BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, APRIL 14 2022
6:00 p.m.
Remote Meeting
via
831 Massachusetts Avenue
Cambridge, Massachusetts 02139

Brendan Sullivan, Chair
Jim Monteverde, Vice Chair
Constantine Alexander
Laura Wernick
Matina Williams
Jason Marshall

City Employees
Olivia Ratay, Zoning and Building Associate

CAMBRIDGE TRANSCRIPTIONS™

Precision, Speed, Reliability
617.547.5690
transcripts@ctran.com
## INDEX

<table>
<thead>
<tr>
<th>CONTINUED CASES</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>BZA-162034 -- 5 BUCKINGHAM PLACE</td>
<td>6</td>
</tr>
<tr>
<td>Original Hearing Date: 03/10/22</td>
<td></td>
</tr>
<tr>
<td>BZA-155114 -- 33 WEBSTER AVENUE</td>
<td>19</td>
</tr>
<tr>
<td>Original Hearing Date: 01/27/22</td>
<td></td>
</tr>
<tr>
<td>BZA-155115 -- 35 WEBSTER AVENUE</td>
<td>24</td>
</tr>
<tr>
<td>Original Hearing Date: 01/27/22</td>
<td></td>
</tr>
<tr>
<td>BZA-155116 -- 35 WEBSTER AVENUE</td>
<td>26</td>
</tr>
<tr>
<td>Original Hearing Date: 01/27/22</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>REGULAR CASES</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>BZA-163462 -- 955 MASS AVENUE</td>
<td>31</td>
</tr>
<tr>
<td>BZA-164599 -- 25 EIGHTH STREET</td>
<td>40</td>
</tr>
<tr>
<td>BZA-165052 -- 20 SIDNEY STREET</td>
<td>54</td>
</tr>
<tr>
<td>BZA-162174 -- 35 LAWRENCE STREET</td>
<td>64</td>
</tr>
<tr>
<td>BZA-161813 -- 10 PERRY STREET</td>
<td>73</td>
</tr>
<tr>
<td>BZA-162489 -- 1 LONGFELLOW ROAD</td>
<td>81</td>
</tr>
<tr>
<td>BZA-160120 -- 124 DUDLEY STREET</td>
<td>84</td>
</tr>
<tr>
<td>BZA-159132 -- 39 REGENT STREET</td>
<td>103</td>
</tr>
</tbody>
</table>
(6:00 p.m.)

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

BRENDAN SULLIVAN: Welcome to the April 14, 2022, meeting of the Cambridge Board of Zoning Appeals. My name is Brendan Sullivan, and I am the Chair for tonight's meeting.

This meeting is being held remotely, due to the statewide emergency orders limiting the size of public gatherings in response to COVID-19, and in accordance with Governor Charles D. Baker's Executive Order of March 12, 2020, temporarily amending certain requirements of the Open Meeting Law; as well as the City of Cambridge temporary emergency restrictions on city public meetings, city events, and city permitted events, due to COVID-19, dated March 27, 2022.

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

All Board members, applicants, and members of the public will please 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 give instructions for public comment at that time, 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 that may change based on the number of speakers.

I'll start by asking the Staff to take Board Members attendance and verify that all members are audible.

OLIVIA RATAY: Jason Marshall?

JASON MARSHALL: I'm here, and I hope I'm audible.

OLIVIA RATAY: Yep. Laura Wernick?

LAURA WERNICK: Here.

OLIVIA RATAY: Jim Monteverde?

JIM MONTEVERDE: Present.

OLIVIA RATAY: Matina Williams?

[Pause]

CONSTANTINE ALEXANDER: Had this problem before.
OLIVIA RATAY: Yeah. Gus Alexander?

CONSTANTINE ALEXANDER: I'm here and in the room.

OLIVIA RATAY: Brendan Sullivan?

BRENDAN SULLIVAN: Present, audible.

OLIVIA RATAY: We just need Matina.

BRENDAN SULLIVAN: Matina in?

OLIVIA RATAY: She's not in. I'm going to call her.

BRENDAN SULLIVAN: Waiting for one Member to sign in.

[Olivia Ratay on the phone "She'll be right on."]

BRENDAN SULLIVAN: Matina?

OLIVIA RATAY: She's logging on. She's not on yet.

BRENDAN SULLIVAN: Oh, okay.

[Pause]

BRENDAN SULLIVAN: Matina, are you on mute?

CONSTANTINE ALEXANDER: There she is.

MATINA WILLIAMS: I'm here. Sorry I'm late.

BRENDAN SULLIVAN: Great, okay.
(6:04 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan, Jim Monteverde, Matina Williams, and Jason Marshall

BRENDAN SULLIVAN: First case I'm going to call is Case No. 162034 -- 5 Buckingham Place. Mr. Heuer?

TAD HEUER: Good evening, and welcome Mr. Chairman and members of the Board. Tad Heuer at Foley Hoag on behalf of the applicant, Buckingham Browne & Nichols School.

As discussed at last month's hearing, BB&N is requesting a Use Variance authorizing the School to utilize Parcel 5 Buckingham Place for a primary school in earlier educational uses.

As the Board is aware, this is the same relief that BB&N requested, and it was granted unanimously by the Board in 2020 for its property at the Upper School, which is over on Jerry's Landing in Western Cambridge.

As the Board recalls during the hearing last month, two of our neighbors at 7 Buckingham Place and 4 Buckingham Street had some initial questions about the proposed change of use, and whether it would have an impact...
on the property. The Board granted a continuance to enable discussions to occur between those neighbors and the school.

I am pleased to report that per usual, the Board's wisdom in this regard was entirely justified.

We did have productive further discussions with those neighbors. They've been reassured with respect to the relief that's been requested, and as you hopefully have seen and we actually forwarded to you all, both sets of neighbors somehow submitted letters of support to the Board, expressing full support for the relief being sought.

To recap briefly the reasons we're requesting relief, as we detailed last month and, in the petition, BB&N intends to use 5 Buckingham primarily for consolidating existing Lower School administrative staff and uses that are currently located in two small, former residential structures that are located directly across the small and accepted public way that is -- private way that is Buckingham Place.

These are kind of a miscellany of uses. They're Admissions, a Staff lunchroom, some faculty offices, some faculty meeting places, lactation facility, things of that nature.
With respect to the four variance criteria, I'm not going to go over the presentation we gave last month. I know the Board wants to get onto its other continued cases with its main Agenda.

But as to those four criteria, briefly for the benefit of the Chair and making a motion, a literal enforcement of the provisions of the Ordinance would preclude BB&N from using 5 Buckingham to resolve this current need that they have to ensure that it can provide both additional programmatic space and additional green space within a very limited campus footprint.

This is a problem that has been acute for years, but became particularly acute when responding the pandemic distancing restrictions.

And as you might imagine, those have now become the new normal baseline for school planning. Nobody wants to have to go back to try to jury rig a system in the event that there is a future similar event.

And the inability for them to be able to consolidate those uses here would add a significant educational and financial hardship for the School and for its youngest learners who are in that Lower School.
The property is preexisting, nonconforming. It's constructed significantly into its rear setback. The parking is also preexisting, nonconforming. The spots are located in the front yard setback. It's on an unaccepted public way.

Desirable relief may be granted without substantial detriment to the public good, because the use of the parcel for primary School uses is entirely compatible with the neighborhood in which it's located. It's a short, dead-end way.

The majority of the property is on it and already owned by BB&N and used for primary school purposes. They have been for decades, and in some cases over a century.

I do think it's important just to mention briefly again that now that the intensity of the use of the street or the intensity of the use of the campus is going to change as a result of the relief being granted, there is not going to be an increase in the number of students or the number of Staff, that's going to stay the same.

This is merely moving around pieces inside of the campus, in order to make sure that its being used most efficiently and, you know, under the new types of
restrictions that they need to plan for.

Again, there's no dimensional relief being sought here. And there's no parking relief being sought here, which are two of the things you might usually expect to see. It's purely a use relief.

And finally, desirable relief may be granted without substantial detriment to the public good, or nullifying or substantially derogating from the intent and purpose of the Ordinance, because the Institutional Use Regulations, which is why we're here on a variance -- that's Section 4.52 -- and can that their purpose is a couple; it's, "to protect residential neighbors from unlimited expansion of institutional activities" -- that's a quote. Here there is no unlimited expansion.

It's to minimize the development of activities which are, "different from and incompatible with activity patterns customarily found in lower density residential neighborhoods." Here the existing pattern on Buckingham Place is, as it's been for over a century, that of a children's day care and primary school.

And the third is, "To provide a framework to allow institutions which are compatible with residential neighbors
to locate and expand there." That's also a quote. And here access would come exclusively to this parcel from Buckingham Place, which is already utilized primarily exclusively by BB&N, with the exception of the 202 neighbors, because it owns four of the parcels on the north and east sides.

And granted relief wouldn't cause congestion, hazards, substantial change in neighborhood character or anything of the sort.

So in sum, we believe that the School's request for relief here meets the requirements of the Ordinance. It's reasonable and tailored to the existing neighborhood. It has the full support of the neighbors, who had originally had some questions, and would relieve a significant financial and educational hardship for the School.

For those reasons, we would ask for the Board's favorable vote, and we're of course happy to answer any questions the Board may have.

BRENDAN SULLIVAN: Great, thank you. Let me open it up to the Board. Mr. Alexander, any questions?

CONSTANTINE ALEXANDER: No questions.

BRENDAN SULLIVAN: Jim Monteverde, any questions?

JIM MONTEVERDE: No questions.
BRENDAN SULLIVAN: Matina, any questions at this time?

MATINA WILLIAMS: No questions.

BRENDAN SULLIVAN: And Jason?

JASON MARSHALL: No questions.

BRENDAN SULLIVAN: And the Chair has no questions.

Let me open it to public comment. Any members of the public who wish to speak should now click the button that says, "Participants," and then click the button that says, "Raise hand."

If you are calling in by phone, you can raise your hand by pressing *9 and unmute or mute by pressing *6, and you will have up to three minutes to comment.

[Pause]

There appears to be nobody calling in. I'll close that portion of the public comment. We are in receipt of two letters from Attorney Michael Wiggins, and it's addressed to the Chair.

"With respect to the above referenced petition, we, Griberg Wolf and Steven Short and sweet, owners of the abutting residence of 4 Buckingham Street, hereby state that we have reviewed application material on file, and have
conferred with BB&N to our satisfaction regarding the
proposed educational use for the property, and that we
support the relief requested by BB&N."

There is also correspondence to the Chair --
again,

"With respect to the above referenced petition,
which is 162034, 5 Buckingham Place, we, Alain Curaudeau and
Veronique Curaudeau, owners of the abutting residence at 7
Buckingham Place, hereby state that we have reviewed the
application material on file and have conferred with BB&N to
our satisfaction regarding the proposed educational use for
the property, and that we support any relief they request by
BB&N."

And I apologize if I butchered that name, but it's
coming from an Irishman who can't speak French very well.
So I will close the public comment on that, and Mr. Heuer,
your presentation is complete?

TAD HEUER: It is indeed, Mr. Chair.

BRENDAN SULLIVAN: Okay. I will open it one more
time to any questions, or are we ready for a motion?

CONSTANTINE ALEXANDER: I'm ready for a motion.

BRENDAN SULLIVAN: Okay. Everybody ready for a
Let me make the motion, then, to grant the relief requested, which is to allow the use of the parcel known as 5 Buckingham Place for educational uses, as per the application, the supporting statements, and the dimensional form as enclosed, initialed by the Chair.

The Board finds that the literal enforcement of the provisions of the Ordinance would indeed involve a substantial hardship to the petitioner.

The Board finds that a literal enforcement would create a substantial financial, educational, and logistical hardship to BB&N, a non-profit educational institution that has operated on Buckingham Place for over 130 years.

The Board finds that a literal enforcement would prohibit BB&N from using the parcel for primary school uses.

The Board finds that without the ability to utilize 5 Buckingham for educational uses, it will be exceptionally educationally and financially challenging general for the school to restructure its existing century-old campus for a post pandemic future that will require not only additional on-campus educational problematic space, but increased and on-campus outdoor space and green space as
well, even as enrollment remains constant.

The Board finds that the petitioner finds a need to disburse and relocate essential administrative uses, including admissions, Staff dining, faculty offices, without further major hardship of disrupting existing educational offering, due to the lack of space.

The Board finds that the hardship is in fact owing to the site and location of the existing structure, the fact that it predates the existing ordinance, and that it is encumbered by the existing ordinance, which governs the existing location.

The Board finds that obtaining the additional on-campus educational space and increased on-campus outdoor space and green space required without the ability utilize the approximate structure like 5 Buckingham will create a significant financial and educational hardship for the School, its students and its staff.

The Board finds that desirable relief may be granted without substantial detriment to the public good.

The Board finds that the use of the parcel for primary school uses is entirely compatible with the immediate neighborhood in which it is located. Buckingham
Place has for over a century been predominantly an institutional use for educational purposes.

The Board finds that the proposed use would, as Council has said, contravene the objective of the City's institutional growth management plan, and I quote, "All else being equal, concentration of new institutional activities in areas of existing institutional development is preferred to dispersion or scattered growth of those new activities."

There will not be any detriment to the public good, owing to detrimental increases and pedestrian travel, vehicular traffic, or parking, because the reuse of 5 Buckingham will involve the consolidation of existing Staff offices from other locations on the Lower School campus, as opposed to adding additional Staff.

No substantial change from the current vehicular uses of Buckingham Place is anticipated.

The Board also finds that the petitioner will maintain the existing property features, including the garden, and that the transition of 5 Buckingham as part of the BB&N campus will be imperceivable to the neighbors -- imperceptible.

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

The Board finds that this is introducing a
compatible activity into the neighborhood, and the existing
activity patterns on Buckingham Place, and has been for
decades, one that reflects the activities of a children's
day care and primary school.

The Board finds that it would not cause congestion
or substantial change in established neighborhood character,
for the same reason additional traffic generated in the
neighborhood is anticipated to be quite minimal.

The Board finds that continued operation of or
development of adjacent uses, or the integrity of the
adjoining residential neighborhood would not be adversely
affected by the grant of this variance.

And the Board notes the letters of support from
the immediate abutters in favor of granting of this
variance.

On the motion, then, to grant the variance and the
relief being requested, Mr. Alexander?

CONSTANTINE ALEXANDER: I vote in favor of
granting the variance.
BRENDAN SULLIVAN: Mr. Monteverde?

JIM MONTEVERDE: I vote in favor of granting the variance.

BRENDAN SULLIVAN: Matina Williams?

MATINA WILLIAMS: I vote in favor of granting the variance.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: Yes, in favor of granting the variance.

BRENDAN SULLIVAN: Yes, in favor.

[All vote YES]

BRENDAN SULLIVAN: Five affirmative votes. The variance is granted.

TAD HEUER: Thank you, Mr. Chair. Appreciate it. Thank you for your time.

BRENDAN SULLIVAN: Yes. Good luck with it.

MATINA WILLIAMS: Goodnight, guys.

BRENDAN SULLIVAN: Goodnight. Matina, thank you.

CONSTANTINE ALEXANDER: Thank you, Matina.

MATINA WILLIAMS: Oh, thank you. Sorry I was late.
(6:19 p.m.)

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

Brendan Sullivan: The Board will hear Case No. 155114 -- 33 Webster Avenue.

DAN ANDERSON: Mr. Chair and Board, this is Dan Anderson, I'm a partner at Anderson Porter Design.

On behalf of my client, I'd submitted written requests for continuance, and I'm hoping we can find a good time to schedule a next appearance. My client has been going through a variety of design alternatives, but has not yet arrived at something that's either shareable with the neighbors for comment, or to present to the Board.

Brendan Sullivan: Okay. Do we have a date?

Olivia Ratay: For three cases, we could do June 9?

Brendan Sullivan: June 9?

Olivia Ratay: Mm-hm.

Brendan Sullivan: Dan, June 9, are you aware of that? Is that fine?
DAN ANDERSON: June? That should work fine.

BRENDAN SULLIVAN: June 9, 2022.

CONSTANTINE ALEXANDER: And it's a case not heard?

BRENDAN SULLIVAN: This is a case heard.

CONSTANTINE ALEXANDER: Oh, I'm sorry, a case heard. It is a case heard.

BRENDAN SULLIVAN: There were three cases -- three separate cases that we have heard been continued, and we'll hear again. Now, who sat on those cases?

JASON MARSHALL: I sat on it.

JIM MONTEVERDE: I believe I did as will.

CONSTANTINE ALEXANDER: I did as well.

BRENDAN SULLIVAN: And I did.

LAURA WERNICK: And I did as well. So I think the five that are here. Oh, okay, great. That makes it easier. Are all five of us available on June 9?

JIM MONTEVERDE: I am.

LAURA WERNICK: It works for me.

JIM MONTEVERDE: Yep, works for me.

JASON MARSHALL: That's fine.

CONSTANTINE ALEXANDER: Yep.

BRENDAN SULLIVAN: Okay. And Dan, it works for
you also?

DAN ANDERSON: Mm-hm.

BRENDAN SULLIVAN: So let me make a motion, then, to grant the relief requested. I'm sorry --

DAN ANDERSON: No.

BRENDAN SULLIVAN: Excuse me, grant --

DAN ANDERSON: That would save us all a lot of time.

JIM MONTEVERDE: Bingo.

LAURA WERNICK: You got it!

BRENDAN SULLIVAN: Any other night for that. Let me make a motion, then, to grant the request for a continuance to June 9, 2022, on the condition that the petitioner change the posting sign to reflect the new date of June 9, 2022, and the new time of 6:00 p.m.

We have waiver in the file.

Also, that in case there is any new submittals regarding this particular case that they be in the file by 5:00 p.m. on the Monday prior to the June 9, 2022, hearing.

CONSTANTINE ALEXANDER: I would just make it clear this these new submittals by the petitioner or his representatives -- I mean, if a citizen of the city wants to
make a submittal, they don't have to meet at that time.

BRENDAN SULLIVAN: Right. We would encourage it as soon as possible before our meeting, so that the Board has a chance --

CONSTANTINE ALEXANDER: Right.

BRENDAN SULLIVAN: -- to review it, but that the petitioner is bound by 5:00 p.m. on the Monday prior to June 9.

On the motion, then, to continue this matter to June 9, Mr. Alexander?

CONSTANTINE ALEXANDER: I vote in favor.

BRENDAN SULLIVAN: Jim Monteverde?

JIM MONTEVERDE: I vote in favor.

BRENDAN SULLIVAN: Laura?

LAURA WERNICK: I vote in favor.

BRENDAN SULLIVAN: Jason?

JASON MARSHALL: Yes, in favor of the continuance.

BRENDAN SULLIVAN: Yes, in favor of the continuance to June 9, 2022 at 6:00 p.m.

[All vote YES]

BRENDAN SULLIVAN: We're going to have to do this two more times, Dan, just for the record.
DAN ANDERSON: Yep.
(6:22 p.m.)

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

BRENDAN SULLIVAN: BZA Case No. 155115 -- 35 Webster Avenue. And you have requested a continuance for that matter also.

On the motion, then, to continue No. 155115 -- 35 Webster Avenue to June 9, 2022 at 6:00 p.m. on the condition to the petitioner change the posting sign to reflect the new date of June 9 and the new time of 6:00 p.m. Any new submittals regarding this case should be in the file by 5:00 p.m. on the Monday prior to June 9.

On the motion to continue this matter, Mr. Alexander?

CONSTANTINE ALEXANDER: I vote in favor.

BRENDAN SULLIVAN: Mr. Monteverde?

JIM MONTEVERDE: I vote in favor.

BRENDAN SULLIVAN: Laura?

LAURA WERNICK: I vote in favor.

BRENDAN SULLIVAN: And Jason?
JASON MARSHALL: Yes, in favor.

BRENDAN SULLIVAN: Yes, and the matter is continued until June 9, 2022.

[All vote YES]

Okay.
(6:24 p.m.)

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

BRENDAN SULLIVAN: Case No. 155116 -- 35 Webster Avenue. And again, at the end there was a couple letter in the file requesting a continuance to this matter.

Let me make a motion, then, to continue No. 155116 to June 9, 2022, at 6:00 p.m. on the condition that the petitioner change the posting sign to reflect the new date of June 9, 2022, and the new time of 6:00 p.m.; that any new submittals regarding this case be in the file by 5:00 p.m. on the Monday prior to June 9, 2022.

And that's about it, I guess. So Mr. Alexander, on the motion to continue?

CONSTANTINE ALEXANDER: I vote to continue.

BRENDAN SULLIVAN: Jim Monteverde?

JIM MONTEVERDE: I vote to continue.

BRENDAN SULLIVAN: Laura Wernick?

LAURA WERNICK: I vote to continue.

BRENDAN SULLIVAN: And Jason?
JASON MARSHALL: Yes, in favor of the continuance.

BRENDAN SULLIVAN: Yes, in favor of the

continuance.

[All vote YES]

BRENDAN SULLIVAN: Affirmative vote of five. The

matter is continued to June 9. See you then.

DAN ANDERSON: Thank you very much. Goodnight.

BRENDAN SULLIVAN: Yep.

CONSTANTINE ALEXANDER: Goodnight.

BRENDAN SULLIVAN: Five minutes to go.

JASON MARSHALL: Mr. Chair, do we have a motion

break now until 7:00?

BRENDAN SULLIVAN: We have four minutes.

JASON MARSHALL: Oh, four minutes. Can I bring a

quick matter to your attention in four minutes' time that's

not substantive, more procedural?

BRENDAN SULLIVAN: Yes.

JASON MARSHALL: It's a request. So about maybe a

month or so ago, I sent a letter to Maria and to Ranjit on a

procedural issue where, as you know, oftentimes this doesn't

involve any particular case, but oftentimes, there are

matters that come before the Board that are requests for a
variance, and the question is whether we can consider them as special permits?

I analyzed that from a legal perspective for my own benefit, and if you want to put pen to paper on that and provide a legal memorandum that discusses that as an issue, again it was really to sort of help my thinking around it, and I sent it to Maria and Ranjit. I don't know if it would be helpful for the Board to see it if you want to see it.

So a request I would have, if you think it's appropriate, subject to maybe talking to Ranjit would be to post it in materials for a future meeting.

You know, again, I say that understanding that people might not want to look at it. It's a legal memo, so I understand if Members of the Board or the public would elect not to spend their free time reading a legal memo.

But, you know, I did the work, and if it's helpful, I would just offer to put that on the website or make it available to the Board and to the public.

BRENDAN SULLIVAN: Great.

CONSTANTINE ALEXANDER: Jason, this is Gus Alexander. I responded to that letter. Did you get my response?
JASON MARSHALL: No, I didn't send the letter out to anybody but Maria and to Ranjit.

CONSTANTINE ALEXANDER: Maria distributed it to the Board.

JIM MONTEVERDE: It was circulated, yeah.

JASON MARSHALL: Oh, okay.

CONSTANTINE ALEXANDER: It was circulated.

JIM MONTEVERDE: The Board saw it.

JASON MARSHALL: I didn't -- I wasn't on the distribution, I don't think for that. So.

CONSTANTINE ALEXANDER: I'll ask Maria to send you a copy of the letter.

JASON MARSHALL: Okay. Well, thanks for letting me know that. I guess I would, you know, reiterate if it's appropriate and may be helpful to post on the website or post with future materials as well, so it's out there.

BRENDAN SULLIVAN: Yes. Education is always a successful thing. So thank you for your --

JASON MARSHALL: Okay.

BRENDAN SULLIVAN: -- due diligence on that. It's always helpful.

JASON MARSHALL: Thanks for considering.
BRENDAN SULLIVAN: We have a couple more minutes before it becomes T-Mobile's night at the opera for the next three cases. The live theater is wonderful.

Okay, are we ready to go?

CONSTANTINE ALEXANDER: I'm ready.

BRENDAN SULLIVAN: Is it 6:30?

OLIVIA RATAY: One minutes.

CONSTANTINE ALEXANDER: 6:29, it's not quite there.

OLIVIA RATAY: It's 6:30 now.

CONSTANTINE ALEXANDER: Now it's 6:30, exactly.

BRENDAN SULLIVAN: Mr. Braillard, are you in residence? You are. Okay.
* * * * *

(6:29 p.m.)

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

BRENDAN SULLIVAN: The Board will hear Case No. 163462 -- 955 Massachusetts Avenue. Mr. Braillard?

ADAM BRAILLARD: Thank you, Mr. Chair and Members of the Board. Adam Braillard of Prince Lobel Tye. We're at One International Place in Boston.

We're here on behalf of the applicant, T-Mobile Northeast, LLC, in connection with an Eligible Facilities Request and special permit application for the Board to modify an existing wireless communications facility located on the building at 955 Massachusetts Ave.

What we're proposing to do here is replace the existing nine-panel antennas with nine new like-kind panel antennas to replace VR use with additional RR (sic) use on the facility.

The antennas will be located in the same location, which are all located on the penthouse, which is set back from the edge of the building, and all of the new antennas
that will be located in the same location will be also
painted to match the color of the penthouse in the building,
as we proposed in the plans and on the photo simulations in
the application package.

I don't think there was any -- I met -- I did meet
with the CDD Staff and the Planning Board did not feel like
they needed to discuss this from a design standpoint because
of the fact that it was stepped partially back from the
rooftop edge, and the photo sims looked good to them.

So I think that's all I have to report on this
application, but certainly here to answer any questions that
the Board and the public may have here.

CONSTANTINE ALEXANDER: Okay. Mr. Chair?

BRENDAN SULLIVAN: Yes.

CONSTANTINE ALEXANDER: Can I just ask a question?

BRENDAN SULLIVAN: Yes.

CONSTANTINE ALEXANDER: This site is in a
residential zone district. And under our Ordinance, we have
to make certain findings. You've dealt with that in your
written materials, so why don't you briefly summarize for
the benefit of those who are in the audience --

ADAM BRAILLARD: Sure.
CONSTANTINE ALEXANDER: -- why you meet the requirements of the Ordinance.

ADAM BRAILLARD: Sure. Let me just get to that section. The -- yeah, so this is located in the Residential C-2B Zoning District, and under the plan for the City's Ordinance under Section 4.32(g) Footnote 49, one of the requirements when you're in a residential zone is to show the nonresidential uses predominating the area.

We would say that the -- we did this analysis a long time ago. This is when the application, or when the installation was initially installed, and the Board at that point found that nonresidential uses did predominate.

And we still -- obviously -- believe that that's the case, not only because of the existing telecommunications facility that's there, but also because of a lot of the nonresidential uses that are also there at UPS or on the zone.

As an insurance, there's Workers Compensation Research Institute, Keller Williams Realty in the area that's also located in the building at 955. There's Dumpling House I think across the street, John Nick's Auto Service.
And like I said in the prior decisions, the Board has previously found nonresidential uses do predominate in this area.

BRENDAN SULLIVAN: Let me open it to questions from the Board. Mr. Monteverde, any questions?

JIM MONTEVERDE: No questions, thank you.

BRENDAN SULLIVAN: Laura, any questions?

LAURA WERNICK: No questions.

BRENDAN SULLIVAN: Jason, any questions?

JASON MARSHALL: No questions at this time.

BRENDAN SULLIVAN: Okay. And I have no questions.

Let me open it to public comment. Any member of the public who wishes to speak should now click the button that says, "Participants," and then click the button that says, "Raise hand."

If you are calling in by phone, you can raise your hand by pressing *9 and unmute or mute by pressing *6, and you'll have up to three minutes to comment.

[Pause]

There appears to be nobody calling in. We are not in -- any communications in the file. Any Board has not opined on it, so I will close the public comment part.
Anything else to add, Adam, of the application?

ADAM BRAILLARD: No, thank you, Mr. Chair.

BRENDA SULLIVAN: Yep. Any questions by the Board, or ready for a motion?

JIM MONTEVERDE: Ready for a motion.

CONSTANTINE ALEXANDER: Ready for a motion.

BRENDA SULLIVAN: Okay. Granting the special permit for the telecommunication facility, the Board shall consider the scope of or limitations imposed by any license secured from any state or federal agency having jurisdiction over such matters.

The Board finds that the applicant meets all the requirements imposed by governmental authorities having jurisdiction over the proposed facility.

The Board shall consider the extent to which the visual impact of the various elements of the proposed facility is minimized to the use of existing mechanical elements on the building through the use of materials, that in texture and color blend with the materials to which the facilities are attached, and other effective means to reduce the visual impact of the facility on the site.

And the Board finds that the proposed facility,
the changes will have no additional visual impact on the existing facility and the building.

The Board finds that where it's proposed to erect a facility in any residential zone, the extent to which there is demonstrated public need for the facility at the proposed location, the existence of alternative functionally suitable sites in nonresidential locations, the character of the prevailing uses in the area, and the prevalence of other existing mechanical systems and equipment carried on or above the roof of nearby structures.

The Board may grant a special permit to erect such a facility in a residential zone, only upon a finding that nonresidential use would predominate in the vicinity of the proposed facility's location, and that the telecommunication facility is not inconsistent with the character, that does not prevail in the surrounding neighborhood --

CONSTANTINE ALEXANDER: Does prevail, or not --

BRENDA SULLIVAN: It does.

CONSTANTINE ALEXANDER: -- does prevail.

BRENDA SULLIVAN: -- that does prevail, I'm sorry... Is not considered inconsistent with the character that does prevail in the surrounding neighborhood. Thank
you. And I think that that has been touched on and we can vote in the affirmative of that.

The applicant appears/complies with the special permit criteria set forth in Section 10.43 of the Ordinance.

The Board finds that the requirements of the Ordinance can be met with the granting of the special permit.

The Board finds that traffic generated or patterns of access or egress resulting from what is being proposed would not cause congestion, hazard, or substantial change in the established neighborhood character.

And the Board finds that continued operation of or development of adjacent uses, that are permitted in the Zoning Ordinance, would not be adversely affected by the nature of the proposed use.

The Board finds that there would not be any nuisance or hazard created to the detriment of the health, safety and/or welfare of the occupants of the proposed use, or to the citizens of the city.

The Board notes that there are existing telecommunication facilities on the building, and it appears that no adverse communication has been received to its ill
The Board finds that the proposed installation would not impair the integrity of the district or adjoining district, or otherwise derogate from the intent and purpose of the Ordinance to provide telecommunication facilities to the citizens of the city.

Also, on the previous -- I would also make the motion to include any other conditions which abound to the telecommunication facility previous, and to the new one, as per the original and the existing relief that has been granted.

And I would add that there was also some language, Adam, that you are so well aware of about the work proceed in accordance with the plan and that whole narrative regarding the, "and as much as the health effects and transmission of electromagnetic energy is a matter of ongoing societal concern, that that be incorporated into this decision, as it was in the previous decision regarding this facility by reference."

The Board is fine by that. And Adam, you're okay with that.

That the work proceed in accordance with the
application, supporting statements, photo simulations
initialed by the Chair. On the motion, then, to grant the special permit as per the application, Mr. Alexander?

CONSTANTINE ALEXANDER: I vote in favor?

BRENDAN SULLIVAN: Mr. Monteverde?

JIM MONTEVERDE: I vote in favor.

BRENDAN SULLIVAN: Ms. Wernick?

LAURA WERNICK: I vote in favor.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: Yes, in favor.


[All five vote YES]

On five affirmative votes, the special permit is granted.

ADAM BRAILLARD: Thank you.
(6:45 p.m.)

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

BRENDAN SULLIVAN: The Board will hear Case No. 164599. Adam?

ADAM BRAILLARD: Yes, Thank you, Mr. Chair. Adam Braillard. For the record, Adam Braillard at Prince Lobel Tye Law Firm at One International Place in Boston, on behalf of the applicant, would be T-Mobile Northeast LLC.

This is a request to hear an Eligible Facilities Request and a special permit from the Board to modify an existing telecommunications facility that's located at 25 Eight Street, which is the building -- one of the Cambridge Housing Authority buildings. It's located in a Residential C-1 Zoning District.

The proposal, similar to the last case, there is currently nine panel antennas on the façade of the building at three different locations, and the proposal is to replace those nine panel antennas with nine new like-kind antennas at the same locations.
Those antennas will be painted to match the façade of the building, which has been redone and the -- also we're proposing to replace the remote radio units which would be installed out of view on the other side of the parapet.

We're also going to replace one cabinet, the one radio cabinet from the center of the rooftop of the building, with two smaller cabinets with the same footprint as that prior cabinet.

Like I said, all the panels will be painted to match the matted finish, they're consistent color to match the neutral sign.

With respect, in the anticipation of the question, I think I'll go through it now, which is the analysis that we believe is compatible with that nonresidential uses predominate (sic) in this area.

The Board has found in prior special permit applications that nonresidential uses predominate. Also, there is other non, or there are other nonresidential uses in the vicinity -- a funeral home, religious facilities, public library, Cambridge school administration.

Also there are, I think there's another wireless communication facility on the roof, and also this facility
is on the roof. So we believe that nonresidential uses still continue to predominate in the vicinity.

We also believe that the facility is very similar to what is existing, and that it is not inconsistent with the character that does prevail in the surrounding neighborhood.

BRENDAN SULLIVAN: Okay, thank you. Let me editorialize here for a moment. I think that is one requirement that is a throwback from an earlier day on regarding telecommunication facilities in residential neighborhoods.

And I think that really should be taken out, because of the prevalence and the necessity of having telecommunication facilities everywhere in the city.

CONSTANTINE ALEXANDER: I agree, but I think that's the responsibility of the City Council.

BRENDAN SULLIVAN: But that's the -- that's something that the Community Development Planning, City Council as to do. I think that that's something that is anyhow, time-worn and isn't really necessarily applied very well anymore.

Mr. Alexander, any questions?
CONSTANTINE ALEXANDER: No questions.

BRENDAN SULLIVAN: Jim Monteverde, any questions?

JIM MONTEVERDE: No questions.

BRENDAN SULLIVAN: Laura Wernick, any questions?

LAURA WERNICK: No questions, thank you.

BRENDAN SULLIVAN: Jason Marshall any questions?

JASON MARSHALL: No questions, Mr. Chair.

BRENDAN SULLIVAN: Then I'll open it up to public comment. Any member of the public who wishes to speak should now click the button that says, "Participants," and then click the button that says, "Raise hand."

If you are calling in by phone, you can raise your hand by pressing *9 and unmute or mute by pressing *6, and you'll have up to three minutes to comment.

[Pause]

There appears to be nobody calling in. We are in receipt of communication from the Planning Board dated April 13.

"The Planning Board reviewed the BZA application to modify the existing wireless communications facility, and decided to forward the following comments to the BZA:

"The applicant provided revised materials to the
Board on 04/11/22. The Board reviewed it during the meeting, and by and concluded that the revisions have addressed most of the comments in the attached Memo from the Community Development. Hence, the Board decided to forward a positive recommendation to the BZA to consider the revised proposal for the installation.'"

Their communication regarding 25 Eighth Street:
"The proposal involves modification of an existing wireless antenna installation at the Truman Apartments, 25 Eighth Street. Nine panel antennas will be replaced with nine new panel antennas, and three remote radio units will be replaced with six new remote radio units. All antennas will be façade-mounted in the same location as the existing antennas, and will be painted to match the color of the façade.

"Since the antennas are located on the buildings' side elevations, rather than a recessed penthouse, the installation is quite visible from surrounding streets. Additionally, the replacement antennas all have varying dimensions, and appear to interrupt the carpet line when viewed from grade, which draws further attention to the modification."
"The following are suggested design improvements that should be considered: Antennas should be moved down the façade, to achieve a 45-degree setback plane, so that the antennas do not visually interrupt the parapet line.

"Since the replacement antennas all have varying sizes, if feasible, consider utilizing antenna covers -- sheaths -- so that the sheaths, s-h-e-a-t-h-s, so that the new antenna have similar dimensions or more symmetrical layout can be achieved.

"Reduce the length of all unused pipe mount sections. Setback, all are used as far as possible from the façade.

"Remove all unused mounting brackets where possible.

"All exposed cables should be concealed. If this is not feasible, ensure all exposed cables and wires are tightly fixed to the façade and the antennas.

"All painted materials, including cabling, should have a consistent matte finish."

Mr. Braillard, are you in agreement with those conditions?

ADAM BRAILLARD: Yes, we are. We certainly
addressed a number of those to the meeting with the Planning Board on the twelfth.

But, you know, absolutely the one that we had a concern with is the covering of the sheathing of one of the antennas are -- we've talked about this at this level -- our engineering team is really concerned how that affects the antenna without it being significantly bigger and more weighted in weight load.

And so, you know, we can look at that in more detail, but to the extent feasible. You know, I don't know if we could agree to actually doing that with the plan.

I did speak with one of the engineers on record again, and the concern wasn't necessarily the weight, but the -- you know, how you could fit the cover to the antenna without having to wrap all of the antennas and the three antennas together, similar to, like Huron Ave.

And so that was our concern. And so we don't believe that that's feasible at this time.

BRENDAN SULLIVAN: Okay. And again, I think that what they're asking for is if it's feasible?

ADAM BRAILLARD: Right.

BRENDAN SULLIVAN: So I think that you'll have
your client make a good faith effort to address that, and if it's not feasible, then it just can't be done.

ADAM BRAILLARD: Yep, understood.

BRENDAN SULLIVAN: Yeah. Okay. Other than that, the other suggestions you can incorporate into the final installation? The other conditions, the other suggestions that they've made?

ADAM BRAILLARD: Yes, absolutely. We've lowered the --

BRENDAN SULLIVAN: Some of them actually are quite benign, probably, and probably easy enough to do.

ADAM BRAILLARD: Sure. Yeah, absolutely. We can lower the antennas to meet that 45-degree setback plane, which I think is, it's kind of a new design protocol in the city, which I think is really interesting.

And we've been able to achieve that, and we reduce the length of any unused pipe mods, which we've done and set back the area use as far back from the façade as feasible, which we've done.

Remove any unused brackets: Yes, or hide or remove any enclosed wires concealed by the facility. Yes, we will do that, and paint to match the consistent matted
BRENDAN SULLIVAN: Okay, great. Any questions by Members of the Board at all?

CONSTANTINE ALEXANDER: No questions.

JIM MONTEVERDE: No questions.

JASON MARSHALL: No questions.

LAURA WERNICK: No questions.

BRENDAN SULLIVAN: Are we ready for a motion?

LAURA WERNICK: Yes.

JIM MONTEVERDE: Yes.

BRENDAN SULLIVAN: Okay. Let me make a motion, then to the applicant.

The Board shall consider the scope of limitations imposed by any license secured from any state or federal agency having jurisdiction over such matters.

The applicant has included the applicant's FCC license.

The applicant meets all requirements imposed by governmental authorities having jurisdiction over the proposed facility, including by the FCC to provide wireless communications in this market area.

The Board shall consider the extent to which the
visual impact of the various elements of the proposed facility is minimized through the use of existing mechanical elements on the building's roof or other features of the building as support and background through the use of materials that in texture and color blend with the materials to which the facility are attached, or other effective means to reduce the visual impact of the facility on the site.

The Board finds that the applicant's design minimizes the visual impact of the proposed facility.

The Board references the communication from the Planning Board regarding 25 Eighth Street, and the suggestions as to improvements over the submitted design, the agreement by the applicant that they will try to comply to the best as possible, with the suggestions made by the Planning Board.

And the previous dialogue incorporated and presentation by Council is incorporated by reference.

Where it is proposed to erect such a facility and as any residential zoning district, the extent to which it is demonstrated -- that there is a big demonstrated public need for the facility at the proposed location. The existence of alternative, functionally suitable sites in
nonresidential locations, the character of the prevailing uses in the area, and the prevalence of other, existing mechanical systems and equipment carried on or above the roof of nearby structures.

The Board of Zoning Appeal may grant the special permit to erect such a facility in a residential zone only upon the finding that nonresidential uses predominate in the vicinity or the proposed facilities, and that the telecommunication facility is not inconsistent with the character that does prevail in the surrounding neighborhood.

The Board finds that the applicant does propose to install a facility within the C-1 Zoning District, and that the Board does find that there is an existing telecommunications facility on the building --

[Simultaneous speech]

-- residential uses do not predominate in the area.

That the Board finds that the applicant complies with the Special Permit Criteria set forth in Section 1043 of the Ordinance.

The Board finds that the requirements of the Ordinance can be met. Traffic generated or patterns of
access or egress resulting from what is being proposed would not cause congestion, hazard, or substantial change in the established neighborhood character.

The Board finds that the existence of a previous telecommunication facility on the site, and that no ill effect or adverse effect has come from that facility. This is merely an upgrade of an existing facility.

The Board finds that continued operation of or development of adjacent uses, as permitted in the Zoning Ordinance, would not be adversely affected by the nature of the proposed use for the following reasons -- and again, I reference that it is an existing facility being upgraded.

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

The Board finds that, again, as previously stated, this is an existing facility and no adverse effect from such facility has been demonstrated.

The Board finds that the proposed use installation would not impair the integrity of the district or adjoining district and derogate from this ordinance.
There's also some additional --

The Board finds that incorporated by references, any of the conditions that were previously attached to the existing facility, that the wording in the last part, that the Chair moves that based upon the information presented, the Board grant the relief requested, regarding the petitioner's materials and evidence before the Board -- signed and initialed by the Chair -- and that regarding that the facility should cease to remain in operation, they'd be removed in a timely fashion.

And that the additional language regarding the societal concern about the emissions of radiofrequency, that that language known to the petitioner's Council, also be incorporated as a condition of the granting of this special permit, as was a condition of the previous grant.

On the motion to grant the special permit, Mr. Alexander?

CONSTANTINE ALEXANDER: Did you open the matter up to public testimony?

BRENDAN SULLIVAN: I'm sorry?

CONSTANTINE ALEXANDER: Did you open the matter up to public testimony?
BRENDAN SULLIVAN: Oh, okay. I didn't do that?

OLIVIA RATAY: You did.

CONSTANTINE ALEXANDER: Huh?

BRENDAN SULLIVAN: I did, yeah, I did.

CONSTANTINE ALEXANDER: Okay.

BRENDAN SULLIVAN: Yeah, because I --

CONSTANTINE ALEXANDER: I vote in favor.

BRENDAN SULLIVAN: Yeah, okay. Mr. Monteverde?

JIM MONTEVERDE: I vote in favor.

BRENDAN SULLIVAN: Laura Wernick?

LAURA WERNICK: I vote in favor.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: Yes, in favor of the special permit.

BRENDAN SULLIVAN: Brendan Sullivan in favor of the special permit.

[All five vote IN FAVOR].

BRENDAN SULLIVAN: Five affirmative votes. The special permit is granted.

ADAM BRAILLARD: Thank you.

BRENDAN SULLIVAN: One more time.
Sitting Members: Constantine Alexander, Brendan Sullivan, Jim Monteverde, Laura Wernick and Jason Marshall

BRENDAN SULLIVAN: The Board will hear Case No. 165052 -- 20 Sidney Street. Adam?

ADAM BRAILLARD: Thank you, Mr. Chair and Members of the Board. The final T-Mobile matter for tonight. For the record, Adam Braillard, Attorney at Prince Lobel Tye at One International Place in Boston for the applicant, T-Mobile Northeast LLC here in connection with an Eligible Facilities Request for a special permit from the Board to modify an existing telecommunications facility located at 20 Sidney Street at the Le Meridien, Boston-Cambridge hotel on the rooftop there. It's located in the Cambridge Revitalization Development District.

The proposal here is to replace six panel antennas with nine new like-kind antennas and replace nine remote radio units with six remote radio units.

The interesting design here, there are typically in any telecommunications installation there's either three
or four sectors.

In this case, there's three alpha, beta, and gamma sectors. The alpha and beta sectors are concealed. They're façade-mounted, but they're concealed behind an enclosure similar to -- I would say Huron Ave, but that's another telecom installation where it has it concealed.

So those two sectors have -- the antennas are concealed. We're going to be replacing the two antennas that are inside each of those concealed locations with three antennas and increasing the depth of the concealment by about a little bit less than a foot.

And then the third sector, which also has two panels on it, we're going to be replacing those antennas with three new antennas and actually moving this sector a little bit further into the more center of the rooftop, also on the façade of the penthouse.

The alpha and beta sectors were more -- are generally a little bit more visible, and that's why they're concealed. The gamma sector, the antennas will be painted to match, as they are now, but those are not visible from any public street, as the photo simulations show.

So that's really the extent of the changes here.
The -- which is in the Cambridge Revitalization Development District, which I don't believe is in the residential district, although there are certainly a number of nonresidential uses that we built to predominate here.

The facility, based on the plans -- the proposed facility will be designed with modifications of the installation, very consistent to what is existing there. And so we feel that the facility is not going to be inconsistent with the character that does prevail in the surrounding neighborhood.

BRENDAN SULLIVAN: Adam, is this all sort of upgrades for the 5G?

ADAM BRAILLARD: It is, yes.

BRENDAN SULLIVAN: Yeah, okay. All right. Any questions by Members of the Board?

CONSTANTINE ALEXANDER: No questions.

JIM MONTEVERDE: No questions.

BRENDAN SULLIVAN: Let me open it up to public comment. Any member of the public who wishes to speak should now click the button that says, "Participants," and then click the button 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, and you'll have up to three minutes in which to comment.

[Pause]

There appears to be nobody calling in. We are in receipt of communication from the Planning Board regarding 20 Sidney Street.

"The proposal involves modification of an existing wireless antenna installation on the rooftop of 20 Sidney Street, Planning Board Special Permit 152. Six panel antennas will be replaced with nine new panel antennas, and nine remote radio units will be replaced with six new remote radio units.

"The alpha and gamma sector antennas will be concealed behind the existing stealth, which will be enlarged. The beta sector antennas will be relocated to the southeast penthouse façade. All antennas and supporting equipment will be painted to match the façade.

"Staff has no concerns with the modest modification to this existing antenna facility. The large stealth enclosure will not have a significant impact on the public realm, and the beta sector antennas, which face Franklin Street and the parking garage are well set back
from the façade and will not be visible.

"One design suggestion that could improve the appearance of the stealth enclosure is to incorporate some vertical or horizontal lines to match the panelization of the penthouse enclosure."

Mr. Braillard, if you want comment on that suggestion?

ADAM BRAillard: Sure. I think what the Staff is referring to is that the penthouse does have some vertical and horizontal lines that probably make up a concrete installation.

And I don't think that the applicant has any concern with when it is replacing this stealth design to incorporate that into the paint context to the extent that the Board would prefer.

A lot of times, we -- every time in Cambridge here, we paint to match. Generally, it's a consistent matte finish, all one color.

But we can -- we can -- we can try to match that grout -- those grout lines, so to speak, which we have done in the past, certainly in a lot of different locations. Just not a lot of plans in Cambridge.
Although recently I think we had a site where we agreed to match the brick-and-mortar grout line on a chimney. And so we can agree to that, yeah.

Brendan Sullivan: Okay. Some kind of an applique or something, I guess. We'll let Engineering come up with that feature. Okay. That is the sum and substance of any correspondence. I will close public comment. Any questions by Members of the Board at all?

Constantine Alexander: No questions.

Brendan Sullivan: Ready for a vote?

Laura Wernick: No questions.

Jason Marshall: Ready for a vote.

Brendan Sullivan: Okay. Let me make a motion that we grant the special permit as per the application, according to material in the photo simulation initialed by the Chair.

The Board finds that the Board of Zoning Appeals shall consider the scope of or limitations imposed by any license secured from any state or federal agency having jurisdiction over such matters enclosed, hearing (sic) that the applicant's FCC license...

The Board find that the applicant meets all
requirements imposed by any governmental authority having jurisdiction over the proposed facility.

The Board shall consider the extent to which the visual impact of the various elements of the proposed facility is minimized through the use of existing mechanical elements on the building's roof or other features of the building as support and background through the use [in] materials that in texture and color blend with the materials to which the facility are attached, or other effective means to reduce the visual impact of the facility on the site.

The Board finds that the proposed facility will have no additional visual impact of the existing facility and the building.

The Board notes the Planning Board's comments. They are supportive of the installation, and one suggestion that the applicant/petitioner try to replicate some of the installation's features that are in the concrete face of the building.

The -- it's not necessarily in a residential zone, it's in --

CONSTANTINE ALEXANDER: It's in the --

BRENDAN SULLIVAN: -- Resident -- Revitalization?
CONSTANTINE ALEXANDER: District, Development District, yep.

BRENDAN SULLIVAN: But the Board will note the Cambridgeport -- it's in the Cambridgeport Revitalization Development District. The Board notes that it is just off of Central Square, and that the Board can safely state that the installation -- that regarding the installation, that the residential does not predominate in the immediate area, and also notes that this is an existing -- it is an amendment to an existing facility.

The Board finds that traffic -- regarding the criteria in Section 10.43, the Board finds that the requirements of the Ordinance can be met.

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

The Board finds that it is an existing facility, and no adverse effect from the existing facility has been noted, and does not anticipate any regarding the change in the as proposed.

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

The Board finds that there would not be any nuisance or hazard created to the detriment of the health, safety and/or welfare of the occupants of the proposed use, or the citizens of the city.

And again, the Board notes that it is a-- we do have an existing telecommunications facility and no adverse communications have been received to the -- regarding the existing facility, and none is anticipated with the new amended features.

The Board finds that the proposed installation will not impair the integrity of the district or adjoining district, or otherwise derogate from the intent and purpose of the Ordinance to provide telecommunication facilities to the citizens of the city.

Further, the Board notes the previous grant to the telecommunication facility at this location, and any conditions imposed upon the previous are incorporated as part of the granting of the relief to this facility and this proposal.
And that the Board finds that the work [is] to proceed with the plans submitted by the petitioner and the photo simulations initialed by the Chair.

And that regarding Sections 1-6 and 6 a) b) and c) regarding the health effects on the transmission of the electromagnetic energy waves, that that language and the previous conditions regarding the maintainings (sic) of the structure of the telecommunication facility be incorporated by reference into this decision.

On the motion, Mr. Alexander?

CONSTANTINE ALEXANDER: I vote in favor?

BRENDAN SULLIVAN: Mr. Monteverde?

JIM MONTEVERDE: I vote in favor.

BRENDAN SULLIVAN: Laura Wernick?

LAURA WERNICK: I vote in favor.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: Yes, in favor.

BRENDAN SULLIVAN: And Brendan Sullivan yes.

[All vote YES]

BRENDAN SULLIVAN: Five affirmative votes, the special permit is granted. Goodnight.

ADAM BRAILLARD: Thank you. Have a good night.
(7:16 p.m.)

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

BRENDAN SULLIVAN: The Board will hear Case No. 162174 -- 35 Lawrence Street. David?

[Pause]

David?

DAVID FENCHEL: Yes, hi. Can you hear me?

BRENDAN SULLIVAN: Yep.

DAVID FENCHEL: Okay.


DAVID FENCHEL: Okay. My name is David Fenchel. I'm the architect representing Ashley and Josh Zisson of 35 Lawrence Street. We are requesting to expand two existing dormers from about five feet wide to less than 15 feet.

A special permit is necessary because of an existing violation that exceeds the maximum FAR, and because of an existing minimum large setback violation at both side yards and rear yard.
The proposal adds 65 gross square feet, which is an increase in area of about 2.64 percent.

We are also requesting to alter and add windows and a patio door in existing nonconforming walls in the back half of the building. A special permit is necessary because of an existing violation that doesn't meet the minimum yard setback at both side yards and rear yard.

The proposed work will not create a new dimensional nonconformity, and it will not be substantially more detrimental than the existing nonconforming structure.

The proposed windows and patio door improve access to daylight and fresh air, and it is in keeping with the general existing building fenestration.

The proposed window alterations' enlargement of existing dormers does not create a new dimensional nonconformity, and it satisfies Section 10.43, Criteria for special permits.

The proposed work does not affect traffic pattern. The proposed work does not change the use of the existing building, and does not change the density. It does not negatively impact neighbors' privacy, access to daylight in fresh air, and it does not impede views or cast shadows on
adjacent properties.

The proposed use does not change in the use or density of existing.

The proposed work does not impair the integrity of the neighborhood, and it is in keeping with the overall style, fenestration, and general massing of the existing building.

CONSTANTINE ALEXANDER: Okay. Mr. Chair, can I ask a question about the Dormer Guidelines. I think you alluded to them in your presentation, sir. And I think you said that the dormers as you proposed to modify them will not be longer than 15 feet, is that correct?

DAVID FENCHEL: That's correct.

CONSTANTINE ALEXANDER: Well, what about just for round out the discussion, the other requirements of our Dormer Guidelines, in terms of setting down from the roofline and up from the front, are you -- will you be in compliance with those as well?

DAVID FENCHEL: Yes, sir.

CONSTANTINE ALEXANDER: Thank you.

BRENDAN SULLIVAN: Okay. Mr. Monteverde, any questions?
JIM MONTEVERDE: No questions, thank you.

BRENDAN SULLIVAN: Laura, any questions?

LAURA WERNICK: No questions, thank you.

BRENDAN SULLIVAN: Jason Marshall any questions?

JASON MARSHALL: No questions at this time, Mr. Chair.

BRENDAN SULLIVAN: Okay. And I have -- Brendan Sullivan -- have no questions. Let me open it to public comment. Any member of the public who wishes to speak should now click the button that says, "Participants," and then click the button that says, "Raise hand."

If you are calling in by phone, you can raise your hand by pressing *9 and unmute or mute by pressing *6, and you will have up to three minutes in which to comment.

[Pause]

There appears to be nobody calling in. We are in receipt of communication from Andrew Janjigian and Melissa Rivard, 53 Lawrence Street, #2.

"We are next-door neighbors to our friends, Josh and Ashley Zisson, who live at 35 Lawrence Street. We are writing on their behalf to say that we are happy to support the renovation project. Please let us know if you have any
further questions."

And that is the sum and substance of any communication. I will close the public comment part. Anything else to add, David, at all?

DAVID FENCHEL: No, thanks. Very much.

BRENDAN SULLIVAN: Thank you, you covered it well. Any questions by Members of the Board, or ready for a motion?

JIM MONTEVERDE: I'm ready for a motion.

BRENDAN SULLIVAN: Okay. Let me make a motion, then, to grant the relief requested, and this is a special permit to expand two existing dormers to alter and add windows and a patio door in existing nonconforming walls as per the drawings submitted, supporting statements and dimensional form signed and dated by the Chair.

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

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

The Board finds that continued operation of or
development of adjacent uses, as permitted in the Zoning ordinance, would not be adversely affected by the nature of the proposed use.

There wouldn't be any nuisance or hazard created to the detriment of the health, safety and/or welfare of the occupant of the proposed use, or the citizens of the city.

The Board finds that the proposed use would not impair the integrity of the district or adjoining district, or otherwise derogate from the intent and purpose of the ordinance, to provide adequate space, safe space, and to allow petitioners, homeowners to improve their properties to modern standards.

Relief is also being requested under Section 8.222 (d) and that actually finds that the Board may grant a special permit for the alteration of or enlargement of a preexisting, dimensionally nonconforming, detached single-family, not otherwise submitted in Section 8.221, but not the alteration or enlargement of a preexisting, nonconforming use, provided there was no change in use.

And that any enlargement or alteration of such preexisting, nonconforming detached single-family dwelling may only increase an existing dimensional nonconformity, but
does not create a new dimensional noncompliant.

In order to grant, the Board is required to find, and does find, that the alteration or enlargement shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood, and that the alteration or enlargement satisfies the criteria in Section 10.43, as previously stated.

On the motion to grant the relief requested, the special permit, Mr. Alexander?

CONSTANTINE ALEXANDER: I vote in favor.

BRENDAN SULLIVAN: Mr. Monteverde?

JIM MONTEVERDE: I vote in favor.

BRENDAN SULLIVAN: Laura Wernick?

LAURA WERNICK: I vote in favor.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: Yes, in favor of the special permit.

BRENDAN SULLIVAN: And Brendan Sullivan yes in favor.

[All five vote IN FAVOR]

BRENDAN SULLIVAN: Five affirmative votes, the special permit is granted.
DAVID FENCHEL: Thank you very much.


CONSTANTINE ALEXANDER: The next case is 7:30. I'm just going to take a break for a second. Okay?

BRENDAN SULLIVAN: We're going to take possibly a 10-minute break before the next case, which is Perry Street.

[BREAK]
(7:30 p.m.)

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

BRENDAN SULLIVAN: Shannon? Nathaniel?

SHANNON AND NATHANIEL FINLEY: Yes, we're here.

BRENDAN SULLIVAN: Okay.

SHANNON AND NATHANIEL FINLEY: So --

BRENDAN SULLIVAN: If you would introduce yourself for the record.

SHANNON FINLEY: Okay. My name is Shannon Finley. And this is my husband, Nathaniel.

NATHANIEL FINLEY: Hi, I'm Matt Finley.

SHANNON AND NATHANIEL FINLEY: I am the -- we are the owner of the 10 Perry, and I am also the Architect of record on the set for Tiny Desk Designs.

We are asking for a special permit to add a -- approximately a two-foot-five, four-foot-eight double home window with obscured glass in it on a wall that sits over the side yard setback. And this will be in a laundry room.

I don't -- this window won't cause any further
encroachment on the side yard setback, and the neighbor that
is directly opposite this new window has been informed of
the project, shown drawings, and has actually submitted a
letter in support of the addition of the window.

BRENDAN SULLIVAN: Okay. Olivia, could you just
pull up exactly --

SHANNON AND NATHANIEL FINLEY: Right. And the
window is in keeping with the style of all the other windows
in the house.

BRENDAN SULLIVAN: Okay. Shannon, I noticed that
there was no dimension on the window. So we can assume that
the scale will govern the size of the proposed window?

SHANNON AND NATHANIEL FINLEY: Yes. In the plan,
it actually calls out the exact size unit and the
dimensions. So it's two-foot-two.

BRENDAN SULLIVAN: Oh, I see. Two-foot-two by
four-eight roughly? Yeah, okay. All right. I did -- now I
see it. Yeah. Okay. All right. Great. So anything else
to add to it?

SHANNON AND NATHANIEL FINLEY: I believe that's
about it.

BRENDAN SULLIVAN: Okay. Let me open it up to
1 comments by the Board. Mr. Alexander?

2 CONSTANTINE ALEXANDER: My only comment is I want
3 to congratulate the petitioner, where you decided to use
4 obscure glass. Often people have regular glass, and
5 neighbors object because of privacy, and we have to go back
6 and forth. You've anticipated that, and congratulations.
7 Otherwise, I have no comments.

8 SHANNON AND NATHANIEL FINLEY: Thank you.
9 BRENDAN SULLIVAN: Jim Monteverde, any questions,
10 comments?

11 JIM MONTEVERDE: No questions, no comments.
12 BRENDAN SULLIVAN: Laura, any questions, comments?
13 LAURA WERNICK: No questions. Thank you.
14 BRENDAN SULLIVAN: Jason, any questions, comments?
15 JASON MARSHALL: No questions. Similar to Gus, I
16 was going to comment the applicants for the advanced work
17 that they did in engaging neighbors. It really shows in the
18 record.

19 SHANNON AND NATHANIEL FINLEY: Thank you.
20 BRENDAN SULLIVAN: Well, Nat, I think you hired a
21 pretty good architect, then.

22 CONSTANTINE ALEXANDER: [Laughter]
BRENDAN SULLIVAN: Give you kudos for hiring the right person. Let me open it to public comment. It was probably a nationwide search, was it --

SHANNON AND NATHANIEL FINLEY: Yeah.

BRENDAN SULLIVAN: -- to get that good architect?

Any member of the public who wishes to speak should now click the button that says, "Participants," and then click the button that says, "Raise hand."

If you are calling in by phone, you can raise your hand by pressing *9 and unmute or mute by pressing *6, and you'll have up to three minutes in which to comment.

There was nobody calling in. We are in receipt of communication from Alice Lee and Luke Deming of 12 Perry Street, #2.

"Our neighbors, Matt and Shannon Finely at 10 Perry Street, have personally met with us, the owners, and residents of 12 Perry, #2, to discuss the addition of their new window, and we have no issues or concerns with their proposal.

"We understand the window will be in direct view through our patio doors, yet still believe it will have no effect on our quality of life."
The Board is in receipt from Alice Lee and Lou Deming.

"Our neighbors, Matt and Shannon have personally met with us to discuss the addition of their new window. We have no issues or concerns with their proposal."

There's communication from Betsy Adam:

"I've just received a notice of a Zoning Public Hearing regarding my neighbors' request to add a new window. I support the proposed addition."

And final communication from Jeffrey Birg, B-e-r-g:

"I have no objection to the work proposed at 10 Perry, as described in the petition for special permit Case No. 161813."

Okay. Your presentation complete?

SHANNON AND NATHANIEL FINLEY: Yes.

BRENDAN SULLIVAN: No parting words? Okay. I will close the presentation part. Any comments by the Board, and you're questions, or ready for a motion?

CONSTANTINE ALEXANDER: I'm ready for a motion.

JIM MONTEVERDE: Ready.

LAURA WERNICK: Ready.
BRENDAN SULLIVAN: Okay. Let me make a motion, then, to grant the special permit as per the application for, the drawings, supporting statements and the dimensional form as submitted to add a new, double-hung window with obscure glass into a first-floor laundry room that sits over the side yard setback, and as per the drawings and initialed and dated by the Chair.

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

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

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

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

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

In furtherance, the petitioner is seeking relief under Section 8.222d) that the Board may grant a special permit for the alteration or enlargement of a preexisting dimensionally nonconforming, detached single-family or two-family dwelling, not permitted in Section 8.22-1, above, but not the alteration or enlargement of a preexisting, nonconforming use, provided that there is no change in use...

And that and any enlargement or alteration of such preexisting, nonconforming, detached, single-family dwelling or two-family may only increase a preexisting, dimensionally nonconformity, but does not -- nonconformity, but does not create any new dimensional nonconformity.

The Board may grant a special permit upon a finding, and the Board does find that the alteration or enlargement shall not be substantially more detrimental than the existing, nonconforming structure to the neighbor, and that the alteration or enlargement satisfies the criteria as stated in Section 10.43, as previously stated.

That the work comply with the drawings as submitted, and the supporting statements and dimensional form, initialed by the Chair.
On the motion to grant the special permit, Mr. Alexander?

CONSTANTINE ALEXANDER: I vote in favor.

BRENDAN SULLIVAN: Mr. Monteverde?

JIM MONTEVERDE: I vote in favor.

BRENDAN SULLIVAN: Laura Wernick?

LAURA WERNICK: I vote in favor.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: Yes, in favor.

BRENDAN SULLIVAN: And Brendan Sullivan yes.

[All five vote YES]

On the affirmative vote of five Members, your special permit is granted. Good luck.

SHANNON AND NATHANIEL FINLEY: Thank you very much.

BRENDAN SULLIVAN: Thank you for your nice presentation.

SHANNON AND NATHANIEL FINLEY: Thanks.

BRENDAN SULLIVAN: There's going to be a 20-minute break in the action until 8:00.

OLIVIA RATAY: 7:45.

CONSTANTINE ALEXANDER: 7:45.
BRENAND SULLIVAN: Oops. I'm sorry, 7:45. 7:45.
Six minutes. I don't have Longfellow.

CONSTANTINE ALEXANDER: You should.

OLIVIA RATAY: I had it.

BRENAND SULLIVAN: Thanks.

[BREAK]
(7:30 p.m.)

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

BRENDAN SULLIVAN: Okay. We're back in operation again. The Board will now hear Case No. 162489 -- 1 Longfellow Road. Is there anybody here representing the petitioner who would like to speak?

There appears to be none. We are in communication from Sam Kachmar. Correspondence states,

"May I request continuing the case of 1 Longfellow Road to April 28, 2022, on behalf of my client, Hao Wang?"

I will entertain, then, the request for a continuance. Mr. Alexander, on the motion to continue this matter?

CONSTANTINE ALEXANDER: I would support a motion to continue this matter until 6:00 p.m. on the twenty-eighth of April.

BRENDAN SULLIVAN: Mr. Monteverde?

JIM MONTEVERDE: I agree to the continuance.
BRENDAN SULLIVAN: Laura Wernick?

LAURA WERNICK: I agree to the continuance.

BRENDAN SULLIVAN: And Jason Marshall on the continuance?

JASON MARSHALL: Yes.

BRENDAN SULLIVAN: And Brendan Sullivan will make five affirmative votes to continue this matter until April 28, 2022, at 6:00 p.m. on the condition that the petitioner change the posting sign to reflect the new date of April 28, 2022, and the new time of 6:00 p.m.; that the petitioner sign a waiver to the statutory requirement for a hearing and a decision to be rendered thereof.

[All five vote YES]

BRENDAN SULLIVAN: Such waiver must be in the file by 5:00 p.m. on a week from Monday.

That any new submittals regarding the application, supporting statements, dimensional form or drawings be in the file by 5:00 p.m. on the Monday prior to April 28, 2022.

Anything else to add?

On the motion, then, all five Members of the Board have voted in favor. The matter is continued until April 28.
Now we have 12 minutes before the next case of Number 124 Dudley.
(8:00 p.m.)

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

BRENDAN SULLIVAN: Okay. It being 8:00, the Board will hear Case No. 160120, 124 Dudley Street. The petitioner will introduce themselves for the record and present their case.

GILBERT PILI: Thank you, Mr. Chairman. My name is Gilbert Pili. I am the property owner and petitioner.

My wife, Laura, and I are here tonight with our designer, Tova Greenberg and our Principal Contractor, Steve Greenberg, to apply for a special permit on our home at 124 Deming Street in North Cambridge. It's on the corner of Dudley and Clay Street. It is an existing, nonconforming structure according to the statute built in 1891.

We seek to add a second floor over the existing kitchen and extend the existing dormer on the K Street side to full width of the structure, and add windows and skylights to the existing and new structure.

The footprint of the house would remain the same,
and the interior square footage would increase by 223 from 1320 to 1551. Thanks to the Board for your consideration.

We've been residents in this house for over 20 years and intend to remain so once construction is complete. We do truly love the house. We've shared the plans with our neighbors, letters of support with one Addendum we can speak to later and has been included in our application.

According to the special permit, the revisions retain the same house footprint, which we believe will not cause any additional street congestion. We believe the changes planned are in accord with the character of the house and the neighborhood.

We believe the additions will not affect adjacent uses, and we have reached out to our neighbors and will continue conversions with them to minimize disruption, impact of the addition, as well as minimize safety and health of the neighborhoods during and after construction.

We believe the additions will not impair the integrity of any adjoining districts, and we believe the construction is consistent with the Urban Design Objectives.

Our designer, Tova, will walk you through next the details of the proposed plan.
TOVA GREENBERG: Hi, everybody. Is somebody going to share the plans?

[Pause]

GILBERT PILI: Yep.

TOVA GREENBERG: So this is the -- this is just the site plan, and the footprint will remain unchanged. So there really isn't, I think, anything to talk about here. Looking at the -- as Gil said, the property's on the corner of Dudley and High Street. It's a one-and-three-quarter-story shingled house, with a one-story kitchen wing at the rear.

If you go to the elevations -- there we go -- you can clearly see that one-story addition, the one-story kitchen section on the back.

Next slide, please?

There's the meat. We are proposing -- and you can see outlined on the second floor, so really where the -- all the additions are happening -- so we've got the bedroom going in over the kitchen, and then what's called, "Bedroom #2," we're extending it across from the dotted line to meet the front of the bathroom dormer, adding a total of 20 square feet to that small bedroom at the rear.
CONSTANTINE ALEXANDER: Excuse me, could you just stop at the dormer?

TOVA GREENBERG: Mm-hm.

CONSTANTINE ALEXANDER: The proposed modification to the dormer... You're familiar with the fact that we have Dormer -- the City has Dormer Guidelines?

TOVA GREENBERG: Yep.

CONSTANTINE ALEXANDER: And --

TOVA GREENBERG: Maybe -- let's go to the next slide, so we can be looking at it. So the dormer -- we are proposing to extend the dormer the full length of this -- of the -- on the Clay Street elevation.

CONSTANTINE ALEXANDER: You mean your dormer -- the length of the dormer will be in excess of the Dormer Guidelines?

TOVA GREENBERG: Yes.

CONSTANTINE ALEXANDER: Okay. Is there any reason why you can't comply with the Dormer Guidelines? We're talking about what, a foot -- two feet?

TOVA GREENBERG: So if you go back to the plan on the previous page, we could, but this bedroom is tiny. And complying with the Dormer Guideline would put a jog in that
back corner of that bedroom, making it a very awkward shape and more expensive to build.

GILBERT PILI: Easier to waterproof and insulate as well.

TOVA GREENBERG: Yes, and as Steve points out, the waterproofing and insulation detail will also be easier if we can just extend the roofline and the wall straight to the back to the corner.

Excellent question, thank you.

CONSTANTINE ALEXANDER: Okay. Well, I've been speaking only for myself, and probably just for myself, I'm troubled by the fact that you can't comply with the Dormer Guidelines as to length.

We've had this case, this issue many times before, and generally we don't look with favor. Not all the time, but don't look with favor on dormers that will exceed the 15 feet.

Is there any reason why you can't come up with some solution that leads to a 15-foot dormer and satisfy what your client wants?

TOVA GREENBERG: I -- Gil, would you like to speak, or would you like me to speak to that?
GILBERT PILI: Yeah, I mean the dormer, we could certainly shorten the dormer to meet the 15 feet length, but it does leave a gap after the -- to the end wall.

If you show the exterior again, this area down below, there would be a gap on that right side that is probably more difficult structurally, and more difficult to waterproof.

So the, you know, we can certainly do the 15-foot. It just would become an awkward structure for the house.

TOVA GREENBERG: Also to point out that while technically a dormer, it is on the -- it's only on the second floor, right? We're not actually dormering the -- you know, we're not creating a large --

GILBERT PILI: Yeah.

TOVA GREENBERG: -- what you would normally consider -- you know, we're not shed dormering the whole roof up to create an integrated whole 'nother story.

GILBERT PILI: Yeah, if you could, if you go back to the existing elevations, just to show the difference, currently there's quite a bit of water damage just on the existing dormer, due to the way it's structured, and the fact that it doesn't extend there.
So that's a constant weather issue on that existing building.

CONSTANTINE ALEXANDER: I hear you, and I'm still troubled by the length of the dormer, but I'll wait to hear from my fellow Board Members to see if they're troubled as well. But thank you.

TOVA GREENBERG: I mean, I think it if came down to it, and that was your primary objection, we would be -- we would certainly work with you to make it work.

So all right, going back to our proposed, the alley elevation shows the addition on the rear above the kitchen. Because it's on the alley side, there are no windows on that side of the house, and instead there's just a skylight in that bedroom.

And then we're adding -- yeah, what's? We're adding a skyl -- yeah, so then we're adding skylights in the existing roof, two on the alley side. This is a new bathroom that's going in the existing space. The right of it is over this --

GILBERT PILI: Yeah.

TOVA GREENBERG: Did we get rid of the one over the stairs?
GILBERT PILI: There's one over the stairs, yep.

TOVA GREENBERG: And then on the street side, there's also an additional new skylight. Right. Yeah. Proposed new skylight on the left there. That's it! Any other -- what other questions can we answer?

BRENDAN SULLIVAN: When I first looked at the this, and I had the same concerns that Mr. Alexander had, that it seemed like an awful lot going on -- and went back and double checked to make sure that you did qualify for a special permit but, and the Dormer Guidelines, obviously, are exceeded.

But then I guess the question that I had is, when does an addition become a dormer and when does a dormer become an addition?

And because this is primarily at the second level, it probably is somewhat of a hybrid in that the roof extends, but it's really mostly the second floor, not a traditional dormer, which would be on top of the roof.

So to me, this sort of puts it in the category of an addition as opposed to a dormer that the Dormer Guidelines somewhat addresses, even though it appears to be -- there's a lot going on there, but it's really at the
second floor, not necessarily at the third floor. So that was my conclusion.

CONSTANTINE ALEXANDER: I'm not sure that answers my concerns, but I hear you. And there's merit to what you're saying. I'd be interested in hearing from the other Members of the Board.

BRENDAN SULLIVAN: Yeah.

LAURA WERNICK: Yeah, I have to say, Gil, this -- my reaction is the same as Brendan's. It felt like calling this a dormer was a real misnomer.

GILBERT PILI: Mm-hm.

LAURA WERNICK: That it's an addition that required rooves, but it's not -- it didn't seem to me to be a dormer in the traditional sense --

JIM MONTEVERDE: Yeah.

LAURA WERNICK: -- in the traditional sense of the word.

JIM MONTEVERDE: I agree. I mean, I initially saw the -- you know, 17-foot dimension and was concerned, but I'm comfortable with it as an extension of the -- you know, with the houses below and where the current dormer is. It seems like a very logical extension of all of those, to
simplify the massing. And then once you put that all
together, really, I don't think it fits the dormer
definition. So I'm comfortable with it.

LAURA WERNICK: I think also to cut it back in any
way would add -- obviously -- add construction complexity,
but visual complexity as well, as well as reducing the size
of an already small room.

JIM MONTEVERDE: Yeah.

GILBERT PILI: Mm-hm.

BRENDAN SULLIVAN: And as far as the interior --

JASON MARSHALL: Brendan, can I just hit on that
point real quick?

BRENDAN SULLIVAN: Yeah.

JASON MARSHALL: And Brendan, I appreciate your
point, I hadn't thought about it that way. I actually had
approached this through the lens of the special protections
that state law provides to single and two-family houses in
terms of increasing existing nonconformities.

And I was inclined not to see the Dormer
Guidelines as an impediment because of state law
protections. I had some discomfort with rejecting the
request because of Guidelines itself.
I also think, you know, at the hearing tonight that the applicants and the representatives have made a case for why it may be warranted, just in its own right as well.

BRENDAN SULLIVAN: Okay. Let me open it to public comment. Any other member of the public who wishes to speak should now click the button that says, "Participants," and then click the button that says, "Raise hand."

If you are calling in by phone, you can raise your hand by pressing *9 and unmute or mute by pressing *6, and you will have up to three minutes in which to comment.

[Pause]

There appears to be nobody calling in. There is a volume of correspondence going back and forth, and I'm trying to make some sense of it. Are there any actual letters in support, or is this -- I see that you have, Laura and Gil you have really reached out to your neighbors --

GILBERT PILI: Mm-hm.

BRENDAN SULLIVAN: -- and gone the extra step, and I'm just wondering if there's any response from any of them, either pro or con, or if you have any of those here?

GILBERT PILI: Yes. We do have four letters of support from our neighbors.
And we have a fifth one for our abutter at 122 Dudley Street. She did express some late concern over shadow in the late afternoon. She expressed the concern kind of at the height or the low point of winter, at which the sun was quite low in the sky. But we did visit with her in person, and talked through with her concerns.

The other correspondents you may have seen in there is some additional information that we wanted to pass along to her about sun height, you know, during different parts of the year, as well as some pictures of the where the sun kind of sits in that alleyway space between our two houses.

So we're committed to working with her, and in doing as much as we can to alleviate any concern she has during the construction.

She also had a concern over dust during construction. So we've committed to filtering windows and air conditioning units with her and, you know, any other things she proposes to alleviate those things.

So, you know, we're just in continued talks with her. We wanted to make sure that information was in her application.
BRENDAN SULLIVAN: Okay. And that would be Diana?

GILBERT PILI: That's Diana Philips, yes.

BRENDAN SULLIVAN: Okay. And her address is -- I don't know if she has correspondence back to us or not, or -- this was all verbal going back and forth between both parties?

GILBERT PILI: This was verbal, yes. We've -- she initially signed the letter of support, and then called back and was concerned. So we've been just doing verbal talks since then. And then we also just put down some proposals in writing of things we could do.

BRENDAN SULLIVAN: Okay. All right. I see, actually, this way at the back of the folder here there is a petition and a statement that you have drafted. You have given it to your neighbors. And the underside gives my support, and 123 Dudley, #3, 123 Dudley, #2, 116 Dudley. [Support,] sounds great, good luck.

And then on your correspondence to Diana, "We want to work with you to alleviate the impact of additional floor as many as possible. With our tight property line, we'll do what we can to minimize impact to you. While we must remain committed to our project, some
things we can do potentially we are to do below, and we are
open to any other idea painting the side of the house facing
the alleyway, potential improvements to the alleyway itself,
garden space and fence improvements, potential skylight/tube
lighting options, and reasonable improvements you would
propose that would maximize light or improve the alleyway
space."

So you're trying to make an effort to address any
of the concerns that she may have?

GILBERT PILI: Yeah. That's right.

BRENDAN SULLIVAN: I'm sorry. There is apparently
one person calling in. We will accept that call.

OLIVIA RATAY: Matt Kehoe?

BRENDAN SULLIVAN: Matt?

MATT KEHOE: Hi, there. Yeah. I'm the
neighboring property across the street on Dudley Street up
119. I just wanted to comment that I'm in full support of
all these proposed plans.

I wasn't able to sign any paperwork to forward
along, but again, I'm in full support and happy to
accommodate.

BRENDAN SULLIVAN: Great. Thank you. Anything
else? Anybody else calling in?

OLIVIA RATAY: No, I don't think so.

BRENDAN SULLIVAN: No? I will close, then, the public comment and submittal portion. Anything else to add, petitioner, to the proposal at all?

GILBERT PILI: No. Thank you for your time.

BRENDAN SULLIVAN: All right. I will close, then, the presentation part, and the Board will discuss it among themselves and take a motion. Mr. Alexander, your thoughts?

CONSTANTINE ALEXANDER: Well, my comments regarding the Dormer Guidelines have been satisfied by more knowledgeable fellow Board Members when it comes to matters of architecture. So I'm withdrawing any objection to it. And I intend to vote in favor.

BRENDAN SULLIVAN: Okay. Jim Monteverde, any comments?

JIM MONTEVERDE: No, I'm fine.

BRENDAN SULLIVAN: Laura, any additional comments at all?

LAURA WERNICK: No, thank you.

BRENDAN SULLIVAN: All right, Jason, any additional words?
JASON MARSHALL: No. No, no --

BRENDAN SULLIVAN: Okay.

JASON MARSHALL: No further comments, Mr. Chair, thanks.

BRENDAN SULLIVAN: All right. And I have nothing else to add. Let me make a motion, then, to grant the special permit, as per the application, the supporting statements and the dimensional form and the drawings contained in the application signed and dated by the Chair.

The Board grants the special permit, provided that it conform to those three documents, especially the drawings as submitted for the addition of a second-floor over the existing first floor, and extend the second-floor element as per the drawings, the additional windows, and skylights in the existing structure to be altered.

The Board finds that it appears that the requirements of the Ordinance can be met. That traffic generated or patterns of access or egress would not cause congestion, hazard, or substantial change in the established neighborhood character.

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

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

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

The petitioner is also seeking relief under Section 8.22.2 d) and the Board finds that the Board may grant a special permit for the alteration or enlargement of a preexisting dimensionally nonconforming, detached single-family or two-family dwelling, not permitted in Section 8.22.1, but not the alteration or enlargement use, provided that there is no change in use...

And that any enlargement or alteration of such preexisting, nonconforming detached single-family dwelling may only increase a preexisting dimensional nonconformity, but does not create any new dimensional nonconformity.

The Board may grant a special permit on the
finding, and the Board does find, that the alteration or enlargement shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood, and that the alteration or enlargement satisfies the criteria as stated in Section 10.43, as the Board has previously stated that it does comply with that section of the Ordinance.

On the motion to grant the special permit, Mr. Alexander?

CONSTANTINE ALEXANDER: I would amend the motion to state that it provided that the work proceed in accordance with the plans that were submitted by the petitioner.


CONSTANTINE ALEXANDER: With that, I'll approve. I vote in favor.

BRENDAN SULLIVAN: All right. Jim Monteverde?

JIM MONTEVERDE: I vote in favor.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: Yes, in favor of the special permit, incorporating Gus's amendment.

BRENDAN SULLIVAN: Great, thank you. Laura
Wernick?

LAURA WERNICK: Yes, in favor, with the incorporation.

BRENDAN SULLIVAN: And Brendan Sullivan in favor of granting the special permit.

[All five vote YES]

BRENDAN SULLIVAN: Five affirmative votes. The special permit for the work is granted.

CONSTANTINE ALEXANDER: Good luck.

GILBERT PILI: Thank you so much.

TOVA GREENBERG: Thank you so much.

GILBERT PILI: Thank you.

BRENDAN SULLIVAN: Yep.
Sitting Members: Constantine Alexander, Brendan Sullivan, Jim Monteverde, Laura Wernick and Jason Marshall

BRENDAN SULLIVAN: The Board will now hear Case No. 159132 -- 39 Regent Street.

TAYLOR FERGUSON: Good evening, Mr. Chairman, Members of the Board. Taylor Ferguson, Contractor representing the homeowner for 39 Regent Street seeking a special permit for a proposed rooftop deck and extension of an existing chimney.

BRENDAN SULLIVAN: It's a various, I believe.

TAYLOR FERGUSON: Variance -- sorry, variance.

BRENDAN SULLIVAN: Correct?

TAYLOR FERGUSON: Yep, so.

BRENDAN SULLIVAN: Yeah, okay. Yep.

TAYLOR FERGUSON: Do you want to go through the plans?

BRENDAN SULLIVAN: Oh, yeah, yep. It's your presentation.

TAYLOR FERGUSON: Yep. So we're not changing
anything about the footprint of the building.

We are looking to create access through Unit #3, which per the Master Deed that the homeowners, you know, when they purchased the property were granted roof rights, and have been able to -- they're allowed to build the roof deck, hence why they purchased the property in the first place.

So we're proposing to build this 382-square-foot rooftop deck that will allow for them to enjoy some more outdoor space, and further enjoy their property.

BRENDAN SULLIVAN: Okay.

TAYLOR FERGUSON: With that being said, we've got to exterior the chimney that currently exists from three feet to 10 feet to accommodate the deck itself.

BRENDAN SULLIVAN: Okay. Taylor, would you read supporting statements on the dimensional form? I see some flaws in it.

TAYLOR FERGUSON: Absolutely.

BRENDAN SULLIVAN: And the original submittal had -- you know, a lot of N/A --

TAYLOR FERGUSON: Yep.

BRENDAN SULLIVAN: -- which I think you designate
as probably nonapplicable. When I see that, my N/A is not adequate.

TAYLOR FERGUSON: Gotcha yes.

BRENDAN SULLIVAN: So I think you have amended that, but I still don't get there where some of the dimensional numbers -- you know, are really somewhat lacking. And it may be not fully understanding what we're looking for. You know, the ratio is 0.46 and then you have requested a 0 number of units existing three request at 0.

TAYLOR FERGUSON: Right. So I --

BRENDAN SULLIVAN: So --

TAYLOR FERGUSON: -- I'm sorry to --

BRENDAN SULLIVAN: -- some of that --

TAYLOR FERGUSON: Yeah.

BRENDAN SULLIVAN: -- some of that is, you know, not correct. But I think the meat of the issue is really the request for the variance and the legal standard --

TAYLOR FERGUSON: Mm-hm.

BRENDAN SULLIVAN: -- that you have to meet. And again, it may be a misread on your part of it, and the requirements that you have to comply with and satisfy. But number 1 is a literal enforcement of the provisions of the
Ordinance would involve a substantial hardship, otherwise to the petitioner for the following reasons: The Master Deed allows for a roof deck to be built by right for the unit-
free owner.

Well, that maybe all well and good for the Master Deed, but that does not usurp the compliance with the ordinance. And regardless of whatever the Master Deed says, it could give her the world with a fence around it, and if it doesn't comply with Zoning, it doesn't comply with Zoning.

The second part is the hardship suffered by the unit owners at the property was purchased in part to have the ability to build a roof deck, and that's where if she had an attorney representing her, and she made that statement that that's why she was buying it because the -- if it was presented to her, she could build the deck, well that's misinformation, that's faulty information, that's just bad information.

The provisions of the Ordinance is that if we were to deny this, that it would involve a substantial hardship on her, and then you have to state what that hardship is.

TAYLOR FERGUSON: Mm-hm.
BRENDAN SULLIVAN: And again, it may be a misread. The Ordinance requires -- and relief from the Ordinance requires that the finding that the hardship is owing to the following circumstances relating to the soil condition, shape or the topography of such land or structures, and especially affecting such land or structures, but not affecting generally the zoning district.

In other words, that there is something very unique about this particular house in this particular location that has some sort of soil conditions, the shape of the lot or the topography of the lot, which is precluding the petitioner from building an as-of-right deck.

And the response was the roof deck does not affect the soil condition, shape, or topography.

That answer really doesn't address what the hardship is. And so again, it's sort of a non-response to a very direct legal question.

The c) desirable relief may be granted without substantial detriment to the public good, and the answer is the roof deck does not cause substantial detriment to the public good, because it is for the unit owner to enjoy, and is not accessible for the public.
One of the things that we look at when we see decks above the even first floor, second floor, third floor especially -- especially roof decks -- is the effect that that may have on adjoining properties.

And I've always been very reluctant to grant decks even at the third level. I'm not even sure how many were granted on a roof, what the effect of that has.

And basically, what you're asking is taking the living space and putting it outside the building, especially as high as a roof, where voices, music -- anything echoes and carries quite a bit, and can disrupt the neighborhood character.

You know, it's -- we always worry that it may not have a benign effect, and that it may have an adverse effect. And, you know, Samantha may be a to lovely person -- I'm sure she is -- and will have a very benign existence up there, but she may not always own that unit.

And other people may come along and decide that it's a party deck or a noisy deck, or that people congregate up there, you know, people's windows are open in the summertime or what have you, and it just becomes a noise factor and an annoyance factor.
That's where that part of the ordinance and the standard that we have to come to addresses.

The other one is relief may be granted without nullifying or substantially derogating from the intent and purpose of the Ordinance, and the answer is the unit owner has the right to build pertinent Master Deed. Well, she may as far as the condo documents, but not according to Zoning.

Those are my thoughts. And I basically just don't feel that she has met the Standard, and in order for me to vote in the affirmative to grant this variance. But I will let other Members of the Board chime in, and you can absorb all of that.

Mr. Alexander?

CONSTANTINE ALEXANDER: I'm not -- I cannot support this petition, for the reasons that basically Brendan has touched on. We have many cases -- not many, we have a lot of cases involving the proposed roof decks. We're very skeptical as a Board as to whether we should permit them.

I think particularly so in the first slide that you put up; it looks like a very densely populated neighborhood. And if you're going to have a 300-plus-foot
deck on the top floor that can interfere with the privacy of
the neighbors, and so there -- and it could be noisy, that
would affect the ability of the neighbors to enjoy their
premises. It's much too much.

And I'm sorry if you're -- that the petitioner
believed because in the deed it says you can have a roof
deck, that's the end of the story. It's not. You've got to
look at the legal obligations and requirements.

And they are very clear. You don't get there
because you -- because you have access -- you have exclusive
right to put a deck on the third floor. I'm troubled too by
the chimney, which is now going to go up to 10 feet high.
That to me is troublesome as well.

Bottom line, I am not going to vote in favor of
granting the relief being sought.

BRENDAN SULLIVAN: Jim Monteverde?

JIM MONTEVERDE: I concur with the both of you. I
share the same concerns.

BRENDAN SULLIVAN: Laura?

LAURA WERNICK: Yes, I don't have any further I
think I could add to what's already been said.

BRENDAN SULLIVAN: Jason Marshall?
JASON MARSHALL: Thanks, Mr. Chair. Mr. Ferguson, I think as I heard the Chairman articulate it, it appears that your application is at best incomplete, and at worst legally infirm, and it does seem strikingly without a basis to grant the relief requesting.

For me, I don't even get down to the third prong in terms of its impact on the public good. I don't see how you meet the first two prongs of hardship, and how that hardship relates to, you know, the factors including topography, soil, et cetera.

There's just not a basis for us to grant the relief. So on that, I would -- I don't intend to support the request.

BRENDAN SULLIVAN: Okay. Mr. Ferguson, any retort at all? I mean, it appears that there is no support for the proposal before us.

TAYLOR FERGUSON: In the event that we have plans revised to a smaller-sized roof deck and involve a legal team to further answer these questions, I mean, it's quite clear that, you know, I'm the builder here, I'm not a lawyer, so when it does come to following these legal terms and information, it seems like I definitely dropped the ball
That being said, would it fall back under consideration if we reduce the size of the deck and we're able to find letters of support within the neighborhood?

BRENDAN SULLIVAN: Not to me, because I think that just the very presence of a deck up there, and the legal standard of proving hardship to me is going to be a very, very high, if not impossible, bar to come up with.

I can't -- and again, I've been here for a long time. Heard hundreds of cases and reasons for hardship, and I can't think of one that would, you know, get me to saying yes for this particular case, and how she could satisfy the legal requirement for hardship.

So I for one Member would say it's really not having to do with size as much as it is that the very presence of it -- anyhow.

TAYLOR FERGUSON: Alrighty. Thank you for your feedback, and enjoy the rest of your day.

BRENDAN SULLIVAN: All right. Let me make a motion, then, to -- and I will do this in the affirmative -- to grant the requested variance from the Ordinance to build a roof deck as per the plans submitted, the supporting
statements and the dimensional form.

The Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner.

The Board finds that the hardship is owing to circumstances relating to the soil condition, shape or topography of such land or structures and affecting -- especially affecting such land or structure, but not generally -- but not affecting generally the zoning district in which it is located.

The Board finds that desirable relief may be granted without substantial detriment to the public good, and that the granting of this variance would not nullify or substantially derogate from the intent and purpose of the Ordinance.

On the motion to grant the requested variance, Mr. Alexander?

CONSTANTINE ALEXANDER: I vote in -- I'm against that granting the variance.

BRENDAN SULLIVAN: Okay.

CONSTANTINE ALEXANDER: For the reasons that are previously expressed.
BRENDAN SULLIVAN: Jim Monteverde?

JIM MONTEVERDE: I vote in opposition to granting the variance.

BRENDAN SULLIVAN: Okay. Laura Wernick?

LAURA WERNICK: I vote against granting the variance.

BRENDAN SULLIVAN: And Jason Marshall?

JASON MARSHALL: I vote no to the requested relief.

BRENDAN SULLIVAN: I vote no to the requested relief.

[All five vote NO]

BRENDAN SULLIVAN: The Board needs to make some findings. The Board finds that the petitioner has failed to satisfy the requirements. That it would involve a substantial hardship to her, that the hardship failed to state that the hardship is owing to the soil, shape, or topography of the land, and that it affects this particular structure.

That the Board also finds that granting of this relief may be of substantial detriment to the public good, and the imposition to the privacy of the adjoining
properties.

And that the Board also finds that the granting of the relief would nullify and substantially derogate from the intent and purpose of the Ordinance.

All those in favor of the reasons for the denial?

Mr. Alexander?

CONSTANTINE ALEXANDER: I am in favor.

BRENDAN SULLIVAN: Mr. Monteverde?

JIM MONTEVERDE: I am in favor.

BRENDAN SULLIVAN: Laura Wernick?

LAURA WERNICK: I'm in favor, the reasons stated.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: Yes, in favor.

BRENDAN SULLIVAN: And Brendan Sullivan yes, in favor of the reasons for denial.

[All vote YES]

The variance is denied. It's closed.

And that's it, folks.

JIM MONTEVERDE: Thank you all.

BRENDAN SULLIVAN: Thank you.

LAURA WERNICK: Thank you.

CONSTANTINE ALEXANDER: Thank you.
JIM MONTEVERDE: Goodnight, everybody.

LAURA WERNICK: Goodnight.

BRENDAN SULLIVAN: Excellent, tonight. You did good.

[08:37 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 ______, 2022.

[Signature]

Notary Public

My commission expires:

July 28, 2028
anticipate 61:20
anticipated 16:16 17:11
anymore 42:21
Apartments 44:9
apologize 13:14
apparently 97:11
Appeal 1:1 50:5
Appeals 3:8
appear 44:20
appearance 19:12 58:3
appears 12:15
April 1:3 3:7
architect 64:16
architecture 98:13
area 33:8,19
articulate 111:2
as-of-right 107:12
Ave 31:15 46:16
Avenue 1:5 2:5
area 33:8,19
artificial 111:2
as-of-right 107:12
Ashley 64:16
B
B-c-r- 76:10
back 8:17 31:21
32:8 47:18,18
57:22 65:4
74:5 81:6
86:14 87:20
88:1,8 89:18
Bingo 21:9
Birg 76:10
bit 55:11,15,18
blend 35:19 49:5
60:8
Board 1:1 3:8
April 14, 2022
Page 119
<table>
<thead>
<tr>
<th>consolidated</th>
<th>8:20</th>
</tr>
</thead>
<tbody>
<tr>
<td>consolidation</td>
<td>7:13</td>
</tr>
<tr>
<td>consolidation</td>
<td>16:12</td>
</tr>
<tr>
<td>constant</td>
<td>15:1</td>
</tr>
<tr>
<td>Constantine</td>
<td>1:8</td>
</tr>
<tr>
<td>constructed</td>
<td>90:1</td>
</tr>
<tr>
<td>continuance</td>
<td>8:20</td>
</tr>
<tr>
<td>continue</td>
<td>22:9</td>
</tr>
<tr>
<td>continued</td>
<td>2:2</td>
</tr>
<tr>
<td>continuing</td>
<td>81:12</td>
</tr>
<tr>
<td>Contractor</td>
<td>84:13</td>
</tr>
<tr>
<td>contravene</td>
<td>16:4</td>
</tr>
<tr>
<td>copy</td>
<td>29:12</td>
</tr>
<tr>
<td>corner</td>
<td>84:15</td>
</tr>
<tr>
<td>correct</td>
<td>66:12,13</td>
</tr>
<tr>
<td>correspondence</td>
<td>13:4</td>
</tr>
<tr>
<td>correspondents</td>
<td>95:7</td>
</tr>
<tr>
<td>Council</td>
<td>16:4</td>
</tr>
<tr>
<td>counsel</td>
<td>117:9</td>
</tr>
<tr>
<td>couple</td>
<td>10:11</td>
</tr>
<tr>
<td>course</td>
<td>11:16</td>
</tr>
<tr>
<td>cover</td>
<td>46:14</td>
</tr>
<tr>
<td>covered</td>
<td>68:6</td>
</tr>
<tr>
<td>covering</td>
<td>46:4</td>
</tr>
<tr>
<td>covers</td>
<td>45:6</td>
</tr>
<tr>
<td>COVID-19</td>
<td>3:13</td>
</tr>
<tr>
<td>create</td>
<td>14:11</td>
</tr>
<tr>
<td>created</td>
<td>37:17</td>
</tr>
<tr>
<td>current</td>
<td>8:9</td>
</tr>
<tr>
<td>current</td>
<td>16:15</td>
</tr>
<tr>
<td>currently</td>
<td>7:15</td>
</tr>
<tr>
<td>Curaudeau</td>
<td>13:7</td>
</tr>
<tr>
<td>cutting</td>
<td>93:4</td>
</tr>
<tr>
<td>D</td>
<td></td>
</tr>
<tr>
<td>d</td>
<td>2:1</td>
</tr>
<tr>
<td>damage</td>
<td>69:14</td>
</tr>
<tr>
<td>Dan</td>
<td>19:8,8,21</td>
</tr>
<tr>
<td>date</td>
<td>2:4,5,7,8</td>
</tr>
<tr>
<td>dated</td>
<td>3:18</td>
</tr>
<tr>
<td>David</td>
<td>64:7,9,10</td>
</tr>
<tr>
<td>day</td>
<td>10:20</td>
</tr>
<tr>
<td>derogating</td>
<td>10:8</td>
</tr>
<tr>
<td>described</td>
<td>76:13</td>
</tr>
<tr>
<td>design</td>
<td>19:9,13</td>
</tr>
<tr>
<td>Desigs</td>
<td>72:17</td>
</tr>
<tr>
<td>desirable</td>
<td>9:6</td>
</tr>
<tr>
<td>detail</td>
<td>46:10</td>
</tr>
<tr>
<td>detailed</td>
<td>7:12</td>
</tr>
<tr>
<td>detrimental</td>
<td>9:7</td>
</tr>
<tr>
<td>development</td>
<td>10:15</td>
</tr>
<tr>
<td>difference</td>
<td>89:19</td>
</tr>
<tr>
<td>Diana</td>
<td>96:1,2,18</td>
</tr>
<tr>
<td>flaws 104:17</td>
<td>96:2, 7, 97:10</td>
</tr>
<tr>
<td>floor 84:18</td>
<td>98:6, 102:10,12</td>
</tr>
<tr>
<td>86:17 89:12</td>
<td>give 4:7 75:1</td>
</tr>
<tr>
<td>91:17 92:1,1</td>
<td>106:8</td>
</tr>
<tr>
<td>96:20 99:13</td>
<td>given 96:15</td>
</tr>
<tr>
<td>108:2,2,2</td>
<td>gives 96:15</td>
</tr>
<tr>
<td>110:1,11</td>
<td>glass 72:20 74:4</td>
</tr>
<tr>
<td>folder 96:13</td>
<td>74:4 77:5</td>
</tr>
<tr>
<td>Foley 6:9</td>
<td>go 8:2, 17 27:10</td>
</tr>
<tr>
<td>folks 115:18</td>
<td>30:4 41:13</td>
</tr>
<tr>
<td>following 43:21</td>
<td>74:5 86:12,12</td>
</tr>
<tr>
<td>45:1 51:11</td>
<td>87:9,20 89:18</td>
</tr>
<tr>
<td>106:2 107:4</td>
<td>103:18 110:12</td>
</tr>
<tr>
<td>111:21</td>
<td>going 5:7 6:6 8:2</td>
</tr>
<tr>
<td>foot 55:11 87:19</td>
<td>9:16,17,19</td>
</tr>
<tr>
<td>footage 85:1</td>
<td>19:13 22:21</td>
</tr>
<tr>
<td>Footnote 33:6</td>
<td>41:5 55:8,13</td>
</tr>
<tr>
<td>footprint 8:11</td>
<td>56:8 71:4,5</td>
</tr>
<tr>
<td>41:7 84:22</td>
<td>74:16 79:19</td>
</tr>
<tr>
<td>85:9 86:6</td>
<td>86:1,19 90:10</td>
</tr>
<tr>
<td>104:1</td>
<td>90:18 91:8,22</td>
</tr>
<tr>
<td>77:4 78:22</td>
<td>109:22 110:12</td>
</tr>
<tr>
<td>82:17 99:8</td>
<td>110:14 112:7</td>
</tr>
<tr>
<td>104:16 113:1</td>
<td>good 6:8 9:7</td>
</tr>
<tr>
<td>former 7:15</td>
<td>10:7 15:19</td>
</tr>
<tr>
<td>forth 37:4 50:19</td>
<td>16:10 18:16</td>
</tr>
<tr>
<td>74:6 94:13</td>
<td>19:11 32:9</td>
</tr>
<tr>
<td>96:5</td>
<td>47:1 63:22</td>
</tr>
<tr>
<td>forward 43:21</td>
<td>64:13 74:21</td>
</tr>
<tr>
<td>44:4 97:19</td>
<td>75:5 79:13</td>
</tr>
<tr>
<td>forwarded 7:8</td>
<td>96:17 102:9</td>
</tr>
<tr>
<td>found 10:17</td>
<td>103:8 106:5</td>
</tr>
<tr>
<td>33:12 34:2</td>
<td>107:19,21</td>
</tr>
<tr>
<td>41:16</td>
<td>111:7 113:12</td>
</tr>
<tr>
<td>four 8:1,5 11:5</td>
<td>114:21 116:4</td>
</tr>
<tr>
<td>27:13,14,15</td>
<td>Goodnight</td>
</tr>
<tr>
<td>55:1 94:21</td>
<td>18:17,18 27:7</td>
</tr>
<tr>
<td>four-eight 73:17</td>
<td>27:9 63:21</td>
</tr>
<tr>
<td>four-foot-eight</td>
<td>71:2 116:1,2</td>
</tr>
<tr>
<td>72:19</td>
<td>Gotcha 105:3</td>
</tr>
<tr>
<td>framework 10:21</td>
<td>govern 73:12</td>
</tr>
<tr>
<td>Franklin 57:22</td>
<td>governmental</td>
</tr>
<tr>
<td>free 28:15 106:4</td>
<td>35:13 48:19</td>
</tr>
<tr>
<td>French 13:15</td>
<td>60:1</td>
</tr>
<tr>
<td>fresh 65:12,22</td>
<td>Governor 3:14</td>
</tr>
<tr>
<td>friends 67:19</td>
<td>governs 15:10</td>
</tr>
<tr>
<td></td>
<td>grade 44:21</td>
</tr>
<tr>
<td></td>
<td>grant 14:2 17:15</td>
</tr>
<tr>
<td></td>
<td>17:19 21:4,6</td>
</tr>
<tr>
<td></td>
<td>21:12 36:11</td>
</tr>
<tr>
<td></td>
<td>39:2 50:5 52:6</td>
</tr>
<tr>
<td></td>
<td>52:15,16 59:14</td>
</tr>
<tr>
<td></td>
<td>62:18 68:11</td>
</tr>
<tr>
<td></td>
<td>69:14 70:2,8</td>
</tr>
<tr>
<td></td>
<td>77:2 78:3,14</td>
</tr>
<tr>
<td></td>
<td>79:1 99:6</td>
</tr>
<tr>
<td></td>
<td>100:13,22</td>
</tr>
<tr>
<td></td>
<td>101:8 108:5</td>
</tr>
<tr>
<td></td>
<td>109:10 111:5</td>
</tr>
<tr>
<td></td>
<td>111:11 112:21</td>
</tr>
<tr>
<td></td>
<td>113:16</td>
</tr>
<tr>
<td>granted 6:16 7:1</td>
<td>9:6,17 10:6</td>
</tr>
<tr>
<td>11:6 15:19</td>
<td>17:1 18:13</td>
</tr>
<tr>
<td>38:11 39:15</td>
<td>53:19 63:21</td>
</tr>
<tr>
<td>70:22 79:13</td>
<td>102:8 104:4</td>
</tr>
<tr>
<td>107:18 108:7</td>
<td>109:3 113:12</td>
</tr>
<tr>
<td>granting 17:17</td>
<td>17:22 18:2,5,8</td>
</tr>
<tr>
<td>35:7 37:6</td>
<td>52:14 62:21</td>
</tr>
<tr>
<td>102:5 110:15</td>
<td>113:13,19</td>
</tr>
<tr>
<td>114:2,5,20</td>
<td>115:2</td>
</tr>
<tr>
<td>grants 99:10</td>
<td>114:22 115:4</td>
</tr>
<tr>
<td>great 5:20 11:18</td>
<td>15:14</td>
</tr>
<tr>
<td>20:15 28:19</td>
<td>Greenberg</td>
</tr>
<tr>
<td>48:2 73:18</td>
<td>84:13,14 86:1</td>
</tr>
<tr>
<td>96:17 97:22</td>
<td>86:5 87:3,7,9</td>
</tr>
<tr>
<td>101:22</td>
<td>87:16,20 88:5</td>
</tr>
<tr>
<td>green 8:10 14:22</td>
<td>88:21 89:10,15</td>
</tr>
<tr>
<td>15:14</td>
<td>90:7,21 91:2</td>
</tr>
<tr>
<td>Gross 12:20</td>
<td>102:11</td>
</tr>
<tr>
<td>gross 65:1</td>
<td>104:1</td>
</tr>
<tr>
<td>105:8</td>
<td>65:2</td>
</tr>
<tr>
<td>59:2</td>
<td>103:8</td>
</tr>
<tr>
<td>growth 16:5</td>
<td>108:5</td>
</tr>
<tr>
<td>guess 26:15</td>
<td>110:11</td>
</tr>
<tr>
<td>29:14 59:5</td>
<td>Guideline 87:22</td>
</tr>
<tr>
<td>91:12</td>
<td>Guidelines 66:9</td>
</tr>
<tr>
<td>Gus 5:1 28:20</td>
<td>66:16 87:6,15</td>
</tr>
<tr>
<td>74:15</td>
<td>87:18 88:13</td>
</tr>
<tr>
<td>Gus's 101:21</td>
<td>91:10,21 93:20</td>
</tr>
<tr>
<td>guys 18:17</td>
<td>93:22 98:11</td>
</tr>
</tbody>
</table>

**H**

half 65:5

hand 12:10,12

34:15,17 43:11

43:13 56:21

57:1 67:11,13

75:8,10 94:7,9

117:12

Hao 81:14

happening 86:18

happy 11:16

67:21 97:20

hardship 8:21

11:14 14:9,12

15:5,7,16

106:1,11,20,21

107:3,16 111:8

111:9 112:7,10

112:13 113:4,5

114:16,16,17

hazard 37:10,17

51:2,13 61:16

62:5 68:20

69:4 77:11,17

99:19 100:3

hazards 11:7

health 37:17

38:15 51:14

62:5 63:5 69:5
<table>
<thead>
<tr>
<th>Page 127</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>jurisdiction</strong></td>
</tr>
<tr>
<td><strong>K</strong></td>
</tr>
<tr>
<td><strong>Kachmar</strong></td>
</tr>
<tr>
<td><strong>keeping</strong></td>
</tr>
<tr>
<td><strong>kehr</strong></td>
</tr>
<tr>
<td><strong>knowledgeable</strong></td>
</tr>
<tr>
<td><strong>known</strong></td>
</tr>
<tr>
<td><strong>kudos</strong></td>
</tr>
<tr>
<td><strong>L</strong></td>
</tr>
<tr>
<td><strong>large</strong></td>
</tr>
<tr>
<td><strong>late</strong></td>
</tr>
<tr>
<td><strong>Laughter</strong></td>
</tr>
<tr>
<td><strong>laundry</strong></td>
</tr>
<tr>
<td><strong>law</strong></td>
</tr>
<tr>
<td><strong>Lawrence</strong></td>
</tr>
<tr>
<td><strong>lawyer</strong></td>
</tr>
<tr>
<td><strong>layout</strong></td>
</tr>
<tr>
<td><strong>Le</strong></td>
</tr>
<tr>
<td><strong>leads</strong></td>
</tr>
<tr>
<td><strong>learners</strong></td>
</tr>
<tr>
<td><strong>leave</strong></td>
</tr>
<tr>
<td><strong>Lee</strong></td>
</tr>
<tr>
<td><strong>Landing</strong></td>
</tr>
<tr>
<td><strong>language</strong></td>
</tr>
<tr>
<td><strong>Landing</strong></td>
</tr>
<tr>
<td><strong>Lamp</strong></td>
</tr>
<tr>
<td><strong>landing</strong></td>
</tr>
<tr>
<td><strong>law</strong></td>
</tr>
<tr>
<td><strong>library</strong></td>
</tr>
<tr>
<td><strong>license</strong></td>
</tr>
<tr>
<td><strong>level</strong></td>
</tr>
<tr>
<td><strong>library</strong></td>
</tr>
<tr>
<td><strong>like-kind</strong></td>
</tr>
<tr>
<td><strong>limited</strong></td>
</tr>
<tr>
<td><strong>limitations</strong></td>
</tr>
<tr>
<td><strong>limited</strong></td>
</tr>
<tr>
<td><strong>limit</strong></td>
</tr>
<tr>
<td><strong>line</strong></td>
</tr>
<tr>
<td><strong>lines</strong></td>
</tr>
<tr>
<td><strong>literal</strong></td>
</tr>
<tr>
<td><strong>literally</strong></td>
</tr>
<tr>
<td><strong>load</strong></td>
</tr>
<tr>
<td><strong>little</strong></td>
</tr>
<tr>
<td><strong>live</strong></td>
</tr>
<tr>
<td><strong>living</strong></td>
</tr>
<tr>
<td><strong>LLC</strong></td>
</tr>
<tr>
<td><strong>load</strong></td>
</tr>
<tr>
<td><strong>Lobel</strong></td>
</tr>
<tr>
<td><strong>locate</strong></td>
</tr>
<tr>
<td><strong>located</strong></td>
</tr>
<tr>
<td><strong>location</strong></td>
</tr>
<tr>
<td><strong>locations</strong></td>
</tr>
<tr>
<td><strong>logging</strong></td>
</tr>
<tr>
<td><strong>logical</strong></td>
</tr>
<tr>
<td><strong>logistical</strong></td>
</tr>
<tr>
<td><strong>long</strong></td>
</tr>
<tr>
<td><strong>longer</strong></td>
</tr>
<tr>
<td><strong>Longfellow</strong></td>
</tr>
<tr>
<td><strong>look</strong></td>
</tr>
<tr>
<td><strong>looks</strong></td>
</tr>
<tr>
<td><strong>looked</strong></td>
</tr>
<tr>
<td><strong>looking</strong></td>
</tr>
<tr>
<td><strong>loos</strong></td>
</tr>
<tr>
<td><strong>Lou</strong></td>
</tr>
<tr>
<td><strong>love</strong></td>
</tr>
<tr>
<td>57:9 60:14</td>
</tr>
<tr>
<td>58:22 63:2</td>
</tr>
<tr>
<td>97:18 101:12</td>
</tr>
<tr>
<td>112:22</td>
</tr>
<tr>
<td>please 4:4 67:22</td>
</tr>
<tr>
<td>7:3</td>
</tr>
<tr>
<td>89:10 93:12,15</td>
</tr>
<tr>
<td>95:4</td>
</tr>
<tr>
<td>populated 109:21</td>
</tr>
<tr>
<td>portion 12:16</td>
</tr>
<tr>
<td>positive 44:5</td>
</tr>
<tr>
<td>45:11,14 49:14</td>
</tr>
<tr>
<td>possibly 71:5</td>
</tr>
<tr>
<td>29:15,16</td>
</tr>
<tr>
<td>24:11 26:11</td>
</tr>
<tr>
<td>potential 97:3,4</td>
</tr>
<tr>
<td>preclude 8:8</td>
</tr>
<tr>
<td>predates 15:9</td>
</tr>
<tr>
<td>33:12 34:2</td>
</tr>
<tr>
<td>42:2 50:7,16</td>
</tr>
<tr>
<td>preexisting 9:1</td>
</tr>
<tr>
<td>69:21 78:4,7</td>
</tr>
<tr>
<td>100:14,19,20</td>
</tr>
<tr>
<td>24:14 26:14</td>
</tr>
<tr>
<td>82:18</td>
</tr>
<tr>
<td>74:5 110:1</td>
</tr>
<tr>
<td>present 4:19 5:4</td>
</tr>
<tr>
<td>19:15 84:9</td>
</tr>
<tr>
<td>presentation 8:2</td>
</tr>
<tr>
<td>13:17 49:17</td>
</tr>
<tr>
<td>64:14 66:10</td>
</tr>
<tr>
<td>76:15,18 79:17</td>
</tr>
<tr>
<td>98:8 103:21</td>
</tr>
<tr>
<td>presented 52:5</td>
</tr>
<tr>
<td>106:16</td>
</tr>
<tr>
<td>pressing 12:12</td>
</tr>
<tr>
<td>12:12 34:17,17</td>
</tr>
<tr>
<td>43:13,13 57:1</td>
</tr>
<tr>
<td>57:1 67:13,13</td>
</tr>
<tr>
<td>75:10,10 94:9</td>
</tr>
<tr>
<td>94:9</td>
</tr>
<tr>
<td>pretty 74:21</td>
</tr>
<tr>
<td>prevail 36:16,17</td>
</tr>
<tr>
<td>36:19,20,22</td>
</tr>
<tr>
<td>42:5 50:10</td>
</tr>
<tr>
<td>56:9</td>
</tr>
<tr>
<td>prevailing 36:8</td>
</tr>
<tr>
<td>50:1</td>
</tr>
<tr>
<td>prevalence 36:8</td>
</tr>
<tr>
<td>42:13 50:2</td>
</tr>
<tr>
<td>previous 38:7,9</td>
</tr>
<tr>
<td>38:18 49:16</td>
</tr>
<tr>
<td>51:4 52:15</td>
</tr>
<tr>
<td>87:21</td>
</tr>
<tr>
<td>previously 34:2</td>
</tr>
<tr>
<td>51:17 52:3</td>
</tr>
<tr>
<td>70:7 78:19</td>
</tr>
<tr>
<td>101:6 113:22</td>
</tr>
<tr>
<td>primarily 7:13</td>
</tr>
<tr>
<td>11:3 91:15</td>
</tr>
<tr>
<td>primary 6:13</td>
</tr>
<tr>
<td>9:8,12 10:20</td>
</tr>
<tr>
<td>14:15 15:21</td>
</tr>
<tr>
<td>17:7 90:8</td>
</tr>
<tr>
<td>Prince 31:9 40:9</td>
</tr>
<tr>
<td>54:10</td>
</tr>
<tr>
<td>public 3:12,17</td>
</tr>
<tr>
<td>4:4,6,7,8 7:17</td>
</tr>
<tr>
<td>100:14,19,20</td>
</tr>
<tr>
<td>101:11</td>
</tr>
<tr>
<td>4:4,6,7,8 7:17</td>
</tr>
<tr>
<td>106:19 113:3</td>
</tr>
<tr>
<td>111:6</td>
</tr>
<tr>
<td>117:4,16</td>
</tr>
<tr>
<td>purchased 104:4,6 106:12</td>
</tr>
<tr>
<td>purpose 10:9,11</td>
</tr>
<tr>
<td>62:15 69:9</td>
</tr>
<tr>
<td>109:5 113:14</td>
</tr>
<tr>
<td>purposes 9:12</td>
</tr>
<tr>
<td>put 28:4,17</td>
</tr>
<tr>
<td>96:10 109:21</td>
</tr>
<tr>
<td>puts 91:19</td>
</tr>
</tbody>
</table>

<p>| Q |
| qualify 91:9 |
| quality 75:22 |
| question 28:1 |
| 32:15 41:12 |
| 66:9 88:9 |
| 91:12 107:17 |
| questions 6:21 |
| 11:13,17,19,20 |
| 11:21,22 12:1 |
| 12:3,5,6 13:20 |
| 32:11 34:4,5,6 |
| 34:7,8,9,10,11 |</p>
<table>
<thead>
<tr>
<th>Page 134</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>100:19</strong></td>
</tr>
<tr>
<td><strong>site</strong> 15:8 32:17</td>
</tr>
<tr>
<td><strong>Sitting</strong> 3:4 6:3</td>
</tr>
<tr>
<td><strong>smaller</strong> 80:2</td>
</tr>
<tr>
<td><strong>sounds</strong> 96:17</td>
</tr>
<tr>
<td><strong>speak</strong> 4:11 12:8</td>
</tr>
<tr>
<td><strong>special</strong> 28:2</td>
</tr>
<tr>
<td><strong>speak</strong> 4:11 12:8</td>
</tr>
<tr>
<td><strong>speak</strong> 4:11 12:8</td>
</tr>
<tr>
<td><strong>special</strong> 28:2</td>
</tr>
<tr>
<td><strong>specific</strong> 118:18</td>
</tr>
<tr>
<td><strong>suggested</strong> 45:1</td>
</tr>
<tr>
<td><strong>suit</strong> 95:5</td>
</tr>
<tr>
<td><strong>suitable</strong> 27:16</td>
</tr>
<tr>
<td><strong>suitably</strong> 10:8 17:1 65:9</td>
</tr>
<tr>
<td><strong>suffered</strong> 106:11</td>
</tr>
<tr>
<td><strong>suitable</strong> 36:7</td>
</tr>
<tr>
<td><strong>suitable</strong> 36:7</td>
</tr>
<tr>
<td><strong>suitable</strong> 36:7</td>
</tr>
<tr>
<td><strong>suitable</strong> 36:7</td>
</tr>
<tr>
<td><strong>suitable</strong> 36:7</td>
</tr>
<tr>
<td><strong>suitable</strong> 36:7</td>
</tr>
<tr>
<td><strong>suitable</strong> 36:7</td>
</tr>
<tr>
<td><strong>suitable</strong> 36:7</td>
</tr>
<tr>
<td><strong>suitable</strong> 36:7</td>
</tr>
<tr>
<td><strong>suitable</strong> 36:7</td>
</tr>
<tr>
<td><strong>suitable</strong> 36:7</td>
</tr>
<tr>
<td><strong>suitable</strong> 36:7</td>
</tr>
<tr>
<td><strong>suitable</strong> 36:7</td>
</tr>
<tr>
<td><strong>suitable</strong> 36:7</td>
</tr>
<tr>
<td><strong>suitable</strong> 36:7</td>
</tr>
<tr>
<td><strong>suitable</strong> 36:7</td>
</tr>
<tr>
<td><strong>suitable</strong> 36:7</td>
</tr>
<tr>
<td><strong>suitable</strong> 36:7</td>
</tr>
<tr>
<td><strong>suitable</strong> 36:7</td>
</tr>
<tr>
<td><strong>suitable</strong> 36:7</td>
</tr>
<tr>
<td><strong>suitable</strong> 36:7</td>
</tr>
<tr>
<td><strong>suitable</strong> 36:7</td>
</tr>
<tr>
<td>382-square-foot 104:8</td>
</tr>
<tr>
<td>39 2:17 103:7,10</td>
</tr>
</tbody>
</table>

| 4 | 4 6:20 12:21 4.32(g) 33:6 4.52 10:11 40 2:11 |
| 45-degree 45:3 | 8.22-1 78:6 8.22.1 100:16 8.22.2 100:12 8.221 69:17 8.222 69:13 8.222d 78:3 |
| 47:13 | 8:00 79:20 84:2 |
| 49 33:6 | 84:6 |

| 5:00 21:19 22:7 24:13 26:13 82:15,18 | 8:21 103:2 812:15 |
| 53 67:18 | 831 1:5 |
| 54 2:12 | 84 2:16 |
| 5G 56:12 |

| 24:10,12 26:10 26:12 81:19 | 21:13,15,19 22:8,10,19 |
| 82:8,10 | 24:10,12,14 |
| 6:04 6:2 | 25:3 26:10,12 |
| 6:19 19:2 | 26:14 27:6 |
| 6:22 24:2 | 34:17 43:13 |
| 6:24 26:2 | 57:1 67:13 |
| 6:29 30:8 31:2 | 75:10 94:9 |
| 6:30 30:6,10,11 | 955 2:10 31:7,15 |
| 6:45 40:2 | 33:20 |
| 64 2:13 | |
| 65 65:1 | |