 percent of the assessed value of the building over, I think a certain period of time -- I don't know if it was two or three years -- if you're doing, you know, updates -- any type of work to a building and you go over that amount, you then trigger accessibility for the entire building.

And so, that's kind of where we were doing updates and have been doing updates to the building, and, you know, one way that technically somebody could get around that is by just not updating the building, which stinks, right?

ANDREA HICKEY: Or perhaps doing it over time, vs. --
RICHARD RANKIN: Correct.

ANDREA HICKEY: -- versus all at once. So that was -- that was --

RICHARD RANKIN: Correct.

ANDREA HICKEY: Wanted to make sure I understood.

So --

RICHARD RANKIN: Yeah, you're right.

ANDREA HICKEY: -- the fact that you want, or your clients want to do all of this work kind of at one time is what triggers that 30 percent.

NICK ZOZULA: So to a certain extent, yes. You know, they've been doing work, but what they've been doing is, you know, my understanding is doing these updates as units become naturally vacant.

Right, they're not forcing anybody out, they're not displacing anybody, they're doing these as a unit becomes vacant, and they're working with their tenants, which is what --, you know, a good landlord should do, right?

And so, some of this is that they don't control that, right? You know, they are a landlord, they want to make money on their building. But when a unit becomes
vacant, they're doing the work on it.

And that's part of the reason why we're in this predicament is because, you know, at one point they were crossing that threshold. And yeah, they could wait. But then that wouldn't really work with what -- kind of how they're approaching the upgrades in the building.

So they're trying to be cognizant of that with their tenants, while also -- and again, you know, I don't want to use that stuck between a rock and a hard place; you can add a third thing here, which is the tenancies, and making sure that they're treating everybody right.

And that's kind of how we got into this originally with the folks at ISD and the folks at the AAB, and now with you folks here with another acronym, the BZA. So --

ANDREA HICKEY: Right. I actually agree, you are stuck a bit between a rock and a hard place, but my taking that and trying to fit it into a box, you know, called, "hardship" is where I'm stuck a little bit.

The idea that a building of this vintage in this location could be made accessible is in my mind fantastic. But strictly hardship I'm not there yet.

NICK ZOZULA: Understood. And I would just
respond -- and you're making some great points -- you know, my understanding from talking to other folks in the city again.

And I don't know the zoning ordinance inside and out like others do, and maybe somebody's on the call, but, you know, we -- we're in this here because we don't comply, we're not in the Basement Housing Overlay District.

So this is almost a technicality. We frankly should possibly be in front of the Planning Board for most, if not all, of this, and if we were in the Residence B zone, so.

ANDREA HICKEY: Right, right.

NICK ZOZULA: You know, again, some of this -- you know, the zoning ordinance, it's a tricky beast and, you know, we've learned a lot about it over the last few months to come back tonight. But the Planning Board did recommend approval on this back on June 30 before your July hearing -- you know, wanting to look at some of the things we've already talked about.

So I guess I would just state that if we were in the Residence B, we would be getting a special permit, at least --
ANDREA HICKEY: Right.
NICK ZOZULA: -- that's my understanding.
ANDREA HICKEY: Right. Respectfully, though, as a Board, we can only work with what we have as well, so -- thank you, Counsel, you've answered my question, I do appreciate it.
NICK ZOZULA: Thank you.
CONSTANTINE ALEXANDER: Got it? I'm sorry, Andrea, do you have any further questions?
ANDREA HICKEY: No, thank you for asking.
CONSTANTINE ALEXANDER: Janet?
JANET GREEN: No. I was just curious about what the Planning Board actually said about this project. And I don't have it in front of me, Gus. I'm sorry, but I have -- if I can get the file -- hold on, I have a copy of the letter.
ANDREA HICKEY: Great. Thank you.
CONSTANTINE ALEXANDER: Let me just dig it out of the file. Hold on one second. Bear with me. I was going to mention that later on.
ANDREA HICKEY: Oh, okay.
CONSTANTINE ALEXANDER: There were a number of
letters, not only from the Planning Board, but from
neighbors or people in the area. But -- my goodness, there
are a lot of pages here. Okay. Here is the letter from the
Planning Board, or the -- yeah.

"On June 30, 2020, the Planning Board reviewed the
above-referenced Board of Zoning Appeal cases -- " [talking
about both cases, of course] "-- as part of its general
business.

After consideration of these requests, and after
hearing testimony from both the applicant's representative
and the public, the Planning Board voted unanimously to make
a positive recommendation to the BZA on the requested
variances and special permits for the creation of additional
units in the existing basements of these two abutting
buildings.

This recommendation was made by the Planning Board
in alignment with the provisions set forth in the Cambridge
Zoning Ordinance, Section 20.630 Cambridge Zoning Ordinance,
Section 20.630 standards of the Basement Overlay District.

On balance, the Planning Board felt that the
creation of additional accessible units in this area --
studio and one-bedroom sized units, is positive. The
location of these in Cambridge and Porter Square is beneficial due to its accessibility to both public transportation and neighborhood amenities in the area.

The Planning Board recommends further review of these requests by the Department of Public Works for compliance with stormwater and sewer regulations, and the Traffic, Parking and Transportation Department for impacts on existing on-street and off-street parking capacity."

I should ask in view of this last comment from the Planning Board, have you -- petitioner, have you had any discussions with the DPW with regard to compliance with stormwater and sewer regulation, and with Traffic, Parking and Transportation for impacts on the parking?

NICK ZOZULA: I can speak to the second, Mr. Chair. We have had discussions with TPI based on the bike parking. We have been in touch with them, and we'll continue to be in touch with them. That's why we proposed the 50+ bike parking spaces in that regard.

And as the Planning Board's recommendation stated, you know, we are in a very transit-oriented area.

So we have in touch with them. As far as the first one, I don't think we have, Rich. I know we've
looked and we've read the Basement Housing Overlay requirements with regard to the standards on backflow prevention, building code and things of that nature, you know, separation between the stormwater and the sanitary sewer lines.

I know we're confident that we can comply with that. We haven't had any substantive discussions with them, but Rich, I don't know if you want to speak on that some more as far as compliance.

So yes to one of them, and on the other one, we are confident that we will comply, but we haven't had any discussions on that front, because we just -- I don't know if that would be --

CONSTANTINE ALEXANDER: With regard to when you had the conversations, was it just with regard to the biking, or was there -- were any discussions involving the density, you know, the traffic impact on the on-street parking?

NICK ZOZULA: We had some discussions on that, Mr. Chair, but it was not a point of contention or a point of issue. I think, you know, these units are a bunch of one-bedrooms that we're proposing, two studios and 2 two-
bedrooms, and I think our suggestion and what we -- I guess we heard more by what we didn't hear than what we heard, is the way I'd put it.

And I think the way we're able to allay some of the concerns is by adding all of that bike parking, which will further the TOD, transit-oriented development type nature for this building, which doesn't have any bike parking now, by my understanding.

So we'd not only be providing 1:1 bike parking for the new units, we'd be providing, you know, 40-something extra for the existing units in the buildings.

CONSTANTINE ALEXANDER: Thank you.

BRENDAN SULLIVAN: [Brendan Sullivan].

CONSTANTINE ALEXANDER: Janet, you -- thank you.

BRENDAN SULLIVAN: Yeah.


BRENDAN SULLIVAN: Yeah. Counsel, just to go back a little bit -- capital expenditure of more than 30 percent of the assessed value triggers the Access Board requirement. And how many units would you have had to provide in the existing building, existing framework? Under their formula?

NICK ZOZULA: I believe, Mr. Sullivan, it would
have been either six or seven. I don't know the percentage. I know we are providing more than what is required.

JIM MONTEVERDE: It would be six. I think it's five percent, and I think your statement is --

NICK ZOZULA: Yep.

CONSTANTINE ALEXANDER: Yeah, directly --

JIM MONTEVERDE: -- you have 123 existing, that's --

--

CONSTANTINE ALEXANDER: -- the transcript for the --

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BRENDAN SULLIVAN: All right.

CONSTANTINE ALEXANDER: -- hearing six months ago, six was the number that you responded to.

JIM MONTEVERDE: Right.

NICK ZOZULA: That sounds right. Yes, Mr. Chair and Mr. Monteverde, it was six, and I believe we're providing eight. So we're providing two extra.

BRENDAN SULLIVAN: So -- and this whole proposal really is -- it's an exercise in numbers. You know, it -- numbers, and the numbers unfortunately have a dollar sign in front of them, which is probably triggering this whole thing is the first number is obviously the purchase price.
And then obviously before you get into that, I would assume that the purchase price was reflective of the condition of the building, and the desire of the owners -- new owners, developers, to allow certain capital expenditures of the building to upgrade it, and also, to recover their reasonable costs of that CapEx.

And so that then triggers, "How can we do this?"

And then we can [1:22:08 indiscernible] file of the Access Board, and that then became unaffordable to do it within the existing building.

And so, how do we get out of this? To sort of bring it down to simple terms here. And how do we provide these units? It would be horrendously expensive, I assume, if the presentation is to do it within the existing building.

And potentially it could have been a loss of units, in order to reconfigure and make accessible units.

So there's a basement area which is underutilized, and that become a natural spot to put in the required number of accessible units. Is that sort of it in a nutshell?

NICK ZOZULA: Yes -- yeah, Mr. Sullivan, sorry, I didn't mean to interrupt. Yes, that is a great way to
connect the dots on how we got here in a simplistic way. I would just say that the AAB thresholds are not based on purchase price. My understanding is it's based on the assessed value.

BRENDAN SULLIVAN: Yeah. No, that's right.
NICK ZOZULA: Okay.
JIM MONTEVERDE: Correct.
NICK ZOZULA: Okay.
BRENDAN SULLIVAN: Your business decision is based on purchase rights.
NICK ZOZULA: Correct.
BRENDAN SULLIVAN: It goes from there either up or it goes down, one or the other.
NICK ZOZULA: Right. I mean, I think we're -- you know, we don't really -- I know we've looked at the this to a certain extent with Rich Rankin. I mean, when we looked at the this with the Access Board, I mean we were talking -- my understanding was millions of dollars here to make this compliant with these basement units.

You know, it was -- again, a financial hardship to do this without -- now that was on the Access Board side, which is why we're making it here, the same argument that,
you know, it was -- we're talking millions of dollars to
upgrade these with handrails an all these other things.

But it was really the units that came down to it
and how we could comply without spending -- you know,
millions of dollars to retrofit a 100+ year-old building.
And that's kind of why we're here.

RICHARD RANKIN: And Nick, I'll just jump in for a
second. So we -- for MAAB, we have to show impracticality
in order to get our variance.

And we successfully showed that it was impractical
to meet the letter of the law with regard to accessibility,
and therefore they granted us the variance based on that
impracticality.

BRENDAN SULLIVAN: And if the basement area were
not as it is, and allows you to put units in down there,
then you really become -- or do you become caught between
that rock and a hard place?

I mean, how do you satisfy them and their
requirement? Or you just get a waiver from them as to the
impracticability of providing accessible use, and you make
that case, and they either grant it for you or they don't, I
guess?
RICHARD RANKIN: Yeah. They've already granted it.

BRENDAN SULLIVAN: Right. But I'm just trying to say -- you know, the procedure here is that if you did not have this out -- and the out is really the basement areas -- that you can provide accessible units. But --

RICHARD RANKIN: We --

BRENDAN SULLIVAN: Yep.

RICHARD RANKIN: -- yeah, no, I get -- then the issue would be renovating the other units. We would not be able to do that within a certain amount of time, as they've been doing throughout the last few years. We'd have to stop doing that and renovating them as Ms. Hickey asked. That's what it is. It's the timeframe.

You know, you could slow down and not be renovating units as quickly as they are doing, and just have units stay in an outdated form and -- you know, not pull permits and not trigger this. You know, there are -- that's a very simplistic way of looking at it. There's nuance to that.

But that's the main -- one of the main reasons why we're here is to update the rest of the building, and do it
as quickly as they can. I mean, they have owned the
building for a few years now, and they’ve been doing
whatever work they can do up to the state.

But, you know, at a certain point, you can only do
so much. 30 percent, you know, does add up fairly quickly
in a building like this.

BRENDAN SULLIVAN: [This is Brendan Sullivan] Well,
again, I think the whole exercise is Number 1 to protect the
initial investment, and the upgrading is also to enhance
that investment, which is -- nothing wrong with that, I
guess.

So we are now left with we have to go buy six
units at 17-19 Forest, is that right? Or is it six units
total?

RICHARD RANKIN: It's seven new accessible units
at 16-18; that's the building on the southern side of
Forest.

BRENDAN SULLIVAN: All right, now 16 -- all right,
I'm sorry 16-18, how many units, accessible units do you
have to provide?

RICHARD RANKIN: Six.

BRENDAN SULLIVAN: We have to provide six. And
also, at 17 and 19 Forest?

RICHARD RANKIN: I'm sorry, six is the total between the two buildings. Sorry, Mr. Sullivan.

BRENDAN SULLIVAN: That's what I'm getting at, right. Is --

RICHARD RANKIN: I apologize.

BRENDAN SULLIVAN: -- that's --

RICHARD RANKIN: Six total.

BRENDAN SULLIVAN: Okay. So six total, and you're providing, and you're building 15.

RICHARD RANKIN: Eight accessible, yes. And then we're asking to do similar work on the other side, which would be standard units.

BRENDAN SULLIVAN: All right. And yet the affordable units you're only providing one in each building?

RICHARD RANKIN: Yes. In discussion -- in reviewing the Housing Overlay and looking at that, if we were to be doing this with, you know, just basically under that Housing Overlay, it would be one unit per building. That's what's in the Overlay District -- that's what's in the ordinance.

BRENDAN SULLIVAN: Yeah. I would feel better if
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you were providing more. I think that might get me to yes, rather than just the one, which to me is maybe a basic requirement, but it's -- to me, it's tokenism, and I would like to see more.

   Anyhow, that's money.

CONSTANTINE ALEXANDER: Thank you, Brendan. Any further comments?

   BRENDAN SULLIVAN: No, no.

CONSTANTINE ALEXANDER: I will now open the matter up to public testimony, if I can find the instructions for doing this. Here we are.

   Any members of the public who wish to speak should now click the icon at the bottom of your Zoom screen that says, "Raise hand." If you're calling in by phone, you can raise your hand by pressing *9 and unmute or mute by pressing *6. So we'll just take a few minutes to see if anyone wishes to be heard.

   SISIA DAGLIAN: Yes, there are three people. The first one, phone number ending 5445, you can unmute, please?

   Okay, we'll move on to Jan Wall.

   JAN WALL: Thank you so much. I have a question about the Planning Board and the part --
THE REPORTER: Can you give your name and address, please?

JAN WALL: Sure. My name is Jan Wall, and I'm at 20 Forest Street.

CONSTANTINE ALEXANDER: Okay.

JAN WALL: Okay. So when we were talking about the Planning Board and their requirements, there was something addressed about parking. And what I heard was there would be more bike -- places for locking bikes.

What about disability parking? We haven't heard anything about that. If we're going to have more affordable and disability housing, don't we need to create more parking for those folks? And where would that be?

RICHARD RANKIN: This is Richard Rankin, I can jump in. What we are doing, we have a small lot, as you can see, adjacent -- you're familiar with it, adjacent to 16-18, with basically deeded spaces in it. Our plan is to restripe that parking lot to provide two handicapped accessible spaces, with access to the adjacent accessible vestibule.

JAN WALL: So how many affordable and disability units are you again considering?

NICK ZOZULA: Well, there would be -- Ms. Wall,
those would be separate, right? There would be one IDP unit in one of the buildings, and one in the other.

One would be an accessible -- one would be an accessible IDP unit, one would be a standard IDP unit. So one of the accessible IDP units would be in 16-18 Forest, and we're proposing eight accessible units in that building.

JAN WALL: So as I understand it, there are two parking spots for at least eight of those units?

RICHARD RANKIN: That is correct. Yeah, we're -- it's a -- you know, there's only so much we can do in a lot with an existing building on it.

So, I think to Rich's point is, you know, we're trying to work within the confines of what we have, and we are seeking, I believe, you know, we are seeking a special permit for the reduction of parking for the new units.

JAN WALL: I understand that. I guess I'm concerned that you're adding bike accessibility while taking away parking for handicaps.

NICK ZOZULA: No, the bike parking space would be separate. It's not on the lot, it's in the building. So we wouldn't be able to put vehicular parking spots where the bike parking is going.
JAN WALL: Okay. I'm still concerned about that, but thank you.

NICK ZOZULA: Okay. I guess the response would be, Ms. Wall, that we're doing the best we can under the constraints of the site and the lot with what we have there for available parking. There's just only so much parking available to go with it. But, you know, we --

JAN WALL: Exactly. That -- yeah.

NICK ZOZULA: -- yeah, we have looked at that --

JAN WALL: That's my --

NICK ZOZULA: -- as -- yep.

JAN WALL: -- that's exactly my point.

NICK ZOZULA: Yep. I understand. I mean, I guess, you know, these are Group 2 units.

Rich, I mean, I don't know -- it doesn't necessarily mean that, you know, an individual needing handicap -- I don't know if that necessarily means that an individual in these units would require an accessible parking handicap parking space. I don't know the details of that, we'd have to go deeper.

JAN WALL: But wouldn't you want that to be available, if they did need it?
NICK ZOZULA: Yeah. And we would have two spaces. But I understand -- yeah, I understand. Otherwise we'd be taking spaces away from the rest of the building. But I mean we can look at that further.

JAN WALL: Okay.

NICK ZOZULA: I understand your point.

ANDREA HICKEY: Hi. It's Andrea Hickey speaking here. Sisia, is it possible to bring up a copy of the site plan, just so we can see where the parking is on the lot?

SISIA DAGLIAN: Yes. Just going to --

RICHARD RANKIN: Sisia, page 2 would be a good place.

SISIA DAGLIAN: Is that the most recent presentation, or the older one?

RICHARD RANKIN: The most recent would be --

SISIA DAGLIAN: All right.

RICHARD RANKIN: -- it shows those spaces adjacent.

SISIA DAGLIAN: So here. Oh, it's this lot here?

RICHARD RANKIN: Correct. So that indicates the existing condition on the overall site plan. And the enlarged plan to the right, you can see the handicapped
spaces and the curb cut that provide access to the vestibule. So those are the two spaces that get restriped.

As a percentage of the total parking that we're providing on site, certainly two is more than what's required for new spaces.

JAN WALL: Thank you. I appreciate that you're providing what's required, but I'm more concerned about providing for what is needed. Thank you.

RICHARD RANKIN: Thank you.

ANDREA HICKEY: I'm all set with the plan. Thank you, Sisia.

CONSTANTINE ALEXANDER: Anyone else, Sisia?

SISIA DAGLIAN: Yeah. So phone number ending 5445?

CLIFF SHORE: Yes, this is Cliff Shore. And I actually had a question, but the Chairman addressed it. I'm actually presenting next, but I did have a question and the Chairman asked the question for me. So thank you.


SUSAN WHITE: Can you hear me?

SISIA DAGLIAN: Yes.
CONSTANTINE ALEXANDER: Yes.

SUSAN WHITE: Okay. My name is Susan White, thank you for taking me for this conversation. One thing I'm really surprised at, and kind of very appalled at, is why there's never been a conversation on curb cut?

So my property -- and I'm going to say it's been a situation from hell -- but my property is 50 Cross Street. The curb cut is on -- the current curb cut is on Cross Street, but the address to these two buildings is on Forest. And in my opinion, the curb cut ought to be on Forest to enter the parking lot.

So the curb cut as it stands now encourages people coming from Mass Ave to go the wrong way down Forest -- sorry, Cross Street -- to enter the parking lot. So I very frequently see people going down the wrong way to Cross Street to enter the parking lot.

Because they don't want to go around the block, and then going around the block would put a lot more traffic onto Prentiss Street which really doesn't belong there.

So there's two ways to enter -- you know, this whole building area. It's -- one is from Oxford, which puts proper traffic pattern down Oxford and down Prentiss, and
then into the parking lot -- that's proper, but anything
coming from Mass Ave in my opinion just plain doesn't work.
And that's a very common entry way. So that's one issue.
Another issue is there's -- the property line is
like one foot away from my house -- obviously,
grandfathered, all that stuff. But the problem with that is
oftentimes a large vehicle cannot make the proper radius to
go the proper direction onto Cross Street. So therefore, it
encourages larger vehicles -- snowplows, dumpsters, whatever
-- to go down the wrong way on Cross Street, and this is
really unsafe.
So there's traffic patterns and lack of safety.
Thank you.
CONSTANTINE ALEXANDER: Thank you for taking the
time. Sisia?
SISIA DAGLIAN: Yeah. James Williamson?
JAMES WILLIAMSON: Yes. James Williamson, 1000
Jackson Place. Bear with me, I'm getting bumped off a lot,
because I guess I don't have a great connection here where I
live in North Cambridge.
So if I do get bumped off again, wait until I come
back to finish my remarks, which will be brief, and I will
signal that I'm done so you'll know. Thank you.

I'm mainly interested in the next case, but I did listen with great interest to this case when it was first presented, and it was very interesting to me, and I -- maybe this has been addressed and someone could just clarify if it has been to your satisfaction.

My understanding from the initial presentation was that there was a question about how these two buildings were being treated for purposes of meeting the requirements under the Inclusionary Zoning Ordinance that if they were treated as one combined entity, the number of units might be larger, but if they're treated as two separate ones, they get to not do as many inclusionary units.

Is my recollection correct? And has that been addressed to the satisfaction of the Board? It certainly seems to be a legitimate concern that they might be trying to circumvent the purpose of the ordinance.

And that's it. I'm done. And I'm sympathetic to what the neighbors are asking about, but that's the concern that I wanted to bring up. Thank you.

CONSTANTINE ALEXANDER: Thank you.

SISIA DAGLIAN: I don't see any more.
CONSTANTINE ALEXANDER: Okay. I think I will close public testimony. I will report that we have a number of written comments on the relief being sought. There was one letter in support, and there were several opposed to granting the relief that’s being sought.

And of course there is a letter -- the Planning Board, as we’ve talked about already, has gone on record as supporting the relief that's being sought.

So with that, I will totally close public testimony, and discussion by Board members? Where do you want to go from here? Usually we don't often have discussion, but the cases are pretty cut and dry, and it's clear -- it seems to me, that the relief should be or should not be granted, and we'll go right to a vote. And I know we've had a lot of questions so far, but if Board members want to speak further to this, now's the time.

ANDREA HICKEY: Mr. Chair, Andrea Hickey speaking. I'd like to ask Counsel along the lines of what Mr. Sullivan raised, is there a possibility that more units could be designated affordable, even though as a Board we can't require that? We can certainly inquire about it. Is that a possibility.
NICK ZOZULA: Yeah, Attorney Hickey, I'd have to defer to the folks from the proponent on that. I can't answer that right now for them. So I mean, no.

If you or somebody else from the team wants to answer that, my understanding is we've looked at that and that wasn't an option, based on our discussions with -- you know, the folks at the CDD. We did talk with them at the end of last week, and had a good meeting with them.

I know when we've crunched the numbers and looked at things, that that wasn't necessarily something we were able to do. I understand why you're asking it, obviously.

So, I mean, unless somebody from the team has anything else to chime in on, my understanding is now, we're not able to do any additional, but I don't know. Noam, I see you just -- you wanted to answer, yeah.

NOAM KLEINMAN: Yeah. I can speak to that.

NICK ZOZULA: Yeah, go ahead.

NOAM KLEINMAN: Under the requirement, if we had --

CONSTANTINE ALEXANDER: Excuse me a second, just give your -- identify who you are?

NOAM KLEINMAN: Sorry, Noam Kleinman. I'm
speaking on behalf of the ownership.

CONSTANTINE ALEXANDER: Thank you.

NOAM KLEINMAN: If we had done 10 units per building of additional units -- and my understanding we would at that point be required to have one additional inclusionary unit per building -- despite the fact that we're not reaching either one of those 10 units, we're still providing one IDP as a percentage of the project that becomes a much larger percentage.

And we're doing so voluntarily. I don't see financially how that would be viable to do more than that.

And to answer the question before from the public, it would still be the same case if we looked at the number of units of the two buildings combined or separately? Because under both cases, we're already exceeding what would be required if we reached that limit. So --

And so in our perspective, we are putting more accessible units than are required. We are putting more inclusionary units than are required, and in the discussion with the city, we found the opportunity. They were very interested in having a significant amount of bicycle parking, and we found the opportunity to put more parking --
more bicycle parking spaces than required.

I think that from a financial standpoint, we've reached our abilities.

BRENDAN SULLIVAN: This is Brendan Sullivan. Mr. Kleinman, I -- in response I appreciate the fact that you're providing more than what is required, but the project in total is providing more than what is allowed. And that's where it falls in our lap to come up with the hardship to allow more than what is allowed, not what is required.

Following up again on Andrea, if you were to come down and ask us to allow six units over those two buildings, that gets you by the Barrier Board, the Access Board requirement. And then you can go ahead and do the rest of your renovations. It's going up to the 15 units, so you have the six that you're required to provide or need to provide, in order to go along with your Capital Expenditure program.

And so, you said, okay, we will then provide one additional affordable unit in each building, as sort of a -- you know, a little plus here. But it's the additional units beyond that, the six that are -- you would have to provide, and the 15 that you're requesting. I think that that nine
is sort of a bonus to the ownership to the developers. I would like to see the city share in more of those nine units.

If I'm --

And whether it be half that number --

Well, I --

-- by, you know, to give -- you know, you guys a benefit, but also a benefit back to the city.

Yeah. I mean, we've worked extensively on this since the previous meeting. The accessible units are already a financial loss, which is why we needed the additional units in order to make --

Mr. Kleinman, let me ask you this question, if this Board were to deny the relief being requested, what position does that put the ownership in?

We would have --

Where do you going forward from now? If say this Board were to deny the relief being requested, then what is the situation that the ownership is in, the developers are in?
NOAM KLEINMAN: We would have to go back to the Accessibility Board and see what our options are, because -- sorry Nick --

NICK ZOZULA: No, I was just going to say yeah, we would have to -- we would either have to have a discussion with the Accessibility Board, which has approved this several years ago, and it would significantly halt any updates to the building, based on our calculations in the thresholds.

So we would -- you know, you'd have a building that's 100 something years old and when this ownership took over the building, they realized it was severely outdated, not just the basement but the whole building.

And so, you would halt those updates to a certain extent, and we'd have to look at the numbers, and we'd have to go back to the AAB, and we'd kind of be back to the beginning, which would be unfortunate.

BRENDAN SULLIVAN: Right. And then you could stage your upgrades over time to basically not be subject to the interests of the requirement of the Access Board, and that would stretch out your capital program over many years, I would assume, if that is correct.
JIM MONTEVERDE: Um --

NICK ZOZULA: And of course then --

ANDREA HICKEY: But then at the end of the day, there are no affordable units and no accessible units.

NICK ZOZULA: But, but --

BRENDAN SULLIVAN: But then that, obviously, then, you know, time is money, obviously, so.

NOAM KLEINMAN: It's not only that, but --

BRENDAN SULLIVAN: And again, as I said in my earlier statement, this whole thing comes down to numbers, and the numbers seem to have a dollar sign in front of it.

NOAM KLEINMAN: I agree, but it also comes to people -- it comes down to people. And someone pointed out earlier that we could stretch it over a longer period of time, which is true. And we would be avoiding the triggering the threshold.

However, having construction in an occupied building over a long period of time is a significant impact on the residential building. We've been very delicate. We have to balance between we don't want to push any residents out -- and we do not in any circumstances push any residents out, and that's why we only do renovations when the unit
becomes organically vacant.

At the same time, it means prolonged time of construction for those residents who are in the building. So we're trying to balance the two. So if we don't get, as you pointed out, the results we were hoping for here, we would be going back to the starting line with the Accessibility Board.

BRENDAN SULLIVAN: Okay. I'm --

CONSTANTINE ALEXANDER: Anyone else? Any other Board members want to ask further questions, before we go onto a discussion about what to do tonight?

[Pause]

I guess not. So, okay public --

LAURA WERNICK: Gus?

CONSTANTINE ALEXANDER: I'm sorry?

JIM MONTEVERDE: Excuse me, Mr. Chairman --

LAURA WERNICK: This is Laura Wernick.

CONSTANTINE ALEXANDER: Oh, hi, Laura.

LAURA WERNICK: I'm not sitting tonight, but I --

CONSTANTINE ALEXANDER: I'm sorry, I didn't mean to cut you off.

LAURA WERNICK: -- I'm in the audience. Can I
make a comment?

CONSTANTINE ALEXANDER: Sure.

LAURA WERNICK: Well, I'll just say that many building inspectors will track construction projects over time and not let -- will not allow you to escape from the accessibility, the 30 percent, just because the projects are extended over -- individual projects are extended over time.

Typically they'll track that, and make sure that in a single building, multiple projects over time will still count toward the 30 percent.

So you can't escape it by stretching out the time frame, most typically, I've found.

NOAM KLEINMAN: I think the reference is that we would -- there's a three-year time frame for the amount. They measure the amount spent over three years, compared to the current value. So we would have to postpone any projects until such time that the old projects are exited from the three-year timeframe.

LAURA WERNICK: No, I understand. I'm just saying that many building inspectors when they understand that you are planning on doing a series of projects, and you're extending it over time to avoid the requirement, will not --
will hold you to the accessibility requirement, even -- now
this may not be universal among building inspectors, but

    I've certainly seen it applied where they will
still require the compliance, even if you're -- even if
you're beyond the three-year period. If they know that
you're anticipating on doing this over a period of time to
avoid the compliance, they won't allow you to do that.

    NICK ZOZULA: Yeah. Ms. Wernick, if I may -- this
is Nick Zozula -- and that's what we're trying not to avoid
that. So you're making our point to a certain extent, so I
appreciate that as what we're trying to do is exactly --
we're not trying to skirt the rules, we're trying to comply
with the rules, which is why we're here in the first place,
so I appreciate --

    LAURA WERNICK: Right. I appreciate that. I'm
supporting your --

    NICK ZOZULA: Yeah, no I appreciate -- you are,
and thank you for stating it in such a simplistic way that I
couldn't. You're right. That is part of this process is we
are trying to comply and be, and they are trying to be good
landlord property owners, and that's part of why we're here,
because if they wanted to string things along or do
renovations without proper permits, like others do, they could be doing that. And they're trying not to.

And again, you know, they are asking for things and the city's asking for things. So there's a little more nuance to that. But your point's well-taken. Thank you for making it.

CONSTANTINE ALEXANDER: Anyone else?

ANDREA HICKEY: Mr. Chair, it's Andrea Hickey speaking. Could you just refresh my recollection regarding any Planning Board requests or requirements as a condition of their support?

CONSTANTINE ALEXANDER: I read the letter before. I can read it again, but there's no -- they just said we support it. They put -- they wouldn't -- the only condition was that they wanted the petitioner to have conversations with the Traffic Department and with the DPW.

ANDREA HICKEY: Okay.

CONSTANTINE ALEXANDER: And the report was that they had some discussions with the Traffic Department on one or two issues, and nothing with the DPW. Did I get that right, petitioner?

NICK ZOZULA: Yes, sir, that is correct. Yeah.
They asked us to come to you because it was under your purview. They asked us to look at those things, which is in line with what you've asked us to look at, and we've done so. So we would suggest we're complying with the recommendation in their suggestions when they made it, you know, seven months ago.

ANDREA HICKEY: Thank you.

BRENDAN SULLIVAN: This is Brendan Sullivan. If you had come down before us with the -- your scenario of events, and your requirement to provide six accessible units over these two buildings, and practicality is -- or it's impractical to put them in the existing structure/

And so consequently putting them in the basement is what makes practical sense, economic sense, and that was before us, I could support that, because I think you really -- again, in that situation it was an old building, and you need to upgrade it on and on and on.

If the proposal coming before us was a lot simpler, and you just wanted to put in nine additional units over the two buildings, and the reason was we want to provide additional housing, I wonder how the Board would receive that with the -- again, statutory requirements of
the ordinance, and also, the statutory requirements for
providing a hardship.

And so, I'm looking at it two different ways. I
could very easily approve the six units to get you where you
need to be with the Access Board, so that you don't have to
incure some financial hardship in converting the existing
building.

It's those other nine units that I get hung up
with that is I think a plus to you guys. I think that it
helps fuel some of the renovations and what have you, which
obviously is an investment back to you.

But I also think that the city needs to benefit
from those additional nine units in some other way than just
-- again, I think it's tokenism, I'm just saying we'll
provide one. Let's give them something -- let's give them
one in each building. I think it can be a little bit more
to the city and maybe a little bit less from you guys.

So I'm not prepared to vote to grant you the
relief on the specific proposal in front of us.

CONSTANTINE ALEXANDER: I might -- this is the
Chair -- I might add on to what Brendan has said, and I
concur with his views. I'm very troubled by the relief
being sought -- more so from a legal point of view, as to whether you meet the requirements for a variance, as required by law.

But I do have a problem. And Brendan has a problem. And as you well know, two problems are enough to deny relief, because you have to get four folks to get the variance you're seeking.

So where are we? We can go to a vote, but if we do go to a vote, and the vote -- you don't get the relief you're seeking, you can't come back before us for two years, except with a completely -- not completely, but a substantially different project than you're proposing tonight.

And we have to go through a procedure where we have to agree that substantially different -- those are not the exact words, I'm paraphrasing -- and the Planning Board has to agree and then when that is done, we'd then vote on your new proposal.

NICK ZOZULA: Understood. I mean, Mr. Chair, this is the Attorney Again.

CONSTANTINE ALEXANDER: Yes.

NICK ZOZULA: You know, I mean, to Mr. Sullivan's
point, you know, I think what he is proposing is a completely different project than what we're proposing now. He's not wrong in that we're asking to build the units in the other building that are not necessary in order to allay some of the costs of making all these changes to make the other building accessible.

You know, we have not looked at doing a six-unit project only. I don't know if Noam and his team are willing to or able to make that decision tonight without looking at it in more detail, and, you know, I will just state that I understand your concerns, we made our best argument as we could.

And, you know, at the end of the day, what we think we're doing is still bringing a benefit to the city and we point back to the Planning Board as agreeing with us. But I don't think anything that I'm going to say is going to convince you otherwise based on the project in front of you right now. So yeah, I don't know if there's any -- besides, you know, providing some changes on the spot, which I don't know if we're able to do, you know, we're not --

CONSTANTINE ALEXANDER: But I don't think we need
to do that -- just continue -- what we do is continue the
case again. And you can -- you know, with the benefit of
time, you can reflect on what you've heard and come up with
a variation of what you're proposing tonight.

NICK ZOZULA: Okay. I mean, I would prefer that
over denial, of course. [Laughter] But, you know, when we
can look at that harder and we've -- again, we've heard even
more specific feedback on what would be a supportable
project from -- you know, at least Mr. Sullivan, so, you
know, we can certainly look at that.

And again, you know, unless we can make that
decision here, which I don't know if we're able to even do,
you know, I don't think we can answer any of those questions
-- you know, at this point in time.

So I mean, unless Noam, you have something that
you wanted to say, we would just ask for a continuance.

NOAM KLEINMAN: Yeah. The only thing I can say is
that it would change the economics significantly when that
would -- for one, the six -- the minimum six units would not
give us an opportunity to do any inclusionary units.

So, you know, it's not like we can do six units
and accessible, and also, make them -- two of them
inclusionary. So we're losing some of that.

   I mean, the additional units are there to fund the accessibility and the significant changes, not just to the units but to the infrastructure and surrounding of the building, in order to allow us to do accessible. So you need to have a new entrance, a secondary entrance, et cetera, et cetera. It's --

   And so, the other units were financing it. I can't speak as to if we will be able to make a six-unit accessible, and I can't speak to if the city, what is the interest of the city in terms of adding housing, adding accessible units, adding inclusionary units?

   The only thing I would say is if we come back, I don't even know if we would come back with the six units, because I don't know if we can make it work. It would be a bigger -- probably financially better to go back to the Accessibility Board and say we're back in Ground Zero and find some other solution through them, maybe a variance on their end.

   And we end up with a number of units in the building, but have not been upgraded in over 80 years, and, you know, then some of the units that we would have there
would be in -- you know, obviously functional, safe, condition, but definitely not what I would imagine would be something that we or the city would want to have.

CONSTANTINE ALEXANDER: All right. If I may, you're approaching this entirely from a financial point of view. And you have your numbers that you want to get, how much money you want to make on the retro units, and we're saying -- I guess some of us are saying -- that you've got to have to go back and maybe take a haircut (sic) on what you want to get after this is all over, if you want to make the changes.

We're concerned -- at least Brendan and I -- that there's not enough -- the city is not getting as much benefit as it should get from what is being proposed. You're also -- you're going to -- you're going to upgrade the property, but you also got to put some money in your pocket, as well from the financing of this whole thing. And this is something we want -- we're saying maybe you should share with the city, to some extent.

That's the very simplest, simple and simplistic way I can describe it. But it's your call. You can go ahead with the vote tonight, or an up or down, or you can
continue and cut back, by the way, if we continue, and make
the same -- the case for the same relief you're seeking
tonight, but on a different basis.

You've heard a lot over two sessions Board
members' views on this. Maybe you want to reflect on that
and then decide what you want to do. And if you don't do
that tonight -- you know what you've got to do -- you're not
going to get the relief you're seeking.

BRENDAN SULLIVAN: Yeah, this is Brendan Sullivan.
I think I would endorse what the Chair just said, and I
think it's going to require a roundtable discussion on your
part to -- what you can do and what you're willing to do,
and what you're not willing to do, and then come back to us
with basically another bottom line.

I would propose that we delay this for -- you
know, maybe no more than a month. I think your discussions
are going to take just a few days. But anyhow, that would
be my suggestion.

CONSTANTINE ALEXANDER: Well, I would -- yeah, we
would get to -- if we are going to continue -- if we think
we want to continue, you got to tell us how much time you
think you need, and then by law we have to have the same
five members who were on the call tonight, and were on the call several months ago be available for that time.

So starting with you, if you -- if we are going to continue the case, if you want to request the continuance, what date do you want to continue it to?

NOAM KLEINMAN: So I think we need to discuss it, because this will require a reworking of the architectural plan, and it's not something that can be done overnight.

CONSTANTINE ALEXANDER: It's your call. Just, you know, you have -- you got to tell us how much time you think you need to deliver a response to the points that have been raised tonight. Two weeks? Three months? Whatever. And then we'll -- step 2 will be does that work for the five members on the Board tonight?

So how much time do you think you need?

NOAM KLEINMAN: I don't know. Really -- Rich --

NICK ZOZULA: Yeah, Rich, how long do you think, a couple months?

RICHARD RANKIN: Well, it's difficult to say. If we're looking at six units in 16-18, you know, I think putting units together is going to take some time and some planning, and we've got to figure out what makes sense. We
have two new entrances, which, you know, to try to spread that cost over six units is -- you know, it's a challenge at some level.

I would say, you know, if we did a two-month, we could figure that out. I think a month is going to not be doable. If we took a two-month --

CONSTANTINE ALEXANDER: You decide, and then we'll --

NICK ZOZULA: Yeah, let's --

CONSTANTINE ALEXANDER: We'll [work with] that date.

NICK ZOZULA: -- do two months.

CONSTANTINE ALEXANDER: Two months?

NOAM KLEINMAN: No, let's do three months, because it's too months for Rich to design, and then we have to figure out the economics.

CONSTANTINE ALEXANDER: I think it would be advisable to be very conservative. And I think three months -- my sense -- would be better than two months, and certainly better than one months.

So three months from now --

NOAM KLEINMAN: Three months.
CONSTANTINE ALEXANDER: -- roughly is -- I'm sorry?

NOAM KLEINMAN: Three months, please?

CONSTANTINE ALEXANDER: Three months. Okay, Sisia? We've got to look in our calendar. One second.

SISIA DAGLIAN: Well, that would -- the second meeting in April is April 22. There's an April 8,22 and then May 13.

CONSTANTINE ALEXANDER: April 22? Roughly -- it's obviously three months' from now?

SISIA DAGLIAN: Yeah.

CONSTANTINE ALEXANDER: Does April 27 -- let me ask other members of the Board -- is everybody available?

Brendan? April 22?

BRENDAN SULLIVAN: Yes. Brendan Sullivan yes.

CONSTANTINE ALEXANDER: Yes. Jim?

JIM MONTEVERDE: Jim Monteverde, yes.

CONSTANTINE ALEXANDER: Andrea?

ANDREA HICKEY: Yes, I'm available.

CONSTANTINE ALEXANDER: Janet? I'm sorry, Janet is off. Laura, I apologize. Laura?

SISIA DAGLIAN: No, it's Janet.
ANDREA HICKEY: No, it is Janet.
JIM MONTEVERDE: No, it's Janet.
BRENDAN SULLIVAN: Janet is on this.
JIM MONTEVERDE: Janet.
CONSTANTINE ALEXANDER: All right.
JIM MONTEVERDE: She's muted.
ANDREA HICKEY: I don't even see her.
SISIA DAGLIAN: She's on.
JIM MONTEVERDE: No, she's there. I see her.
Janet, you just have to unmute yourself.
JANET GREEN: Hi, sorry.
JIM MONTEVERDE: There you go.
CONSTANTINE ALEXANDER: Okay. And the Chair is available as well. So, we have to go through the procedures for continued -- continuing this case. April 22 work for you folks?
NICK ZOZULA: Yes, sir.
CONSTANTINE ALEXANDER: Okay.
NOAM KLEINMAN: Yes. Thank you.
JANET GREEN: April what? 20 what?
ANDREA HICKEY: Twenty-second.
CONSTANTINE ALEXANDER: Twenty-second.
JIM MONTEVERDE: Twenty-second.

CONSTANTINE ALEXANDER: 22.

JANET GREEN: That would be on -- okay, yeah. I'm available.

CONSTANTINE ALEXANDER: Okay. The Chair moves that we continue this case until 7:00 p.m. on April 22, subject to the following conditions:

The first has already been satisfied, and that is a waiver of time for decision. And you did that in connection with the -- tonight's case.

The second is that you will need a new posting sign with the new date and the new time both, and it has to be maintained for the 14 days required by our ordinance.

And lastly, to the extent that you're going to commit, present modified plans, financial information, modifications to your application, those changes must be in our files no later than -- DPW files -- no later than 5:00 p.m. on the Monday before April 22. Those are the three conditions. Brendan?

BRENDAN SULLIVAN: Yes, on the motion to -- yes, to continue.

CONSTANTINE ALEXANDER: Jim?
JIM MONTEVERDE: Jim Monteverde, yes to continue.

CONSTANTINE ALEXANDER: Okay. Andrea?

ANDREA HICKEY: Yes, in favor of continuance.

CONSTANTINE ALEXANDER: Janet.

JANET GREEN: Yes, in favor of continuance.

CONSTANTINE ALEXANDER: Okay. And the Chair is in favor as well.

[All vote YES]

So the case is now continued until April 22.

Thank you.

NOAM KLEINMAN: Thank you all for your time.

We'll see you in a few months. We'll take a look.

COLLECTIVE: Thank you.

NOAM KLEINMAN: We'll be back in a few months.

We'll take a look at your comments. Thank you everybody.

We do appreciate it.

ANDREA HICKEY: Do we have to also address the next case at this time, the special permit?

CONSTANTINE ALEXANDER: We're going to continue the whole case. I'd rather --

ANDREA HICKEY: They're separate case numbers, so I think we have to do it separately.
ALISON HAMMER: Aren't they?

CONSTANTINE ALEXANDER: No. The special -- we have -- each property is a separate case number. Within that case number, each time they're seeking two forms of relief.

ANDREA HICKEY: Okay.

CONSTANTINE ALEXANDER: The variance and a special permit.

ANDREA HICKEY: Right. So we don't also have to continue the special permit case specifically?

CONSTANTINE ALEXANDER: No, no, you just continue the case itself.

ANDREA HICKEY: Understood. Thank you.

CONSTANTINE ALEXANDER: I think we're done on this case. Thank you. Good luck.

COLLECTIVE: Thank you.

CONSTANTINE ALEXANDER: Thank you, again. All right. We have one more case on our agenda. And who's sitting on this one, Sisia? Is it still Janet?

SISIA DAGLIAN: Yeah. She said she'd sit on it, because --

BRENDAN SULLIVAN: This is a case not heard.
CONSTANTINE ALEXANDER: Yeah, it's a case not heard, I know.

SISIA DAGLIAN: Yeah.

CONSTANTINE ALEXANDER: I just want to see whether --

ANDREA HICKEY: Hi, this is Andrea. I am not on this case, I believe.

BRENDAN SULLIVAN: It's a case not heard.

CONSTANTINE ALEXANDER: Case not heard, Andrea.

ANDREA HICKEY: Right, right. But I did let Maria know I wasn't available for the last case.

SISIA DAGLIAN: Okay. So Laura's here, and Janet is here.

LAURA WERNICK: Yeah. And I'm sitting in for her.

SISIA DAGLIAN: Yeah. Okay.

ANDREA HICKEY: Great. Thank you. Goodnight, everyone.

JIM MONTEVERDE: Goodnight.

COLLECTIVE: Good neighbor, Andrea. Thank you, Andrea.

ANDREA HICKEY: Thank you.

[Andrea Hickey leaves.]
(8:24 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Jim Monteverde, Laura Wernick and Janet Green

CONSTANTINE ALEXANDER: The Chair will now call Case Number 017219 -- 544 Massachusetts Avenue. Anyone here wishing to be heard on this matter?

SISIA DAGLIAN: He has to unmute?

CONSTANTINE ALEXANDER: Sorry?

SISIA DAGLIAN: There we go.

CLIFF SHORE: Hello?

CONSTANTINE ALEXANDER: Hello.

CLIFF SHORE: Yes, this is Cliff Shore. How are you. I also have you on Zoom, but unfortunately, I think I'm going to have to use audio here, because it's not connecting via Zoom.

SISIA DAGLIAN: Okay.

CONSTANTINE ALEXANDER: Okay, if we -- as I understand this case, you wish to continue this case, is that correct?

CLIFF SHORE: Yes. If I may, I would like to
thank the Chairman and the Board for hearing us again.

And I did read some ex-parte comments from the transcripts of the last meeting, which I didn't attend, where I had asked for a continuance. And I just would like to address those briefly. I know that we'll be back, as I mentioned --

CONSTANTINE ALEXANDER: No, sir, I don't want to get into a discussion of the case.

CLIFF SHORE: Okay.

CONSTANTINE ALEXANDER: That causes problems for us. It makes this a case heard. We've got to find five -- the same five people present, and since we're not going to make any decisions tonight anyway --

CLIFF SHORE: Okay.

CONSTANTINE ALEXANDER: -- I suggest you save those comments for the next time you appear before us. I would say to you, though, that I don't think our Board should be hearing this case until after you run through the zoning process. And I believe that you're planning to do that, and you have started that as well. Am I correct?

CLIFF SHORE: Yes. Yes, you are correct. And I -- shall I update you on that process or is that not
relevant?

CONSTANTINE ALEXANDER: That's okay. Particularly it's the timing; how long you think before you'll be through the process.

CLIFF SHORE: Okay. So we -- one of the major issues was the tenancies in the building, and we have -- as you recall -- a large number of the dance community attended our first meeting to object to our plans.

We have subsequently worked with the dance community in the building for six months and have resolved that issue. We have paid the tenancy to relocate. We've helped them relocate, and therefore now we are stepping before the Planning Board. We will need until April, we believe, to conclude that effort, and then we would like to return to you. And if April 22 or 8 is available, we would be happy to do that.

CONSTANTINE ALEXANDER: April 22 is three months. That's fine. We know all five members can make it. We know Andrea is not on. We only have four, so --

SISIA DAGLIAN: It's unheard, so it doesn't matter. It hasn't been heard, so it --

CONSTANTINE ALEXANDER: What?
SISIA DAGLIAN: It hasn't been heard, so --

CONSTANTINE ALEXANDER: I know. So we don't have to worry about who's going to be here. So I'll make a motion. The Chair moves that we continue this case as a case not heard until 7:00 p.m. on April 22, subject to the following conditions:

The first has already been satisfied; a waiver of time for decision, and you've done that in connection with past continuances.

JAMES WILLIAMSON: I'm sorry, Mr. Chairman?

CONSTANTINE ALEXANDER: Yes.

JAMES WILLIAMSON: I just -- this is James Williamson again, and -- because I, you know, went out of my way to be here for this case and didn't understand that it was going to be continued and notified parties of interest. Can you explain -- can someone explain how many continuances can there be?

Because it begins to be -- you know, kind of disruptive because we don't find out until 48 -- it doesn't get posted until, like, 48 hours ago that the continued case -- some people may have been alerted, other people may not have been. So I just -- first of all, I'd like to
understand how many continuances can there be?

And also, not only the Planning Board but there's material in the application having to do with the Historical Commission, and if Cliff could speak to the status of -- his understanding of where things stand with the Historical Commission, that would I think would be appreciated.

And finally, Cliff did mention the issue of the tenants. And I was aware of the negotiated settlement with Studio 550. There is still possibly an outstanding issue with the other tenant of interest, the Center for Marxist Education.

And did he have anything to add since he spoke about the other tenant, if he had anything to add on where things stand with let's call it the Center?

CONSTANTINE ALEXANDER: Okay. I'll try to answer your question -- at least tell me your question. As to how many continuances? It's completely discretionary on the part of the Board. We have a rule of thumb but it's a rule of thumb that if we feel that no more two.

But that's in situations where we're -- we start to believe we're being strung along, and there's no good reason for further continuance.
We will go over that rule of thumb or two for this petition. But there are ample reasons why it's appropriate and necessary. I think the only thing, my comment would be the petitioner originally for the zoning relief is premature, unfortunately. But that's how we -- you learn from life.

I think you need -- personally -- I think personally you need planning relief for starters. There may be -- you may need to have an amendment to the zoning laws, to get the relief you're seeking.

Because you're talking about creating micro housing, which -- and if we grant it here, I'm again speaking off the record -- what's to stop someone from another part of the city wanting to do it?

And what are the rules and requirements? How big can the apartment be? How small must it be? Should I have parking? Probably not, but those -- we need an Overlay District. This creates an Overlay District for micro studio apartments. And that needs planning.

Because if you come before us without that, I think the chances of getting the zoning relief you're seeking are not very good. That's a personal opinion, not
an official opinion of the Board. That's the best I can do for you. But I think -- I think this process has started all the wrong way, and we're in the middle of it, and we've got to proceed to the end.

And hopefully in three months, all these issues can get resolved. If not, we may have to continue it further, assuming the petitioner wants to continue to do that.

But I think our patience -- my view is -- our patience with regard to this case is ample. It's an interesting and important issue. And we've got to get it done right.

Does that answer your question?

CLIFF SHORE: Well yeah, that's helpful. And the Historical Commission and the status of the other tenant in the building?

CONSTANTINE ALEXANDER: The Historical Commission is -- from our point of view, only from the zoning point of view -- is very helpful to us. It is not required. We've granted zoning relief, for example, in situations that go contrary to what the Historical Commission would like to see done. Not often we do that, but it has been done. We have
the right to do it. And it'll depend upon the facts and
circumstances when the case comes before us.

As for the issue with the tenants, that's not a
zoning issue.

JAMES WILLIAMSON: Right, I get it, except that
Cliff did speak to it, and it was mentioned in the letter
that's in the file. And it is -- it's of interest. For
example, perhaps some of that's been resolved, and people
don't need to be -- you know, engaged anymore if there's
been -- you know, to the extent there may be a satisfactory
resolution.

But also, my understanding from looking at the
case file with the Historical Commission is not that it's
necessarily what's going to happen before you as whether or
not there's -- this is I'm just asking Cliff while he's
here, and because of what's in the case file that's sort of
ambiguous -- is it Cliff's understanding that it will come
under the jurisdiction of the Historical Commission because
they list different categories of, "demolition" - partial
demolition, significant interior demolition?

So it would be useful to know from Cliff if he
knows whether it's his understanding that there will have to
be some, or if there maybe already has been review by the staff, or whether it may yet be determined that it has to go before the Historical Commission as some form of--quote, unquote-- "demolition.

And of course I'd appreciate it if he has anything to say, if the Chair would allow, about the other important tenant who's been involved since the beginning.

CLIFF SHORE: If I may, Mr. Chairman, I can address those pretty quickly. The Center for Marxist Education, we have created after the first meeting and we learned about their sensitivities, we've created a basement meeting space for them with library that they will continue to have access to.

We've also reduced their present rent to a peppercorn as it were, until, you know, COVID is over.

JAMES WILLIAMSON: $700, I think.

CLIFF SHORE: No, no, no, it went down.

JAMES WILLIAMSON: Oh, even more.

CLIFF SHORE: $400.

JAMES WILLIAMSON: Oh.

CLIFF SHORE: And basically, we are accommodating them until COVID is over, because they can't hold their
meetings. So yes, we have -- and we are in extended conversations with them. We will accommodate them with a new --

JAMES WILLIAMSON: Sounds good.

CLIFF SHORE: -- community meeting space. And James, you have my mobile number, so you're welcome to call me any time you'd like to address the HDC, or the Historic District folks.

We did meet with them first, and they have endorsed the plan the way that we proposed it, and part of our hardship here, not related to zoning relief hardship, which I can speak to at the next meeting, but part of our hardship here is that we're dealing with a very frail building that is not particularly historically significant. It's built in 1906 and it's basically in need of complete redo.

But yes, that has been addressed.

CONSTANTINE ALEXANDER: I'd actually --

JAMES WILLIAMSON: Well, thank you, very much.

CONSTANTINE ALEXANDER: -- want to continue this case.

JAMES WILLIAMSON: And I -- and this came up
quick. I mean, I would only notice this today because of the way, and I think it would be great if the staff for the BZA could somehow -- there could be an arrangement where continued cases, the public have a chance to learn about them, about when they're going to be heard a little sooner than just 48 hours before they happen.

Because I didn't really -- I didn't know about this until I happened to look and just --

CONSTANTINE ALEXANDER: We gave 48 hours.

JAMES WILLIAMSON: -- and just saw it there and then checked the agenda and saw that you were on the agenda for tonight.

So anyway, that -- it's just a suggestion maybe, a change in how that's managed by the staff if that's -- it seemed like it might be a doable thing. It would certainly be helpful to the public and thanks. And I appreciate, Cliff, what you were saying about your arrangement with the Center.

CONSTANTINE ALEXANDER: The use of 14 days' notice to the public, I don't think it's a matter of statute, I think it's a matter of our rules. It's the rules we've had for at least 20 years, and no one's had a problem with that.
JAMES WILLIAMSON: No, no, it might be noticed in the paper Gus --

CONSTANTINE ALEXANDER: Say it again?

JAMES WILLIAMSON: -- you know, not everybody checks legal notices religiously, I certainly don't -- but it's also -- and there may be a posting on the side of the building which, you know, if you don't happen to go by --

CONSTANTINE ALEXANDER: That's another issue.

JAMES WILLIAMSON: But it's the online posting that I'm interested in, that you don't see it on the calendar for the city for the Board of Zoning Appeal until two days before it's actually been scheduled.

And I just think that -- maybe that could be matched, that could be -- you know, managed so that it matches the 14-day notice that you're talking about.

CONSTANTINE ALEXANDER: All right.

JAMES WILLIAMSON: That's a consideration for pro-bono publica.

CONSTANTINE ALEXANDER: We'll take that under consideration.

BRENDAN SULLIVAN: So noted.

CONSTANTINE ALEXANDER: And by the way --
JAMES WILLIAMSON: Anyway, thank you.

CONSTANTINE ALEXANDER: -- with the posting sign, there's been problems in the past with whether the sign has been properly posted. It has to be on the property that's the subject of the case; not down the street, not adjacent, it's got to be on the building -- on the doorway, a window... but it's got to be -- it's got to be visible, and it's got to be -- well, there are the requirements but your building -- this building that's initially here will meet those.

So that's there. That's how it works. Post -- and you have 14 -- people have, who walk by will see it for 14 days, they'll read about it in the newspapers, in The Cambridge Chronicle, what have you, that this case is coming up with a date. So it's not 48 hours.

JAMES WILLIAMSON: No, no. I'm talking about the online. I -- Gus, I get what you're saying and I appreciate that. As far as I know, they complied with those notice requirements.

What I'm talking about is for people who don't happen to be walking by the building, the main way you can find out about these things -- specifically the continued cases, for some reason are not posted online.
The online calendar, which especially now with COVID and everything else, which is our -- you know, we always reach for that as our justification for every argument, but -- the online posting for the city calendar and the BZA calendar for continued cases specifically does not happen until 48 hours before the date of the hearing. And that's what I'm talking about.

And it seems like that's something that could be improved or adjusted so that it matches the things that you're describing --

CONSTANTINE ALEXANDER: I get it.

JAMES WILLIAMSON: -- which I think are adequate.

CONSTANTINE ALEXANDER: Let me raise the --

JAMES WILLIAMSON: It's just -- you know, it's just one additional -- it's just the online calendar listing of the continued cases.

CONSTANTINE ALEXANDER: Fair enough.

JAMES WILLIAMSON: But anyway, thank you for --

CONSTANTINE ALEXANDER: I will raise it --

JAMES WILLIAMSON: -- hearing me.

CONSTANTINE ALEXANDER: -- I will raise this with the staff of the Inspectional Services Department that we go
on -- that when we have a continued case, put the posting of
the date for the continued case to be heard will be 14 days,
that the signage has got to be done.

JAMES WILLIAMSON: Thank you very much. That
would be extremely helpful.

CONSTANTINE ALEXANDER: I'll pursue it. I can't
say I can guarantee it, but I'll pursue that with the --

JAMES WILLIAMSON: I've got it.

CONSTANTINE ALEXANDER: -- Inspectional Services
Department.

JAMES WILLIAMSON: Got it. Thank you.

BRENDAN SULLIVAN: Okay. On the motion to
continue?

CONSTANTINE ALEXANDER: Oh, yeah, we have the
motion -- I make the motion --

BRENDAN SULLIVAN: Brendan Sullivan, yes to
continue.

JANET GREEN: Janet Green, yes to continuance.

CONSTANTINE ALEXANDER: Janet. Jim?

JIM MONTEVERDE: Jim Monteverde, yes to continue.

CONSTANTINE ALEXANDER: And?

LAURA WERNICK: Laura Wernick --
JIM MONTEVERDE: Laura.

LAURA WERNICK: -- yes to continue.

CONSTANTINE ALEXANDER: The case is -- and I vote yes as well.

[All vote YES]

The case is continued until 8 -- I'm sorry, 7:00 p.m. on April 22.

CLIFF SHORE: Thank you, Mr. Chairman.

CONSTANTINE ALEXANDER: Thank you!

JAMES WILLIAMSON: And thanks for indulging my questions.

CONSTANTINE ALEXANDER: That's fine. That's what we're here -- what we get paid the big money for, to sit here and do this. All right, thank you very much and thank my fellow Board members for sitting through this case, all the cases. Goodnight.

COLLECTIVE: Goodnight, bye-bye.

[08:26 p.m. End of Proceedings]
CERTIFICATE

Commonwealth of Massachusetts

Middlesex, ss.

I, Catherine Burns, Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the above transcript is a true record, to the best of my ability, of the proceedings.

I further certify that I am neither related to nor employed by any of the parties in or counsel to this action, nor am I financially interested in the outcome of this action.

In witness whereof, I have hereunto set my hand this _____ day of __February__, 2021.

Notary Public

My commission expires:

August 6, 2021
accommodation
January 28, 2021

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