BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY MAY 19, 2022
6:00 p.m.
Remote Meeting
via
831 Massachusetts Avenue
Cambridge, Massachusetts 02139

Brendan Sullivan, Chair
Jim Monteverde, Vice Chair
Constantine Alexander
Slater W. Anderson
Wendy Leiserson
Laura Wernick
Matina Williams
Jason Marshall

City Employees
Olivia Ratay, Zoning and Building Associate

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P R O C E E D I N G S

* * * * *

(6:00 p.m.)

Sitting Members: Brendan Sullivan, Wendy Leiserson, Jim Monteverde, Laura Wernick, Slater W. Anderson, Matina Williams, and Jason Marshall

BRENDAN SULLIVAN: Welcome to the May 19, 2022 meeting of the Cambridge Board of Zoning Appeal. 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 May 27, 2020.

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 might change based on the number of speakers, at the discretion of the Chair.

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

OLIVIA RATAY: Jim Monteverde?

JIM MONTEVERDE: Present.

OLIVIA RATAY: Slater Anderson?

JIM MONTEVERDE: Here.

OLIVIA RATAY: Wendy Leiserson?

WENDY LEISERSON: Present.

OLIVIA RATAY: Laura Wernick?

LAURA WERNICK: Present.
OLIVIA RATAY: Gus Alexander?

CONSTANTINE ALEXANDER: Present.

OLIVIA RATAY: Brendan Sullivan?

BRENDAN SULLIVAN: Present and audible.

There are a number of continued cases for tonight. The first case -- the order of the events for the continued cases is we will hear, 30 Cameron first. We will go to 133 Fayerweather Street second. Third on the agenda will be 38 Mt. Pleasant Street, fourth on the agenda will be 213 Harvard Street, and fifth on the continued will be 204 Fayerweather Street, so that you can plan your next few minutes.
Sitting Members: Constantine Alexander, Brendan Sullivan, Jim Monteverde, Laura Wernick, and Jason Marshall

BRENDAN SULLIVAN: The Board will hear Case No. 154682 -- 30 Cameron Avenue. Yes, good evening, Madam Chair, and Members of the Board. My name is Attorney David Gluck (phonetic), on behalf of 30-32 Cameron Ave, LLC, with regards to what was originally an application for a dimensional variance under Article 5, Section 5.31.

If you remember previously, as it related to this property, which is two-story, four-family residential dwelling, which has six parking spaces on site, the initial proposed build that was subject to the initial application.

It had a request for an additional third floor to add living space to be added to the top two units, Units #3 and #4, as well as additional floor space in a basement to accommodate the first and second units that were located on the first floor.

Since that time, the plans which have been submitted to the Board have been modified. The third-floor
portion of the proposed build has been -- has essentially been terminated, and the interest here is to move forward with the demolition and renovations of the first and second floor of the property, and the four units, as well as to move forward, if I may -- I don't know if I can have access to show the in-plan, if I may share my screen?

So if you go down to the second -- this is the renovation construction at 30 Cameron Ave -- the second screen, #2.

Just bringing you to this, essentially in the basement the idea would be to have two windows facing the street side to renovate an area for a utility room in the rear of the dwelling, as well as storage in the front, and then to provide for two bathrooms in the basement as well.

So the idea would be -- and actually, if I can direct your attention down to Tab #5, or Screen #5, bringing you down to the basement level, you'll see that between the top of the plate and the top of the subfloor, it's roughly 6 feet 11 inches for the height of the basement.

The idea here, and for the Board's consideration would be to have an area that could accommodate those two units on the first floor for Unit #2 and #3 that would fall
within a possible -- or fall within an exemption in the Article 2 of the definitions, identifying gross floor area, and what it does include and what it doesn't include.

In this case, it states that "Gross floor area shall not include any basement or cellar living space in any other type of structure with the issuance of the special permit.

"In granting such a special permit, the permit granting authority may approve the exemption of a portion of gross floor area located in the basement or cellar from a calculation of GFA, provided the permit granting authority finds that the use is occupying such exempted GFA support the character of the neighborhood or district in which the applicable lot is located."

At the present time, the gross floor area of the dwelling is 3416 feet. The lot area is 5415 feet. What we're seeking in modifying this build is essentially to seek relief per -- could be a special permit -- in order to have an exemption and maintain the same gross floor area, as I imagine many other residential dwellings in Cambridge do, in order to allow for some extra additional space, as well as to accommodate the utility rooms in the [16:18 audio
CONSTANTINE ALEXANDER: This is Gus Alexander, member of the Board.

DAVID GLUCK: Sure.

CONSTANTINE ALEXANDER: The fact -- the petition is for a variance. That's what we have, a request for a variance. What are you talking about a special permit for?

DAVID GLUCK: So we -- we're looking to switch from a variance, and not move forward on a variance for additional gross floor area.

CONSTANTINE ALEXANDER: I'll defer to the Chair, but I think you have to readvertise and start all over again. You just can't come to the hearing with a case that's supposed to be a variance, and on the fly ask us to change it with a special permit.

Sorry. In my view, anyway.

BRENDAN SULLIVAN: Attorney Gluck, well, there's a couple issues that I have: number one that I received the new drawings on Monday. And I reviewed them Monday and the -- actually Tuesday.

And I guess the question I have, well what are they asking for? And because there was really no narrative
as to what the basement is going to be used for. So you can
obviously go to the drawing, you see that there's two
utility rooms and open space, two bathrooms and storage.

So it appears that it's going to be finished
storage space. Is that correct?

DAVID GLUCK: I mean, that -- as it would stand
now, it would essentially just be nonuse able space.

BRENDAN SULLIVAN: Okay. All right. So -- all
right, so I think you can do that as-of-right. You can
finish off the space and do it as-of-right. I believe that
you're already permitted for the two bathrooms, which --
again -- you can do as-of-right.

The other issue that I have is that if you're
asking for relief, and potentially it's special permit, that
you really need to refile --

DAVID GLUCK: Yeah.

BRENDAN SULLIVAN: -- for a special permit, as Mr.
Alexander said. The other issue is that if you want to say
continue with the variance request with a modified plan, à
la the one that's before us, which was filed on Monday then
we don't have a dimensional form reflecting the changes,
because you've eliminated the third floor.
And as per your presentation, the basement was never FAR, so that dimensional form -- the dimensional numbers are going to change, and yet a new submittal hasn't been changed.

So there seems to be some defect in the application, à la the new plan before us.

DAVID GLUCK: Thank you, Mr. Chair.

BRENDAN SULLIVAN: Am I clear?

DAVID GLUCK: Very clear. I think at this point it would just be a matter of if I'm -- you know, with this modified plan, it -- we're not looking to move forward on the variance.

However, what I would -- I think what we would like to do is to review, if necessary, an application, or to go forward with an application for a special permit if we need to.

BRENDAN SULLIVAN: Right. And again, the other --

DAVID GLUCK: This --

BRENDAN SULLIVAN: The other flipped coin of that -- flip of the coin on that is that if we were to continue with this application as -- you know, as a -- again, asking for a continuance and to modify this, Mr. Alexander cannot
be here until October.

You would probably be heard sooner on a new application for the special permit, if that would be appropriate, but also to bring the paperwork, the dimensional form up to, you know, proper standing, that's all, and have a proper application so that -- you know, again, going forward, these may be units sold, and the documentation has to be ironclad for potential buyers of the space.

DAVID GLUCK: Okay. So --

BRENDAN SULLIVAN: So we're asking, I think, for a -- let us continue this matter, all right?

And then I think what we need to do then is to have you guys huddle, and then in consultation with the Commissioner is to come back with a new application, à la either, well, you're going to need to resubmit the -- an appropriate dimensional form, anyhow.

DAVID GLUCK: Understood, yep.

BRENDAN SULLIVAN: Okay. So let me make a motion, then, to --

JIM MONTEVERDE: Mr. Chair, I think the proponent would like to be heard.
BRENDAN SULLIVAN: Yes, absolutely, Jim. Jim Monteverde?

JIM MONTEVERDE: No, I think the proponent is waving his hand on the screen.

BRENDAN SULLIVAN: Oh, I'm sorry.

CONSTANTINE ALEXANDER: On our screen.

BRENDAN SULLIVAN: Anybody want to be heard on this matter, Board members? No? Okay.

JIM MONTEVERDE: There's -- Mohammed Bellal is --

BRENDAN SULLIVAN: Okay.

JIM MONTEVERDE: -- waving his hand around.

JASON MARSHALL: Yeah, Mr. Chair, I see it as well. It looks like the applicant is asking to be heard.

JIM MONTEVERDE: Yeah, I can't tell if he's on mute, but --

DAVID GLUCK: There's two people with the same -- called in with the same --

JIM MONTEVERDE: Line.

DAVID GLUCK: -- line, it seems like. There's no audio. You're muted.

BRENDAN SULLIVAN: There's -- either that or they're on mute.
JIM MONTEVERDE: Right.

DAVID GLUCK: Now --

JIM MONTEVERDE: There we go.

BRENDAN SULLIVAN: Okay.

JIM MONTEVERDE: Mohammed, you can unmute yourself?

BRENDAN SULLIVAN: Mr. Bellal? He's on unmute.

JIM MONTEVERDE: Yeah, he's just got to unmute himself.

BRENDAN SULLIVAN: David, are you reaching him at all?

DAVID GLUCK: Yeah, he's --

BRENDAN SULLIVAN: Mr. Bellal, you're on mute, if it's okay --

DAVID GLUCK: His mic isn't working.

LAURA WERNICK: He has to say something. He hasn't said anything yet. Say something.

DAVID GLUCK: He is.

JIM MONTEVERDE: He is.

LAURA WERNICK: Okay, okay.

DAVID GLUCK: I'm not getting him.

LAURA WERNICK: I'm sorry, we cannot --
MOHAMMED BELLAL: I can see them only, but not hearing them -- Mr. David Gluck. Are you guys hearing me?

COLLECTIVE: Yes.

MOHAMMED BELLAL: Okay. Good afternoon, sir. And thank you everybody. Thank you for helping me out here. I just have -- I just have -- that is in my mind. My house is posted as a two-story building.

As my attorney explained already, I don't want to go on too long, but my -- I am feeling pain only one thing (sic): Across my house is the #45 house number, Cameron Ave. It's the same location.

They don't have that -- like I have, they get the approved extension without the zoning, they get the basement, pool, with the two bathrooms, two bedrooms, and I do not get even basement finished, need to go Zoning or need to go, or I can do it, I just don't understand what I have to do and they don't have to do, and why is I am looking --

BRENDAN SULLIVAN: I believe you're asking for relief under the Ordinance, and it appears that --

JIM MONTEVERDE: No, I don't think that -- I don't think it's the proponent who was just talking. Because he's still waving his hand.
BRENDAN SULLIVAN: Yeah. I don't know who --

DAVID GLUCK: That is the -- that's the architect, Lou Colton, who is here for a second.

BRENDAN SULLIVAN: All right. Let me make a motion, then, to continue this matter. It's going to have to be in October.

CONSTANTINE ALEXANDER: I think it's going to be --

BRENDAN SULLIVAN: October 6. Continue this matter until October 6, 2022, at 6:00 p.m. on the condition that the petitioner change the posting sign and maintain it for a period of 14 days prior to October 6. The design should reflect the new date of October 6, 2022, at 6:00 p.m.

Any new submittals regarding this petition should be in the file by 5:00 p.m. prior to the October 6 hearing.

By the Monday, by -- I'm sorry, that any new submittal be in the file by 5:00 p.m. on the Monday prior to the October 6 hearing.

On the motion, then, to continue this matter?

CONSTANTINE ALEXANDER: I vote in favor.

BRENDAN SULLIVAN: Jim Monteverde?

JIM MONTEVERDE: In favor.
BRENDAN SULLIVAN: Laura Wernick?

LAURA WERNICK: In favor.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: Yes, in favor of the continuance.

BRENDAN SULLIVAN: Yes, in favor.

[All vote YES]

BRENDAN SULLIVAN: The matter is continued until October 6. Okay, thank you very much.

DAVID GLUCK: Thank you.

BRENDAN SULLIVAN: Laura, thank you.
Sitting Members: Constantine Alexander, Brendan Sullivan, Jim Monteverde, Jason Marshall and Slater Anderson.

BRENDAN SULLIVAN: The Board will now hear Case No. 163050, 133 Fayerweather Street. Mr. Anderson?

DAN ANDERSON: Thank you, just got presenter status. Good evening, Mr. Chair, and members of the Board. I'm here on the continuance of 133 Fayerweather.

As per comments from the Board and neighbors, we went through a difficult redesign, extensive conversations with immediate abutters and "representage" (sic) of plans to previous neighbors.

Essentially, we heard very clearly that there was a sense that there was more FAR than was thought to be supported on the site, and that specifically any abutters were in objection to a full three -- third story to the structure.

So the presentation in front of us suggests a traditional gallbladder roof reconfiguration replacing the existing hip roof with a few dormers, and with the reduction...
in gross floor area from the previous presentation. The gable roof structures, the dormers and overall appearance of the house is very fitting with the neighborhood, very similar to the single-family structure directly across the 36 Fayerweather.

And interestingly enough, will, if approved, have the exact same FAR with its 0.87. So we saw increase in asking for relief from GFA.

We're not asking for any change in height. It's fully conforming. It's conforming to front and rear yard setbacks, and we have an increase, although be it a decrease from the previous application, but the gable roof ends on the two sides are an increase in area in those nonconforming setbacks.

And we still have a change in windows, which I think are appropriate. They remove some larger, double windows that were facing into abutters' yards.

We did have a couple letters of support that were submitted, but I think in review with Mr. Donton (phonetic) behind and the owners at 127, while they appreciated the changes and felt that it was a better fit for the neighborhood, we still did not gain their full support, but
we're here back with our best foot forward presenting this
as an amended, revised request for a special permit.

CONSTANTINE ALEXANDER: Mr. Anderson?

DAN ANDERSON: Yep.

CONSTANTINE ALEXANDER: Mr. Alexander on the
Board. I'm looking at the dormers. And there are two 15-
foot-wide dormers, both on the same side of the building.

DAN ANDERSON: Yeah.

CONSTANTINE ALEXANDER: Under our Dormer
Guidelines, unless I'm mistaken, you have to aggregate those
two. And so you have 30 feet of dormers, when the Dormer
Guidelines say you cannot have more than 15 feet. Am I
mistaken?

DAN ANDERSON: No, you may be correct. I guess
the application -- and those, we could make a modification.
They seem to be in better scale with the building, but if we
needed to reduce those to conform with the Dormer
Guidelines, we'd be happy to.

Otherwise, I guess the expectation was that we'd
be asking -- I don't believe that there is a variance
required or -- with that modification be allowed under the
special permit, should you feel that it's fitting.
CONSTANTINE ALEXANDER: Speaking only, obviously, for myself, I would be much more comfortable and much more likely to vote in favor should you reduce the size of the dormers, with the result that there's one -- there's only 15 foot of dormer, width of dormer, not 30 feet.

It's too -- to me, it's too great a departure from the Dormer Guidelines, although I understand the architectural reasons why you designed it as you have.

DAN ANDERSON: Understood and appreciated. Thank you.

BRENDAN SULLIVAN: Any other questions by members of the Board? Who's sitting on this case?

JIM MONTEVERDE: Just to expound on Mr. Alexander's comments, I would agree with Mr. Alexander that if we can agree that the dormers will be reduced in size, so they're an aggregate of no more than 15 feet, I could support the balance of the proposal.

Okay. Slater Anderson?

SLATER ANDERSON: Yeah, I concur with that opinion. Okay. Who else is on, Wendy?

WENDY LEISERSON: I have no questions.

BRENDAN SULLIVAN: I may differ on this, even
though I would not -- I would differ, but not oppose your request for reducing of it.

This harkens back to a case oh, maybe a year or so ago, where we had basically two units -- one unit already had a 15-foot dormer that was granted.

The second condo unit shared the third-floor roof area underneath it, and wanted to put their dormer à la next to complement the neighborhood, and we wrestled with that. That precipitated me to actually reach out to the Planning Board and said that this was somewhat of a unique case; that if it was a single house, we would probably not allow 30 feet of dormer on one side or the front or the back or something like that, and it came back that probably.

However, this is a little bit different, because we basically have two units -- two townhouses, if you will, side-by-side. And that, you know, how does a 15-foot-dormer where now one side is only going to have seven-and-a-half feet, and the other side is only going to have seven-and-a-half feet...

And does that make sense to the interior of the building, and the functionality of a building when you've only got a dormer that is seven-and-a-half-feet wide, as
opposed to one that number one, I think fits the building architecturally, and also functionally?

So I think it has a good form, and I think that it functions well. So that would be my thought on that, anyhow. So --

CONSTANTINE ALEXANDER: Could we hear from Mr. Anderson what his views are and your comment? If you had seven-and-a-half-foot dormers rather than two 15-foot dormers, what would be the eff in terms of the floor layout and the usability of the building, with regard to the third floor?

DAN ANDERSON: So they could in fact be reduced. It would -- I'm not sure whether seven-and-a-half feet would be the exact number that I would pick. I understand that it's half of the 15.

For functional reasons, those dormers probably could be reduced by about three feet without impacting the layout of the proposed floor plan, if that were acceptable. That would be a pretty easy modification to make.

I guess my question would be one of order, which is could this be approved conditional on that? I understand the time constraints, and would like ideally not to continue
it, but if there is an opportunity to say that the dormers, rather than being 15 and -- length were 12 feet in length, that would certainly support the interior layoff, and I think still be in keeping with the architectural style that we were trying to achieve from the exterior.

JIM MONTEVERDE: Well, just an observation, I'm looking at -- Dan, your sheet A1.2?

DAN ANDERSON: Yes.

JIM MONTEVERDE: The third-floor plan, and I don't know that I follow that logic, looking at how the spaces are configured. Yeah, it's over on the right-hand side.

DAN ANDERSON: Sure.

JIM MONTEVERDE: In other words, the sleeping area doesn't use the dormer, there's a chair in the dormer. The bedroom in total -- I can't tell the dimensions of the bedroom in total, with or without the dormer, but this doesn't seem to suffer if the dormer is -- in terms of function or functionality -- if those dormers are reduced to -- I mean, pick a number, whether it's seven-and-a-half feet or something -- some other number.

But there's -- I'm not following the argument that -- because the space looks fully functional. There's -- I'm
not following the argument that -- because the space looks fully functional, almost without the dormer.

DAN ANDERSON: Sure. So this is Dan Anderson. Yeah, I guess what I was looking at was saying that the removal of that space where the chair sits and flushing up the inner side of the dormer, inner cheek wall of the dormer --

JIM MONTEVERDE: Yeah.

DAN ANDERSON: -- with the closet would effectively keep the same layout functionally without large detriment. But you are correct, it could come in further. The cheek walls could come in a bit more from the sides as well. So it is somewhat arbitrary. I just was picking three feet as being about the distance that that --

JIM MONTEVERDE: Right.

DAN ANDERSON: -- that that took up. So no argument. Again, if it was acceptable to be at seven-and-a-half feet, I'm quite sure we can make that work out. I think that we might -- we definitely would in either case lose one window.

JIM MONTEVERDE: Right.

DAN ANDERSON: Yeah.
SLATER ANDERSON: I was going to the same place. I actually had that same plan up on my screen, and yeah. I think if you aligned with the two windows -- so, you know, I think proportionate and centered, it is going to be more than three feet.

But I think seven-and-a-half, to Brendan's point, I kind of agree with that. Like, it seemed like kind of a limited amount of space to have much function.

So whatever that comes out to be, whether that's four feet or whatever, I'm amenable to reduction on both sides, and each dormer down to -- you know, somewhere between eight to 10 feet on each dormer, it sounds like. Maybe 10 to 12, sorry. 10 to 12 is probably each dormer.

So you have two windows -- 

DAN ANDERSON: Yes.

SLATER ANDERSON: -- as you described, yeah.

DAN ANDERSON: Thank you. I think that's absolutely achievable, and I'd be at the discretion of the Board to say if they're -- you know, are they two 12-foot dormers or two, we're more than happy to be complying.

BRENDAN SULLIVAN: I'd say possibly two 12-foot because if we take that three-foot where the chair is away,
square that off and then you're back to 12 feet for that
dormer, that does that seem acceptable?

DAN ANDERSON: Yes, that does.

CONSTANTINE ALEXANDER: I'd like to hear from
other members of the Board on that. Jim, how do you feel
with regard to 12-foot dormers, or would you like smaller
dormers, for the reasons you expressed earlier?

JIM MONTEVERDE: Yeah, I could still -- I still see the
validity for the smaller window. I mean, seven-and-a-half
feet or whatever, seven-and-a-half feet probably gives you
enough length for a couch or some other furnishing set up
there.

But I could go along with the rest of the Board if
there's a sentiment that they could be slightly larger, but
I'm kind of comfortable at the seven-and-a-half or around
that number.

BRENDAN SULLIVAN: Yeah, Jim, what about the
headroom, though? I mean, you're taking -- you know,
obviously in the front --

JIM MONTEVERDE: Yeah, I know. Oh, I'm looking --
yeah. I'm just looking at the way the -- again, the plan --
I mean, I'm taking the plan that from, you know, from -- on
either side of the bed there seems to be -- and I can't tell
in the section, but whether that's all -- you know, full
height space that you could walk around, and it just looks
like a generous amount of space.

And I don't think that the dormer by itself is
contributing really to the livability. It's a nice feature,
and I don't deny that, and I think the smaller size would
work.

So -- but I don't want to hold us up. So if
anybody else feels -- the Board feels around a 10-foot
dormer on each side will work, well, then, I could do that
just to reach a conclusion.

CONSTANTINE ALEXANDER: I would support 10-foot
dormers.

JIM MONTEVERDE: Okay.

CONSTANTINE ALEXANDER: 10-foot in width each
dormer. If the petitioner will accept that, I think for me
it's a go.

DAN ANDERSON: Thank you. That is entirely
acceptable.

CONSTANTINE ALEXANDER: I'm sorry?

DAN ANDERSON: Agreed, and it is entirely
acceptable.

CONSTANTINE ALEXANDER: Okay.

BRENDAN SULLIVAN: Wendy, your thoughts?

WENDY LEISERSON: I'm going to defer to the more experienced Board members here, and if you find 10 feet acceptable, I would be fine with that.


SLATER ANDERSON: Yeah, that's fine.

BRENDAN SULLIVAN: Okay. 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 we'll ask that you speak for three minutes or less.

There appears to be nobody calling in by phone, then there was no current -- I'm sorry, there is one person calling in.

OLIVIA RATAY: Adam Soroca.

ADAM SOROCCA: Well, Board, I'll just speak on behalf of the abutters. I understand the direction you're
headed, but the abutters do not support the third floor in any way, shape, or form. I understand you're looking to reduce the dormers.

I speak for the 127-129 Fayerweather, as well as Mr. Jerry (phonetic), behind. There was just no support from the abutters on a third floor.

I definitely appreciate that, you know, the applicant changed the look and feel. That was welcome, but this idea of a third floor was not okay. So go ahead on record with that.

BRENDAN SULLIVAN: Thank you for your comments. And that is that sum and substance of any call-in, and a correspondence. So I will close public comment, and take it back to Dan. Any further comments, dan?

DAN ANDERSON: So I appreciate Adam's participation, we have made every effort to respond. I think in our field that a half story was a reasonable accommodation, given the attempt to make this building feel a little bit more of a fit for the neighborhood.

Obviously, we're asking for a little bit of additional living space, but really not much more to add.

Thank you.
BRENDAN SULLIVAN: Thank you. All right, members of the Board, Mr. Alexander?

CONSTANTINE ALEXANDER: Well, I'm a little bit puzzled by the height issue, which is all of a sudden -- third floor, which all of a sudden has arisen. I'm very comfortable with the reduced dormer size, and make it a condition of relief, should we vote for it.

But the height -- I mean, the building is going to meet the zoning requirements of our city. We're not supposed to be more than 35 feet high; they will have the form in, you've got what is being proposed is what, 32, 33 feet?

BRENDAN SULLIVAN: Thirty-four.

CONSTANTINE ALEXANDER: 34 feet. I have a problem not granting relief, with regard to the height of a building that complies with a variance, unless I have some more evidence, and I don't have it.

So long way of saying I intend to vote in favor of granting the requested variance on the condition that the dormers on the third floor -- each of the dormers on the third floor -- be no wider than 10 feet.

BRENDAN SULLIVAN: Okay. Wendy, your thoughts,
WENDY LEISERSON: Yes, I understand Mr. Alexander's legal point there, and concur with that with regard to height. And I wish we could hear more with regard to the neighbors' opposition to understand if it's simply the height, or if it's because the requested FAR has to go into the third story, if that's what they're talking about. Because we are significantly increasing the gross floor area, which I understand is, you know, already nonconforming, but I wish I had an understanding of more of the nuances of the neighbors' opposition with this redesign.

BRENDAN SULLIVAN: Okay. I don't know how we can address that adequately. It is over the GFA now, and it's 0.64 going to a 0.87, and in a 0.5 zone. Dan, how much does the third floor add if you have that number?

DAN ANDERSON: Yes, so we are at -- if I can pull up my -- so it ends up being, I believe, roughly a 30 -- well, 0.5 to 0.87. I think that it is a delta of 0.37 percent.

So, you know, I think that the challenge here was that it's a very -- the existing roof is a very low hip roof, which does not have any GFA. So it's fairly atypical.
We initially looked at just say, hey, could we reconfigure that roof and add dormers as a first pass, but because there's not even existing sufficient headroom, the adding a dormer didn't work.

So our -- the first directive that I had been given was to say, well, what would be the possibility of finding additional gross area, and obviously we came back with a scheme that was not happy for the neighbors that I think the Board members expressed reasonable objection or speculative thoughts about.

And so we -- in trying to address my dual demands of my client looking and asking me to create a, you know, three-bedroom layout for a house like this, and all the programmatic pieces that I was asked to, and with the request of the neighbors to have an a more traditionally formed, architecturally appropriate style to the neighborhood. This is where we ended up.

As I said previously, this building ends up being very similar in style now to 136 Fayerweather across the street, and ends up with exactly the same FAR of 0.87.

So we're in a neighborhood where there are already, I'd say the majority of the houses are over the
0.5, and so I kind of look to the Board to say does this overall project seem to fit the criteria of the special permit to be not out of character with the zoning and characteristics of the neighborhood.

BRENDAN SULLIVAN: Okay.

DAN ANDERSON: So I think what I'm suggesting is that it's a good fit.

WENDY LEISERSON: So I'm just looking back at the minutes from the last meeting when, you know, the neighbors -- more neighbors were on the line.

And I see Slater, one of your concerns was -- or one of your observations was with regard to the impact of the sun study on the rear neighbors. And I wonder if, Slater, if your concern has been mollified by the new design?

SLATER ANDERSON: Thanks for reminding me of that. My reaction from looking at the old design to the new design was that there was a lot of volume reduced on the third floor with the half story. So I'm not as concerned about that now, but I -- Dan Anderson's welcome comment on it.

DAN ANDERSON: Yeah. So thank you for that. We did update the sun shadow studies, and I think that they're
included in the packet. I think that we'd happily look at that, it's at the end of the packet, probably slide 15, 16, somewhere around -- actually 18 and 19. We do have reduced sun impact in the new.

And the one piece that I point out, it's not typical for our sun shadow studies to include trees. But there are three or four very large trees which are placed in accurate positions at the rear, which particularly in, you know, between basically May and October, impact those shadows, particularly to the rear abutters significantly.

But otherwise, you know, I think that it falls really with minimal increase over the existing.

The other piece that -- we did do some street views before and after, which are -- if you look at Slides 16 and 17, you can see from the streetscape the relative impact of size and scale, particularly vis-à-vis 127, 129, which kind of towers over our structure.

If you go to Slide 17, it shows the proposed in scale.

So the increased ridge height is really forward towards Fayerweather Street and away from Chilton, so there's really some impact, but very, very limited impact of
that proposed roof profile.

WENDY LEISERSON: Thank you for explaining the reduced impact of the sun study. I don't think I have any further questions at this moment.

BRENDAN SULLIVAN: Okay. Slater, your thoughts?

SLATER ANDERSON: Yeah, no, I go to Gus's comment, which we've seen often, which is that -- you know, the issue of the third floor is someone could build a third floor by right here at a lower FAR.

So, you know, I don't think the height is a reason to oppose the proposal. I think it's a reasonable improvement.

A 0.87 in a B District over two units is not -- we've seen this, you know, it seems to fit proportionally in the pattern of the street, and so I'm fine with it.

BRENDAN SULLIVAN: Okay. Jim Monteverde?

JIM MONTEVERDE: I concur. I'm comfortable with it, with the reduced dormers and seeing the photographs and I think it's a reasonable fit in the neighborhood, both its adjacent neighbors and what appears in the other photos across the street.

So I can support it, with the condition that the
dormers be reduced.

BRENDAN SULLIVAN: Let me make a motion, then, to grant the relief requested as per the application, according to statements and the dimensional form as submitted.

The Board finds that it appears that the requirements of the Ordinance cannot be met without the granting of the special permit.

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.

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, in fact the Board finds that the new design, the interior layout of the -- I'm going to say it's the new construction -- that the amenities of the structure will be up to date, and it will increase the
health and safety of the occupants.

And 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 housing for all income groups and a safe environment, as and that the updating of systems in the new construction will be of benefit to any occupant.

Additionally, under 8.22d, in all likelihood districts the Board of Zoning Appeal may grant a special permit for the alteration or enlargement of a preexisting dimensionally nonconforming, detached single-family dwelling or a two-family dwelling, but not the alteration or enlargement of a nonconforming use...

Provided that there is no change in use, and that any enlargement or alteration of such preexisting, nonconforming detached single-family dwelling, not otherwise permitted in 8.221, not the alteration or enlargement of a preexisting nonconforming use...

Provided that there is no change in use, and that any enlargement or alteration of such preexisting, nonconforming detached single-family or two-family may only increase a preexisting dimensional nonconforming conformity,
but does not create a new dimensional nonconformity.

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

The Board finds that the granting of the special permit is contingent on the fact that the two dormers as shown shall be reduced not to exceed 10 foot in length each; that also that the petitioner and architect furnish a new dimensional form reflecting such changes in the drawings.

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

CONSTANTINE ALEXANDER: I vote in favor, based on the condition you propose, that the dormer -- each of the two dormers -- will not be more than 10 feet wide.

BRENDAN SULLIVAN: Wendy Leiserson?

WENDY LEISERSON: In favor, with the same condition.

BRENDAN SULLIVAN: Jim Monteverde?

JIM MONTEVERDE: In favor, with the same
condition.

   BRENDAN SULLIVAN: Slater Anderson?

   SLATER ANDERSON: In favor with just a minor
   clarification that Brendan said; there will be an updated
   dimensional form, there will be updated plans as well.

   Thank you. Brendan Sullivan yes to granting the special
   permit.

   [All vote YES]

   Five affirmative votes, the special permit is
   granted with the conditions. Thank you, Mr. Anderson.

   DAN ANDERSON: Thank you. Have a good evening.

   SLATER ANDERSON: Thanks, everybody, bye.

   CONSTANTINE ALEXANDER: Bye, Slater.
Sitting Members: Constantine Alexander, Brendan Sullivan, Jim Monteverde, and Wendy Leiserson

BRENDAN SULLIVAN: The Board will now hear Case No. 149665 -- 38 Mount Pleasant Street.

CONSTANTINE ALEXANDER: Mount Pleasant.

BRENDAN SULLIVAN: Yeah, it's the old one. It's the special permit. The Board is in receipt of correspondence sent to Maria Pacheco from Attorney Chris Alphen.

"At a minimum, we would seek a continuance. There was a small chance the applicants would modify the plan and would want to be heard at a July hearing. I will submit a formal request for a continuance, or you can accept this e-mail as a request for the same. We will accept this e-mail as the same."

On the motion, then, to continue this matter until July 14? This matter will be heard -- will be rescheduled to be heard on July 14, 2022 at 6:00 p.m. or later, on the condition that the petitioner change the posting sign to reflect the new date of July 14, 2022 at 6:00 p.m.; and that
be maintained for 14 days prior to the July 14 hearing.

Also, that any new submittals pertinent to this particular application be in the file by 5:00 p.m. on the Monday prior to the July 14 hearing.

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

CONSTANTINE ALEXANDER: I vote in favor of that. I'll make the observation that I will not be able to attend that hearing. So there will only be four members sitting on the case.

BRENDAN SULLIVAN: Okay. Jim Monteverde?

JIM MONTEVERDE: I vote in favor of the continuance.

BRENDAN SULLIVAN: Wendy Leiserson?

WENDY LEISERSON: In favor of the continuance.

BRENDAN SULLIVAN: And Andrea, I'm not sure if you're on the -- she is not. Brendan Sullivan voting in favor.

[All vote YES]

On the four affirmative votes to continue, the matter is continued until July 14.
(6:50 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Wendy Leiserson, Jason Marshall and Matina Williams

BRENDAN SULLIVAN: The next matter to be heard is 213 Harvard Street, BZA Case No. 154221. I need you for a minute, that's all. There is correspondence in the file from Minkoo Kang, M-i-n-k-o-o K-a-n-g, regarding 213 Harvard Street continuation.

"Dear Maria and Ranjit Singanayagam, I am requesting a continuance of the zoning hearing relating to 213 Harvard Street. We are on the docket for May 19, and would like to request to be put on a later date. Please let me know if you have any other questions or concerns.

"Thank you. Best,
Minkoo Kang."

There is a request to be -- to continue this matter. There's also in the file correspondence from Pankaj Mehta, and Nicole Aschkoff.

"Dear BZA, we are residents of 217 Harvard #3R. We would like to speak regarding the hearing of Case No.
"We have previously submitted detailed comments. Despite repeated requests for meetings, we have been unable to discuss our concerns with 213 regarding the new plans for the last five months. For this reason, we would appreciate if the BZA could look at our prior submissions and we could address the Board directly. Thank you for your time."

I'm not sure if Pankaj and Nicole are on the line. They've asked for a continuance, and so we're not going to open up the case tonight for discussion on the merits of the case.

All I can say is that you really need to have a correspondence with the petitioner, and that we will at the continued date, then any of the comments that you have will then be heard.

We are going to continue this matter to?

OLIVIA RATAY: July 28.

BRENDAN SULLIVAN: This matter is going to be continued to July 28 continue this matter to July 28, 2022, at 6:00 p.m. on the condition that the petitioner change the posting sign to reflect the new date of July 28, 2022, at 6:00 p.m., and it be maintained for a period of 14
days prior to the July 28 hearing.

Also, that any new submittals not currently in the
file be submitted by 5:00 p.m. on the Monday prior to the
July 28, 2022 hearing.

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

JIM MONTEVERDE: I vote in favor of the continuance.

BRENDAN SULLIVAN: Wendy Leiserson?

WENDY LEISERSON: I vote in favor of the continuance.

BRENDAN SULLIVAN: All right. Who else is sitting? Huh? Laura? I don't think Laura's --

JIM MONTEVERDE: I don't think she's here.

JASON MARSHALL: Mr. Chair, I think it's me and Matina.

BRENDAN SULLIVAN: Jason?

JASON MARSHALL: And Jason Marshall, yes, in favor of the continuance.

BRENDAN SULLIVAN: Okay. Matina, are you on the line too?

MATINA WILLIAMS: Yes, I'm here.
BRENDAN SULLIVAN: Okay. Matina Williams on the motion to continue this matter?

MATINA WILLIAMS: I vote in favor of the continuance.

BRENDAN SULLIVAN: And Brendan Sullivan yes.

[All vote YES]

On the five affirmative votes, the matter is continued until what date did I say, July?

JIM MONTEVERDE: July 28.

BRENDAN SULLIVAN: 28. Thank you.
(6:55 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, and Wendy Leiserson, Jason Marshall, and Matina Williams

BRENDAN SULLIVAN: Okay. The next matter to be heard is Case No. 165060 -- 204 Fayerweather Street. I would just ask for Staff to give me the lineup. So it's Jim Monteverde, Wendy Leiserson, Jason, and Matina? Great.

[1:04:00 from the transcriptionist - thank you! This hugely helps, where the paragraph above always comes before we take the votes pages later, thank you very much!]

Case No. 165060 -- 204 Fayerweather Street. Mr. Rafferty?

JAMES RAFFERTY: Thank you, good evening, Mr. Chair, members of the Board. Pardon me on second. My apologies. For the record, my name is James Rafferty. I'm representing the applicants this evening, Tom and Keya Dannenbaum, D-a-n-n-e-n-b-a-u-m.

Mr. and Mrs. Dannenbaum purchased this house within the past year on Fayerweather Street. It's around the corner from their current home on Alpine Street. They
have been living in the neighborhood for several years.  
They're raising their two daughters here, and this is a home 
that they're very excited about making into their permanent, 
long-term residence.

They have a long attachment to the neighborhood, 
and particularly to the City of Cambridge. So this 
opportunity, as you know, comes about not too often in the 
current real estate market.

The Dannenbaums explored a number of approaches 
with the house, and the record of the case might reflect the 
fact that initially they did explore a removal of the house 
at the Historical Commission.

They altered their plans, and have decided to 
modify the existing house, and they have been at this 
process for an extremely long period of time, and I would 
suggest they have exemplified what might be considered the 
gold standard of abutter outreach.

They have hosted meetings at the property, they 
have gone door-to-door, they've done their best to explain 
to everyone what their proposal involves.

I think the best way to begin the proposal would 
be for us to take a look at the cover sheet of the plans
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A0.0, if it's possible for Ms. Ratay to place that? And on the left here, you see the site plan, the survey of the existing conditions.

It's a somewhat conventional two-family house found throughout this Res B neighborhood, with an asphalt driveway extending the length of the property to a two-car garage in the rear.

The house has two nonconformities. It exceeds the allowable FAR, and it also has nonconforming front setback. The applicant is seeking two special permits.

The first special permit under Section 8.22.2d is intended to allow for an expansion of the house, pursuant to the so-called Bellalta case that allows special treatment for one- and two-family properties, and requires a determination by the Board that the proposed plans are not substantially more detrimental to the neighborhood.

In this case, Mr. and Mrs. Dannenbaum are converting a two-family house to a single-family house. So the intensity of the use goes down just by the change in the number of dwellings.

And if we could go to the second drawing, I think it further explains it. Thank you. And after this
explanation, I'm going to defer to the project and architect, Mr. Kennard, and his staff.

But I just wanted to point out from a zoning perspective what's occurring here. And the site plan tells the story. Because, as I noted, there are two special permits that the applicants are seeking.

The first special permit involves an 8.22.2d special permit that will allow for alterations to a single-family house, for a nonconforming single-family house, provided that there are no new nonconforming conditions created.

The second special permit would allow for the conversion of the two-car garage to an accessory dwelling unit.

What's taking place from a site plan perspective here is also relevant to the findings the Board will have to be making ultimately about the impact on the neighborhood. You'll notice that the driveway that extends the entire length of the lot is essentially cut in half under this proposal.

The Dannenbaums will only provide parking space for one vehicle, since they only have one dwelling and
that's all that's required of them under the Ordinance.

It's also the case that what was previously an asphalt driveway will now become green open space, increasing the open space on the lot and the permeability on the lot.

You can see by this plan as well areas where existing portions of the house are being removed. They're depicted in yellow. So existing rear porches and footprints are being brought in.

The two areas in blue show where the footprint of this house is expanding. At the bottom of the page, the larger roof reflects the one-story mudroom addition to the property. It should be noted that the proposed mudroom is within the required setback.

In the opposite corner, there is a small, two-story addition that is also within the required setback. So what makes the case a special permit case is because the property -- the most significant change to this property is occurring at the third floor.

The house today would be described as a two-and-a-half story structure with an attic storage. The proposed addition to the third floor involves reconstructing the roof, and putting more gross floor area in the third floor.
In fact, most of the addition's square footage associated with the house is contained in the third floor.

I think at this point it might be appropriate for Mr. Dannenbaum -- excuse me, for Mr. Kennard -- to take you through those changes, both in elevation and floor plan, if that's deemed appropriate.

BRENDAN SULLIVAN: Yes, if you want to run through it quickly.

JAMES RAFFERTY: Right. So Mr. Kennard, the one last thing I should mention, the third floor does represent an increase in height of the structure. But it is below the allowable 35 feet in height. So dimensionally, there are no new nonconformities being created. And this represents an increase in GFA of the allowable FAR.

I'm sorry, are you -- is Joseph present?

JOSEPH KENNARD: Here.

JAMES RAFFERTY: Thank you. Maybe you could just quickly go through the elevations, particularly drawing the Board's attention to the focus you had on the side of the house facing the driveway, the fenestration and how the concerns about privacy from that abutter, which have been expressed to you through the process, manifested themselves
in your design.

JOSEPH KENNARD: Certainly. Hi, I'm Joseph Kennard with K and Tom Dannenbaum, residents. We just doubly, as Jim said, did a significant neighborhood outreach and a survey of about 54 houses in the neighborhood, and we also talked several times with the Historic Commission to best understand how we can fit in the neighborhood well.

So if you look at the front elevation drawings on here, I believe I can take control of that?

JIM MONTEVERDE: But if you could give a page number, Ms. Ratay would do that. There you go.

JOSEPH KENNARD: So yeah. Try -- I can't see the page, though, try page 9. There you go. The one you saw before is the superimposed or existing structure on the proposed structure.

But so the front façade was the area of focus to keep it contextual with the neighborhood, the key thing being you'll see these three bays on the first floor and three bays on the second floor, which you see on a lot of the porches in the neighborhood.

The open first-floor porch was very important, and you're seeing that where you're seeing the window C as our
setback, and the elevated entry porch. You'll see that consistent throughout the neighborhood.

We added about five feet in height to get the third-floor space to be usable, not too dissimilar to the one you were just looking at earlier on the agenda. We pushed it back.

You can see on that east elevation, we pushed that back 12 feet. Currently it sits about six feet back on the third floor, so six feet back. We pushed it back 12 feet, so that from the street it's not as imposing as it looks from this elevation.

I think there might be a perspective view that shows it better, if you scroll up to the earlier page? Yeah, right there, page 4. So you can see that center view proposal north how the third floor is reducing its impact by pushing it back that extra 12 feet.

On the side elevations, we can look at the overlay on page, let's see, 11? Yeah. So what you're seeing here is our attempt to make the side elevations, which have neighbors on each side less intrusive than they previously were. That large window up top is actually a stairwell, so it doesn't really look into a space, and the back windows
are pushed back an extra six feet or so from where the
structure currently is.

And if you go to the next page 12, you'll see a
similar thing on the west elevation. The dotted lines
represent the windows that are on there now, and open
porches, and then obviously the windows with the letters in
them show the current window configuration.

So our goal was to keep privacy for the neighbors,
better privacy than was there, and also for Kay and Tom to
enjoy their residence.

JAMES RAFFERTY: Thank you, Joseph. The second
aspect of the application involves a special permit, which
seeks to allow for the conversion of the accessory two-car
garage into a dwelling unit.

I know the Board is familiar with the provisions
of Article 4, that allow for the conversion to take place
within structures, provided that the envelope of the
existing structure is not expanded. That is the case with
this garage.

The floor plans of the apartment are further down,
maybe the last stages, if Ms. Ratay is able to go all the
way down there to the last page in this middle -- the last
drawing.

Oh, what is it, just 14?

JOSEPH KENNARD: 14, yes.

JAMES RAFFERTY: Fourteen, thank you. So to quickly explain. You can see the structure is nonconforming, accessory structure. But the design here involves no openings on the walls that face the side or the rear abutter, and the only opening would be occurring into the yard itself, where the homeowners' yard. So impacts of privacy would be literally nonexistent.

And the floor plan you can see in the bottom right here is a simple studio floor plan.

The accessory structure is intended to accommodate visiting grandparents. Both sets of grandparents do not live in the area. One actually does -- doesn't even live in the country.

And the idea here is not to have any type of a rental unit, per se, but to have a simple, studio-style apartment to allow visiting grandparents and family when they come long distances, intending to stay for a bit.

And so it's definitely intended to be accessory in the truest meaning of the word, not intended to be a short-
term rental, not intended to serve as a consistent apartment
for someone who would be living full-time in the space --
very much an accessory use used only occasionally when
family members would be visiting.

So it's for those reasons that we're seeking the
two special permits.

The special permit dealing with the main structure
of course is a reflection of the 8.22.2d case, and we
believe that the record in the case reflects that there's
extensive neighborhood support for this application. 14
neighbors have sent letters in support of the effort here,
and they are all contained in the file.

There is also a letter from a City Councillor who
is familiar with the neighborhood and many of the nearby
residents. And there's also, admittedly, a neighbor who has
corns. And the concerns are set forth in correspondence.
There has been efforts to address those concerns by the
applicant, and I just want to point out two things.

The chief concern that was noted in the
correspondence in the file from the abutter talks about the
most concern is health and environmental safety, and wants
assurances that measures will be utilized to control and
mitigate lead, asbestos, dust, and other toxic debris.

I've discussed this, both with Mr. Kennard and the owners, and they don't believe there is any toxic debris in house, but nonetheless, the Dannenbaums share that commitment to a healthy workplace here. So all efforts will be undertaken to make that happen.

The objecting letter also notes that there's an objection to the request to reduce the off-street parking by one. I just want to note there is no such request present in the application. The house, by turning it into a single-family need only provide a single parking space.

And the special permit that authorizes the accessory dwelling unit, as Board members probably know, do not require -- does not require a vehicle as well.

The final concern cited in the letter is that the existing privacy light and air that the open space between the two properties provides will be eradicated by the proposed mudroom bump out. The proposed mudroom bump out is within the setback. It is one story, and the author of the letter makes no mention of the expansion of the open space resulting from the reduction in size of the garage, which -- the size of the driveway, which I would suggest more than
mitigates any impact on open space and air and light that
the conforming mudroom might provide.

So for the reasons set forth in the application
based on plans submitted, we would request that both special
permits be approved by the Board.

BRENDAN SULLIVAN: Great. Thank you. Let me open
it to comments by the members of the Board. Jim Monteverde,
any comments?

JIM MONTEVERDE: No comments, thank you.

BRENDAN SULLIVAN: Wendy Leiserson, any comments,
or questions?

WENDY LEISERSON: No questions, and I appreciate
the careful consideration of and design to meet the
neighbors' concerns. Thank you.

BRENDAN SULLIVAN: Matina, any questions at this
time?

MATINA WILLIAMS: No questions at this time.

BRENDAN SULLIVAN: Jason Marshall?

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

BRENDAN SULLIVAN: I will 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 will have up to three minutes in which to comment.

OLIVIA RATAY: James and Siri McNulty?

BRENDA SULLIVAN: Mr. McNulty:

JAMES AND SIRI MCNULTY: Hi, hi, we're here.

Hello, hello. Can you hear us?

BRENDA SULLIVAN: Yes.

JAMES AND SIRI MCNULTY: Oh, okay. Okay, great.

Thank you very much. I'm Siri McNulty, and I'm here with my husband, James. And we own the property at 208-201 Fayerweather right next to the Dannenbaums. We just wanted to -- we put a lot of thought and time and preparation into what we'd like to say tonight, and just in response to Mr. Rafferty.

A little background history about our home: We bought the house in 1999 with Jamie's uncle, Larry Brayman. He was a quadriplegic for 50 years, and we wanted him to be closer to our family.

He worked for the Cambridge Inspectional Services
for many years, served on various Boards in Boston as an advocate to ensure access in affordable housing.

When we bought the building, we selected it specifically because he loved the style, liked the scale of the houses, location, neighbors, and the light, which allowed him to enjoy his dream of having a solarium. He'd lived in East Boston for, you know, pretty much all of his adult life, and his dream was to have a garden and a solarium in the back.

So he had hired Van Valkenburgh, noted landscape architect, which we completely supported. We wanted to make him happy in the last years.

So in deference to this, when we configured -- when we renovated our house, we -- you know, were very much in deference to the allowed FAR.

We preserved the integrity of the two-family house during the renovation, and it was a very well-thought-out project which was, you know, respective (sic) of the neighbors. We didn't change anything other than, you know, what we were allowed to do.

We spoke about this on many occasions, the project of the Dannenbaums. He was not in favor of it, because it
would -- you know, affect our -- our light and air and our
garden in the back, and the light of the solarium.

He's not here to speak for himself, he passed away
last December, and right now his sister Mary, who's 94,
lives upstairs. He made a lot of significant contributions
to the community, and, you know, we're just sort of passing
on what he had told us at the very end.

And I also want to state that we really do
appreciate the neighbors, the Dannenbaums, reaching out to
us with all of their proposals. We're very much in support
of the run-down house being renovated on the street-facing
façade, the congruence with the other houses. The neighbors
have been, you know, rightfully concerned with that.

But we are the direct abutters, and we're impacted
the most. We have to consider the size of the house. It's
already very close proximity to ours. And we'd like to just
address the following issues:

First of all, as we understand it, the intent of
maintaining 50 percent FAR is to keep the conformity of the
construction to the scale of the neighborhood, so people can
enjoy more light, air and green space.

There are a couple few houses we've seen over the
years; they were originally taller than our bungalows, but in the renovations, they've retained the original height and the FAR.

Many of these did exceed the 50 percent now required, but the Dannenbaums' house currently has 64 percent of the FAR. The addition of the third floor increases square footage to a 77 percent FAR.

And we understand, of course, their right to build upward to a height of 35 feet, but this FAR increase is significant, and the larger, taller buildings, they do affect the abutter's light and air and enjoyment of their house. And we have a significantly smaller house, which will bear the brunt of this.

We really would like to ask why does the FAR exist at all, if it's subject to circumventing zoning laws, and with the special permit process?

We really would like an explanation of why this is -- you know, we've watched a lot of these hearings as well, and it seems like just consistently this is being allowed, why have an FAR? That is our first question.

The second consideration is that considering the main house they're asking for an expansion in a third floor
in the FAR increase we, you know, do have questions about
the additional mudroom needing to be added to the side of
the building.

It does eliminate a parking space, I know that was
addressed by Mr. Rafferty, but people who come to the house,
you know, this occupies another spot.

Regarding the ADU, we feel that turning an
existing garage into an ADU will have unwanted consequences
in the future. A garage and an ADU are two separate
entities, to be used for completely different purposes.

BRENDAN SULLIVAN: If you could wrap it --

SIRI MCNULTY: It increases the density of the
living space and allows more occupants and traffic into the
neighborhood. It's a whole separate dwelling unit, and we
feel it sets a precedent for others to convert their garages
into ADUs, which can be in the future used as rental units
or condos.

I understand Mr. Rafferty said that that's not
happening here, but, you know, down the line it can happen
in other properties. It sets a precedent, there would be
nothing to prevent future residents or other people from,
you know, converting into --
JAMES MCNULTY: We have three in our --

SIRI MCNULTY: There are three back, there are
three garages in our back yard. We don't, obviously, own
them but -- and they are very --

BRENDA SULLIVAN: Can you wrap up your comments, please. Just wrap them up now.

SIRI MCNULTY: -- and they are very -- anyway, we
would not like to set a precedent for that.

BRENDA SULLIVAN: Great.

SIRI MCNULTY: So.

BRENDA SULLIVAN: Thank you very much.

SIRI MCNULTY: Thank you.

OLIVIA RATAY: Tien-Yi Lee?

TIEN-YI LEE: Hello? Hello, can you hear me?

BRENDA SULLIVAN: Yes.

TIEN-YI LEE: Hi. My name is Tien-Yi Lee. I'm
here with my husband, David Miller. We live at Ivy Street,
and we -- our house is actually directly across from 204-
206. And we actually look at the front of their house every
garage day out our windows. So we are a direct abutter.

We have found the Dannenbaums to be extremely
respectful and responsive, friendly, courteous, kind in
every way throughout this process. And so we are in complete support of them getting the permits they need to renovate their home.

I do want to point out that this home is gutted currently and -- you know, and vacant, and it has been for going on close to two years. And at this point, it is a real blight to our neighborhood.

A week ago, I came home and there were three cops outside of the house, because apparently someone had stashed some stolen mopeds in the back. And so I find it very distressing that their project has been held up and held up.

I understand the concerns of various neighbors, but I do feel that they've gone above and beyond what could be expected to address neighbors' concerns.

And regarding the parking, we've never had any problems with parking on our street. We have, you know, we have a car that we park on the streets -- sometimes we park both of our cars on the street. It's never been a problem.

And so I really don't see any reason at this point to keep holding up their project. They are wonderful family. They would be a true asset to our neighborhood.

We can't wait to have them across the street from
us. We have two kids who can't wait to meet their kids, and
I really feel like they are -- they would be an asset and
their renovated house would be an asset to our neighborhood.

BRENDAN SULLIVAN: Thank you.

OLIVIA RATAY: Nancy Beams?

BRENDAN SULLIVAN: Nancy?

NANCY BEAMS: Okay. Yes? I'm sorry, I didn't
realize how to unmute myself. I live at 2 Ivy Street, right
below Tien-Yi, and I too look directly at this house from my
kitchen window, and I watch it every day.

And I can't say enough about what the Dannenbaums
have -- what they’ve done to accommodate the neighbors and
show them what they're doing. And I think they have waited
long enough to build their home. And I'm all for, and I do
support them moving in and starting the building as soon as
possible.

BRENDAN SULLIVAN: Thank you.

NANCY BEAMS: Okay.

OLIVIA RATAY: Melissa Brodrick?

BRENDAN SULLIVAN: Melissa?

MELISSA BRODRICK: Yep. Can you hear me now?

BRENDAN SULLIVAN: Go ahead. Go ahead. You'll
have up to three minutes to comment.

MELISSA BRODRICK: Okay. And you can hear me?

BRENDAN SULLIVAN: Yes.

MELISSA BRODRICK: Sorry. I didn't recognize that. I'm Melissa Brodrick. I am an abutter to an abutter on the 211 Fayerweather Street across and diagonal to the current property that we're talking about. And I am here to express my support for this project moving forward.

As other people have said, I had initial concerns with the plans for the property, and feel that the Dannenbaums were very responsive to my concerns and to the concerns of others, so much so that they changed architects. They, you know, held meetings, as was mentioned; that they shared multiple plans with me.

So I feel like their process was transparent, it was collaborative, and while I'm saddened to hear that it doesn't have unanimous support and recognize that I'm across the street, not next door, I do support this project, and just wanted to let you know that. So that's it from me.

BRENDAN SULLIVAN: Thank you.

OLIVIA RATAY: Martin Benoit?

MARTIN BENOIT: Sorry, can you hear me now?
MARTIN BENOIT: Yes.

BRENDAN SULLIVAN: Yes. Thank you. My name is Martin Benoit. I live at 17 Copley Street. The direct abutter directly behind 204 Fayerweather. My wife and I wrote in a letter of support. We live here with our two children -- there's other units in this building -- the garage is directly on our rear property line. And I just wanted to cover two points.

Generally, what everyone has said: This process has gone on a very long time. They bought a property that was already gutted, so they didn't have a lot of options.

I think they've been incredibly patient and incredibly kind, and have done as much as is humanly possible to satisfy as many people as possible, and to navigate all the crosscurrents.

When there was the idea of demoing, other people said, "Don't demo it, just build it higher." So, you know, I think that's partly where this got us. I didn't know about the 35-foot rule, but as I look at it, the house to the west is no taller than them. Our structure and a couple of the other ones in Copley are no taller. So it's not really out of scale to the neighborhood.
I think they've done a really good job overall with that.

On the garage, my initial reaction I think is like everyone else; you wonder where it's going to lead. But in fairness, I would say that since the very beginning when they first designed the house itself, one of the things that set off the neighbors was that they wanted an at-grade entrance. They have elderly family, they need -- you know, handicap access if you will, they needed a graded entrance, and everyone opposed that, and they came back to the porch.

So partly the idea of having this little accessory unit in the back, which will be through that grade, you know, that has been consistent. That's an issue in terms of family that's been there since the beginning, and the access has been there since the beginning.

I really appreciate and applaud that they are not adding any windows, two sides or three sides of that structure, and that I would also say given the topography of the backs of the yards and the way their property slopes down from Fayerweather, it's actually below grade from us on Copley, and all these back yards are pretty heavily treed between the three or four properties.
I think it's pretty private and pretty secluded, so I don't really see it as being a problem for anyone.

And lastly, they're turning that big structure into a single-family. So to have some occasional visiting elderly relatives or anyone else, this is still going to be at most two families or two occupants on the whole property.

BRENDAN SULLIVAN: Great. Thank you.

MARTIN BENOIT: The last little point I would throw out and be done is not only do they have one car, but they bicycle everywhere. So I think it is pretty believable that that car will sit in that driveway, and that if anything we will see them using bikes, which seems to be the direction the City's trying to go. Thank you.

OLIVIA RATAY: Jennifer Nashel?

JENNIFER NASHEL: Hello. I'm Jennifer Nashel. I am at 200 Fayerweather Street. I'm a direct abutter on the other side. And just also chiming in to express my husband and my strong support for this project.

As many people have echoed, the Dannenbaums have shown incredible perseverance, I think, despite meeting several obstacles over the course of planning their house remodel, and we've been particularly taken with their
civility in dealing with those obstacles.

The design that they've settled on has taken into account neighbors' concerns, as others have mentioned. And I believe that ultimately, they've settled on a design that will complement and elevate the landscape on our block.

We've been living next to this vacant house for years at this point. And even before it was vacant, it was in very poor repair for the 10 years that we have been living in this house.

I think that as a neighborhood, we need to be able to look beyond any short-term inconvenience that we'll experience during this project, and to see that any small sacrifice will be well worth it in order to live next to a family who is interested in our community and strengthening the fabric of our neighborhood.

We give our very full support to this building project, and hope that this will at last be approved without any further delay, and allow this loving family to finally feel fully welcomed onto this street.

BRENDAN SULLIVAN: Great. Thank you. That is the end of the public comment part of the program. There is in the file some 15 letters of support, a letter -- some of the
people have also called in.

There is also a letter of support from Alanna Mallon, Vice Mayor of the City. I don't need to read all of this, where it's lengthy. And I will close the public comment part.

The Siri and James McNulty raised an issue as to the whys on the FAR and some of the other issues and some of the dimensional variants.

In response, that this is an application for a special permit, and under 8.222d, the Bellalta decision reports have found -- it's really a recent decision -- that for one- and two-family homes, that the Board is allowed a great deal of latitude and discretion in approving projects, and that one- in two-family homes should be considered sort of a special category and warrant such latitude and discretion by the Board of Zoning Appeal in granting relief from the Ordinance.

And I'll leave it at that. Mr. Rafferty, any comments?

JAMES RAFFERTY: No, thank you, Mr. Chairman. I know we've gone long. I just want to point out that as set forth in the application, I think the Criteria under 4.221
for the accessory apartment have been met, notably that the
structure was in existence before 2019.

    It's greater than 1800 square feet, and the
apartment is less than 900 square feet, and there's not more
than one accessory apartment on the lot. All the criteria
are present in the application.

    Similarly, as noted in the testimony, the public
record, the changes in the site plans and the support that
the project enjoys.

BRENDAN SULLIVAN: I would say that the Board
should have the ability to conclude that these alterations
will not be substantially more detrimental than the existing
nonconforming structure to the neighborhood.

    Neighborhood support is widespread and consistent
with the manner in which this house has been designed, and
the sensitivity that's been expressed to the neighbors and
their concerns. So with that, we would urge the Board to
grant the requests.

BRENDAN SULLIVAN: Let me open it to Board
comment. Jim Monteverde, any additional comments?

JIM MONTEVERDE: No comments, thank you.

BRENDAN SULLIVAN: Wendy Leiserson, any additional
comments before we take it to a vote?

    WENDY LEISERSON: The only comment I would have
would be to say that despite the impact on the FAR, that
this design frankly in my mind improves some of the
nonconformities with regard to the setbacks, and certainly
the open space.

    So -- and the height is not a nonconformity. So I
think that despite the impact on the FAR, I don't have any
concerns regarding the design of this building in that
regard.

    And the Board could consider a condition with
regard to renting the accessory structure, if that were a
concern that the Board shared. Thank you.

    BRENDAN SULLIVAN: Thank you. Matina Williams,
any comments, concerns, questions?

    MATINA WILLIAMS: None at this time.

    BRENDAN SULLIVAN: Jason Marshall, any further
comments before I take it to a vote?

    JASON MARSHALL: Yeah, thanks, Mr. Chair. I find
the applicants' outreach to neighbors to be extraordinary.
I think your responsiveness is extraordinary, and I think
it's all the more extraordinary, given that this is a
special permit request and not a variance request.

And I'll echo the Chair's comments to some extent on the special permit standard. And state law directs us to apply that standard to existing single- and two-family households that are nonconforming. And that's what we're doing here.

And I agree with the Chair, I find that the incremental increase in FAR does not create substantially more -- it's not substantially more detrimental to the neighborhood.

With regard to the accessory unit, I think the neighbor that spoke in opposition raises a very reasonable policy question. I believe that policy question to have been settled and discussed at the City Council level.

And the ordinance allows for this conversion. Certainly, that policy discussion can take place again. But the forum isn't here, it would be at the City Council. So I am comfortable, Mr. Chair, in supporting the special permit applications. Thank you.

BRENDAN SULLIVAN: Without condition, Wendy had raised an issue of adding the future rental of it. I guess I just my thought, and you just touched on it, is that the
City Council when they brought in the accessory apartment ordinance provision, I think assumed that it was probably going to be for rental. How a landowner uses the accessory unit and the comings and goings of people, the intensity, or the lack of intensity I think changes, whether the person is, you know, paying for or not paying for it.

Short-term rentals they would have to register -- and I was wondering if any members of the Board have any strong feelings whether that condition should be imposed or not.

JAMES RAFFERTY: Mr. Chair, I could offer that I discussed this possibility with the Dannenbaums, and explained that in a prior case on occasion the Board has placed a provision against short-term rentals, or the need to comply with the city's short-term rental policies would be a good condition.

It is absolutely acceptable, because there's no likelihood or desire to turn this into an Airbnb with people coming and going under the short-term rental policies that are permitted.

BRENDAN SULLIVAN: Okay, Wendy?
WENDY LEISERSON: Yes. I'm sorry, to clarify I meant with regard to the short-term rentals. I don't have a problem with the other option.

BRENDAN SULLIVAN: All right. Let me make a motion, then, to grant the relief requested, as per the application, the supporting documents, and the drawings contained therein.

The request for the special permit under Section 5.314 for -- and the related subsections for Accessory Apartment, 8.22d and criteria of 10.40 Special Permit, the Board finds that a special permit will normally be granted where provisions of this Ordinance are met.

The Board finds that the requirements of the Ordinance cannot be met without the granting of the special permit.

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

The Board finds that continued operations of or 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 occupant of the proposed use,
and as a matter of fact the Board finds that the proposed
design renovation of the house improvement with up-to-date
systems will be a huge increase to the health, safety, and
welfare of any occupant 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 to provide housing for peoples of all income
levels, and also families.

In furtherance, the Board finds that under 8.222d,
in all districts, 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 otherwise 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
any enlargement or addition of such preexisting,
nonconforming detached single-family dwelling or two-family
dwelling may only increase a preexisting dimensional
nonconformity, but does not create a new dimensional
nonconformity.

In order to grant the special permit, the Board of
Zoning Appeal is required to find that the alteration or
enlargement shall not be substantially more detrimental, and
thus it does find, and that the existing nonconforming
structure to the neighborhood, and that the alteration or
enlargement satisfies the criteria in Section 10.43, and
felt as previously stated.

The Board grants the special permit on the
condition, in agreement by the applicant, that there be no
short-term rentals on the structure as per the Short-term
Rental Ordinance in the city, and that they no intentions of
enjoying such protection from that ordinance.

On the motion to grant a special permit, Jim
Monteverde?

JIM MONTEVERDE: In favor.

BRENDAN SULLIVAN: Wendy Leiserson?

WENDY LEISERSON: In favor.

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

BRENDAN SULLIVAN: Matina Williams?

MATINA WILLIAMS: Yes, in favor.

BRENDAN SULLIVAN: Brendan Sullivan yes, in favor.

[All vote YES]

Five affirmative votes. The special permit is granted. Good luck.

JAMES RAFFERTY: Thank you very much. Good evening.
(7:40 p.m.)

Sitting Members:  Brendan Sullivan, Jim Monteverde, Wendy Leiserson, Jason Marshall, and Matina Williams

BRENDAN SULLIVAN:  Why don't we start the regular agenda?  The Board will hear Case Number No. 171153 -- One Brattle Square.  Mr. Braillard?

ADAM BRAILLARD:  Thank you, Mr. Chairman, and members of the Board.  For the record, Adam Braillard, an Attorney with Prince Lobel Tye for the applicant, T-Mobile Northeast LLC.

We're here in connection with a special permit, seeking a special permit from the Board of Zoning Appeal to modify an existing wireless communications facility located on the rooftop of the building located at One Brattle Square.

One Brattle Square is located within the Business B Zoning District.  It's also within the Harvard Square Overlay.

We did receive a certificate of Certificate of Non-Applicability from the Historic Commission after we
filed, and what we're proposing to do is replace six panel antennas with -- sorry, six panel antennas and one microwave dish antenna with nine new, lifetime panel antennas, and also install eight remote radio units.

All of the new antennas will be painted to match the existing façade of the penthouse of the building, consistent to what's there now.

And we believe that the proposal falls within Section 6409 of the Middle Class Tax Relief and Jobs Creation Act of 2012, because we're not proposing to substantially change the physical dimensions of the existing site.

Also, we believe that the proposal complies with the requirements set forth in the City's code Section 4.32g1, footnote 49.

The proposal, or the existing facility and the proposal of the building are not located within a residential zoning district, and we believe the proposal is not inconsistent with the character, and that does prevail with the surrounding neighborhood.

BRENDAN SULLIVAN: All right. You're aware of the Planning Board comments?
ADAM BRAILLARD: We are, yes.

BRENDAN SULLIVAN: Okay. For the edification of the Board and anybody who may be listening in, the Board is in receipt of correspondence from May 18 from the Planning Board.

The Planning Board reviewed the BZA application to modify the existing wireless communication facility during a meeting on May 17. The Board has no significant concerns with the proposed modifications, and decided to forward the attached memo from the Community Development Department to the BZA.

The Community Development Department dated May 13; the proposal involves modification of the existing T-Mobile antenna installation on the mechanical penthouse at One Brattle Square.

Six panel antennas and one microwave dish antenna currently installed on the penthouse façade will be replaced with nine new antennas and additional remote radio units. All antenna and supporting equipment will be painted to match the penthouse.

While the site is quite visible within the Harvard Square Conservation District and additional antennas are
proposed, staff have minimal concerns with the proposal. The antennas are located on the penthouse façade, which is appropriate, and the stepback building massing tends to lend itself to accommodating rooftop appurtenances.

The view from Brattle Square will also be improved as the antenna are being removed from the southeast elevation.

If some improvements were to be made, consideration could be given to utilize the antenna cover sheets so that the new antennas all have similar dimensions, and a more symmetrical layout can be achieved, slightly moving the antennas down the penthouse façade to avoid the horizontal joint line, only if cables can be fully concealed and not hung over the parapet, utilizing the smallest mounting brackets available, so that the antennas can be mounted as close to the surface of the building as possible.

Adam, any comments on their --

ADAM BRAILLARD: We did talk about these a little bit. Certainly, the applicant is more than willing to review those, and if feasible comply.

One of the concerns we do have when we've talked about it in front of this Board before is the thought of sheathing some
of the smaller antennas so that they look like -- to make
them larger, to be consistent with the other antennas.

And the concerns that the engineers have had there
are how that sheathing would be safely secured to the
antennas, because you can't necessarily install that
sheathing right on the antennas, they would have to be
mounted somehow to the building, and then wrap around the
antenna. And then at some point, you are making the antenna
look much, much bigger than it needs to.

So that was the only issue that we had with -- not
an issue, but concern, but we did say that we would further
evaluate it.

BRENDAN SULLIVAN: Yeah. I think this issue has
come up before, and I think that it has been determined that
it's not an easy, snap-on, snap-off type of application and
that can interfere, actually, with the performance of some
of the antenna and so that's -- well --

ADAM BRAILLARD: Yeah.

BRENDAN SULLIVAN: -- let me throw this out and
that you will address the concerns to the best of the
ability to, and that as long as it does not impact the
functionality of the equipment.
The Board is also in receipt of correspondence from the Cambridge Historic Commission regarding the certificate of non-applicability.

"The Cambridge Historical Commission hereby certifies that the work described below does not involve any activity requiring issuance of a building certificate of appropriateness or hardship to modify the existing wireless telecom facility by replacing panel antennas, adding remote heads and upgrading equipment within the existing rooftop shelter."

And that is the sum and substance of correspondence from the staff. Let me open it. Any comments from members of the Board? Jim?

JIM MONTEVERDE: No comments, thank you.

BRENDAN SULLIVAN: Wendy?

WENDY LEISERSON: No comments.

BRENDAN SULLIVAN: Jason?

JASON MARSHALL: No comments, thank you.

BRENDAN SULLIVAN: Matina?

MATINA WILLIAMS: No comments.

BRENDAN SULLIVAN: And I have no comments. 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 we ask that you take no more than three minutes to comment.

There's nobody calling in. I will close the public comment portion of the hearing. Anything else to add, Adam, regarding this application?

ADAM BRAILLARD: Mr. Chairman, no. Thank you very much.

BRENDAN SULLIVAN: Are we ready for a motion?

JIM MONTEVERDE: Ready, ready.

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

The applicant's submittals state that the applicant meets all requirements imposed by governmental authorities having jurisdiction over the proposed facility, including by the FCC to provide wireless communications equipment in this market area.
The Board shall also 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 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 facilities are attached, and other effective means to reduce the visual impact of the facility on the site.

The applicant's design minimizes the visual impact of the building as panel antennas associated with the proposed facilities will be installed in the façade of the penthouse of the building and painted to match the color of the façade.

The proposed replacement antennas will be painted to match the color of the existing building, therefore minimizing any visual impacts.

The proposed facility is not being erected in any residential zone, so that is not applicable.

Further, the Board has to find that the application conforms to Section 10.43 of the Ordinance for granting of a special permit. The Board finds that the
requirements of the Ordinance cannot be met until the
granting of the special permit.

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

The Board finds that there's already existing
telecommunication facilities on the roof, and that there is
not to be any hazard created 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, in fact it would be enhanced by the
upgrade of equipment.

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 finds that there is existing
telecommunication facilities up there now, and there has
been no evidence of any nuisance or hazard created by that,
and that any upgrade shall also appear not to create any
nuisance or hazard. And that issue, obviously, will be
addressed in further comments.

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

In furtherance, the Board finds that based upon
the information presented to the Board, that we grant the
requested relief as described in the petitioner's submittal
material, signed, and initialed by the Chair, and the
evidence before the Board of the following conditions:

That the work proceed in accordance with the plans
submitted by the petitioner, and initialed by the Chair.

That upon the completion of the work, the physical
appearance and visual impact of the proposed work be
consistent with the photo simulations submitted by the
petitioner and initialed by the Chair.

That the petitioner at all times maintain the
proposed work so that its visual appearance and visual
impact remain consistent with the photo simulations
previously referred to.

That should the petitioner cease to utilize the equipment approved tonight for the continuous period of six months or more, it promptly thereafter remove such equipment and restore the building on which it is located to its prior condition and appearance, to the extent reasonably practical.

That the petitioner continue to comply with the conditions imposed by the Board with respect to previous special permits granted to the petitioner with regard to the site in question.

Further, that in as much as the health effects of the transmission of electromagnetic energy waves is a matter of ongoing societal concern and scientific study, the special permit is also subject to the following conditions:

That the petitioner shall file with the Inspectional Services Department each report it files with the federal authorities regarding electromagnetic energy waves emissions emitting from the petitioner's equipment on the site.

Each such report shall be filed with the Inspectional Services Department no later than 10 business
days after the report has been filed with the federal authorities.

Failure to timely file any such report with the Inspectional Services Department shall ipso facto terminate the special permit granted tonight.

That in the event that at any time the federal authorities notify the petitioner that its equipment on the site, including but not limited to the special permit granted tonight, fails to comply with the requirements of law or governmental regulations -- whether with regard to the emissions of electromagnetic energy waves or otherwise -- the petitioner, within 10 business days of receipt of such notification of such failure, shall file with the Inspectional Services Department a report disclosing in reasonable detail that such failure has occurred, and the basis for such claimed failure.

The special permit granted shall ipso facto terminate if any of the petitioner's federal licenses is or are suspended, revoked, or terminated.

That in the event that a special permit has terminated, pursuant to the foregoing paragraphs a) and b), the petitioner may apply to this Board for a special permit,
provided that the public notice containing such application
discloses in reasonable detail that the application has been
filed because of a termination of the special permit,
pursuant to paragraphs a) or b) above.

Any such new application shall not be deemed a
repetitive petition, and therefore will not be subject to
the two-year period during which repetitive petitions may
not be filed.

That within 10 business days after receipt of a
building permit for installation of the equipment subject to
this petition, the petitioner shall file with the
Inspectional Services Department a sworn affidavit of the
person in charge of the installation of equipment by the
petitioner of the geographical area that includes Cambridge
stating that:

a) he or she has such responsibility, and

b) that the equipment being installed pursuant to
the special permit will comply with all federal safety
rules, and will be situated and maintained in locations with
appropriate barricades and other protections, such that
individuals, including nearby residents and occupants of
nearby structures, will be sufficiently protected from
excessive radiofrequency radiation under federal law.

On the motion to grant the special permit as per the application, Jim Monteverde?

JIM MONTEVERDE: In favor.

BRENDA SULLIVAN: Wendy Leiserson?

WENDY LEISERSON: In favor.

BRENDA SULLIVAN: Matina Williams?

MATINA WILLIAMS: In favor.

BRENDA SULLIVAN: Jason Marshall?

JASON MARSHALL: In favor.

BRENDA SULLIVAN: In favor.

[All vote YES]

BRENDA SULLIVAN: With the five affirmative votes, the special permit is granted.
(7:56 p.m.)

Sitting Members:  Brendan Sullivan, Jim Monteverde, Wendy Leiserson, Jason Marshall, and Matina Williams

BRENDAN SULLIVAN:  Okay.  Onto the next one.

After we get through with the telecom, I feel like not talking for the rest of the night.  Comes with the territory.  Mr. Braillard -- oh, let me open up the matter.

The Board will now hear Case No. 171694 -- 179 Sidney Street.

ADAM BRAILLARD:  Thank you, Mr. Chairman, and members of the Board.  For the record, Adam Braillard, attorney with Prince Lobel Tye for the applicant, T-Mobile Northeast LLC.

We're here in connection with a special permit before the Board to -- similar to the other site to modify an existing wireless communications facility located on the rooftop of the building at 179 Sidney Street, also known as 80 Erie Street.

The building is located within the Special District 10 Zoning District.  The proposal is to remove six
panel antennas and nine TMAS, or what they call, Tower Mounted Antennas, (sic)" which are the small kind of like the RRUs, and replace those with six new, like-kind panel antennas and six new radio units.

The applicant also proposes to add one fake -- faux -- vent pipe on the rooftop of the building to accommodate the new -- one of the new antennas on the old receptor.

The applicant believes that this proposal, consistent with the large one, falls under the -- under Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 because the proposal -- the proposed changes do not substantially change the physical dimensions of the existing base station or site.

And also, the proposal complies with Section 4.32g, on footnote 49, and Section 1043 of the City's code.

The site is -- like I said, is located in the Special District 10, not within a residential district, and we believe that the site is not inconsistent with the character that does prevail in the surrounding neighborhood.

BRENDAN SULLIVAN: All right. You're aware of the Planning Board correspondence dated May 18?
ADAM BRAILLARD: Yes.

BRENDAN SULLIVAN: Let me read it for the record.

"The Planning Board reviewed this BZA application to modify the wireless communication facility during a meeting on May 17, and decided to forward the following comments to the BZA.

"The Board decided to forward the BZA via attached memo from the Community Development Department to consider the suggestions noted in the memo to reduce the visual impacts of the installation.

"The communique from Community Development proposal involves modifications of the existing T-Mobile antenna installation on the rooftop of 179 Sidney Street. Six panel antenna and nine Tower Mounted Amplifiers will be replaced with six new antenna and six new remote radio units.

"The antenna will either be installed on the penthouse façade or concealed within faux vent pipes on the rooftop. While this is an existing installation, there is already an array of antenna and faux vent pipes installed in this building, all with varying sizes, shapes, and finishes.

"Overall, the rooftop installation is highly
visible, and due to the variety of structures and antenna
has a visually obtrusive appearance.

"The proposed replacement antenna closest to Erie
Street will be installed within two setback faux vent pipes,
which does have a clean and less obtrusive appearance when
compared to the other carriers' antennas.

"The façade mounted replacement antenna on the
stair head house and penthouse façades appear to be getting
wider and deeper though, which draws further attention to
the installation.

"To gain a better understanding of the changes,
the staff has also requested that all building elevations be
provided. The following are specific suggestions to help
reduce the visual impacts of the installation.

"Overall, a holistic review of all carriers'
antennas should be undertaken to determine if there are
alternative approaches to multiple end pipes and antennas
being installed.

"This could include consideration of expanding the
stair head house to accommodate a larger stealth enclosure
for all antennas and equipment.

"For the façade mounted panels, the smallest
mounting brackets available should be utilized, so that the antennas can be mounted as close to the façade as possible."

That's probably possible, is it not, Adam?

ADAM BRAILLARD: Yes, that is. And that's --

BRENDAN SULLIVAN: "Reduce the length of the unused pipe mount section and remove all unused mounting brackets where possible --"

ADAM BRAILLARD: Yep.

BRENDAN SULLIVAN: -- if that applies to you, right?

ADAM BRAILLARD: That's correct, yes.

"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." That's doable?

ADAM BRAILLARD: That is agreeable and doable, yes.

BRENDAN SULLIVAN: "All painted materials, including cabling, should have a consistent matte finish." that's doable?

ADAM BRAILLARD: Correct. That's doable.

BRENDAN SULLIVAN: So it appears that except for
the other one, which is a total review of the -- what's going on up there, and that involves other carriers, their suggestions 2, 3, 4 and 5 are all doable and part of a condition of granting of the special permit, to the extent possible.

ADAM BRAILLARD: That's correct.

BRENDAN SULLIVAN: Yes? Okay. Any questions by members of the Board? Jim Monteverde?

JIM MONTEVERDE: No questions, thank you.

BRENDAN SULLIVAN: Wendy Leiserson?

WENDY LEISERSON: No questions.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: No questions.

BRENDAN SULLIVAN: And Matina Williams, any questions on this?

MATINA WILLIAMS: No questions.

BRENDAN SULLIVAN: 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
we'll allow up to three minutes to comment.

DONALD GROSSMAN: Donald Grossman?

BRENDAN SULLIVAN: Yes.

OLIVIA RATAY: He's not on.

BRENDAN SULLIVAN: There appears to be nobody calling in, and there was no other further correspondence from any agency. The Board ready for a motion?

JIM MONTEVERDE: Ready.

BRENDAN SULLIVAN: Let me make a motion, then, to grant the special permit with the following consideration:

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

Enclosed in the application is the applicant's FCC license. The application meets all -- the meets all requirements imposed by governmental authorities having jurisdiction over the proposed facility, included -- including by the FCC to provide wireless communications equipment in this market.

The Board finds -- 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 facilitates are attached, or other effective means to reduce the visual impact of the facility on the site.

And the Board acknowledges and the applicant has acknowledged compliance as best as possible with Community Development Recommendations noted 2, 3, 4 and 5 to reduce the visual impact.

This is not in a residential district, it's important to note Special District 10 so that footnote regarding residential districts does not apply.

Also, that the applicant must comply with Section 10.43. The Board has to find that it meets that criteria for granting of the special permits. It appears that the requirements of the Ordinance cannot be met until the Board grants a special permit.

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 there is existing installations of telecommunication facilities on the roof area, and that there has not been any traffic generated or patterns of access or egress which 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, in fact it would be enhanced by the upgrade of the telecommunication equipment.

The Board finds that there is not 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.

And the Board finds that there is existing telecommunication facilities, and it appears that there has not been any nuisance or hazard created by that facility, and it's confident that there will not be any by the addition of the new equipment.

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 updated telecommunication facilities to the general public.

In furtherance, the Board finds that based upon the information presented, the Board grants the requested relief as described in the petitioner's submitted materials and the evidence before the Board on the following conditions:

That the work proceed in accordance with the plans submitted by the petitioner, as initialed by the Chair.

That upon completion of the work, the physical appearance and visual impact of the proposed work be consistent with the photo simulations submitted by the petitioner, and initialed by the Chair.

That the petitioner at all times maintain the proposed work, so that its physical appearance and visual impact will remain consistent with the photo simulations previously referred to.

And should the petitioner cease to utilize the equipment approved tonight for a continuous period of six months or more, it promptly thereafter remove such equipment and restore the building on which it is located to its prior
condition and appearance, to an extent reasonably practicable.

That the petitioner continue to comply with the conditions imposed by the Board with respect to the previous special permits granted to the petitioner, with regard to the site in question.

And in as much as the health effects of the transmissions of electromagnetic energy waves is a matter of ongoing societal concern and scientific study, the special permit is also subject to the following conditions:

That the petitioner shall file with the Inspectional Services Department each report it files with the federal authorities regarding electromagnetic energy waves emissions emitting from all of the petitioner's equipment on the site.

Each such report shall be filed with Inspectional Services no later than 10 business days after the report has been filed with the federal authorities.

Failure to timely file any such report with the Inspectional Services Department shall ipso facto terminate the Special Permit granted tonight.

That in the event that at any time federal
authorities notify the petitioner that its equipment on the site, including but not limited to the special permit granted tonight, fails to comply with the requirements of law or governmental regulations -- whether with regard to the emissions of electromagnetic energy waves or otherwise -- the petitioner, within 10 business days of receipt of such notification of such failure, shall file with the Inspectional Services Department a report disclosing in reasonable detail that such failure has occurred, and the basis for such claimed failure.

The special permit granted shall ipso facto terminate if any of the petitioner's federal licenses are suspended, revoked, or terminated.

That to the event that a special permit has terminated, pursuant to the foregoing paragraphs a) and b), the petitioner may apply to this Board for a new special permit, provided that the public notice containing such application discloses in reasonable detail that the application has been filed because of a termination of the special permit, pursuant to paragraphs a) or b) above.

Any such new application shall not be deemed a repetitive petition, and therefore will not be subject to
the two-year period during which repetitive condition --

petsitions may not be filed.

That within 10 business days after receipt of a

building permit for installation of the equipment subject to

this petition, the petitioner shall file with the

Inspectional Services Department a sworn affidavit of the

person in charge of the installation of equipment by the

petitioner of the geographical area that includes Cambridge

stating that:

a) he or she has such responsibility, and

b) that the equipment being installed pursuant to

the special permit will comply with all federal safety

rules, and will be situated and maintained in locations with

appropriate barricades and other protections, such that

individuals, including nearby residents and occupants of

nearby structures, will be sufficiently protected from

excessive radiofrequency radiation under federal law.

On the motion to grant the special permit as per

the application and the supporting material, Jim Monteverde?

JIM MONTEVERDE: In favor.

BRENDAN SULLIVAN: Wendy Leiserson?

WENDY LEISERSON: In favor.
BRENDAN SULLIVAN: Matina Williams?

MATINA WILLIAMS: In favor.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: In favor.

BRENDAN SULLIVAN: In favor.

[All vote YES]

BRENDAN SULLIVAN: Five affirmative votes, the special permit as per the application is granted. Thank you, Adam.

ADAM BRAILLARD: Thank you, members of the Board and Mr. Chair.

JASON MARSHALL: Brendan, we've got to -- we have to figure out a way for you to incorporate that language by reference in the future.

BRENDAN SULLIVAN: Yeah.

JASON MARSHALL: It's quite a bit.

BRENDAN SULLIVAN: Yeah, I tried, and I think it came down that they would like it to be said out loud. I know it, it's -- I get wordy.

JASON MARSHALL: Well, thank you for doing it.

BRENDAN SULLIVAN: I get tongue tied. All right. Moving along.
(8:12 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Wendy Leiserson, Jason Marshall, and Matina Williams

BRENDAN SULLIVAN: The Board will now hear Case No. 165280 -- 131 Sherman Street.

OLIVIA RATAY: They're not on yet.

BRENDAN SULLIVAN: Fernando? Mr. Dalfior?

ERIC ZACHRISON: Sorry, I'm Eric Zachrison (phonetic), I'm the architect for the project. I believe Fernando is on, but I can commence the presentation if you like.

BRENDAN SULLIVAN: All right. I'm sorry, say who's speaking?

ERIC ZACHRISON: My name is Eric Zachrison, 9 Sackville Street in Charlestown. I am the architect for the project. I can flip it.

BRENDAN SULLIVAN: All right. Who's presenting the case?

ERIC ZACHRISON: I am.

BRENDAN SULLIVAN: Okay. All right. Go ahead,
then.

FERNANDO DALFIOR: Fernando Dalfior is here now too.

ERIC ZACHRISON: Am I able to share my screen, or will you present the drawings?


ERIC ZACHRISON: So the proposed project is to replace the existing restaurant at 131 Sherman Street with—or renovate the existing building within its existing envelope, and renovate it into a single-family home.

The project, the zoning is Residential B, and so would comply in many ways, except for the fact that by changing the use of this from a restaurant into a residential, a number of items get revised. And so we have some kind of side yard conditions.

We have a few -- and so we were told that we need to get a variance in order to change the use from commercial space on three levels into a residential space -- into a single-family home.

So what you see here is the proposed basement plan. It is currently a kitchen and storage. We would convert that into a family room and a game room.
On the right, we would convert the kitchen and dining area into a garage, living room, dining and then the upper floors from office space and a privacy dining area into bedrooms.

Here on the second floor, there's a large flat roof area and an office space that would become a primary bedroom, with en-suite bathroom and a secondary bedroom with secondary bathroom in the very top floor, which is currently accessed only externally, would have a new internal stair that would get you to the second floor, or get you to the third floor and just have a small bedroom up there.

BRENDAN SULLIVAN: On the site now, the -- does not have access to any parking, is that correct?

ERIC ZACHRISON: That is correct.

BRENDAN SULLIVAN: All right. And so, but you are creating parking -- off-street parking space?

ERIC ZACHRISON: That is correct. You are correct. We're creating a garage space.

BRENDAN SULLIVAN: Correct. Okay.

FERNANDO DALFIOR: Yep. Excuse me, the garage exists already. We're going to, you know, remodel it. I believe they've been -- they were using it as a storage in
the past.

BRENDAN SULLIVAN: Okay.

FERNANDO DALFIOR: And there is the curb cut there already.

BRENDAN SULLIVAN: So you're just basically repurposing the existing space?

FERNANDO DALFIOR: Yes. I think it used to be -- back in the day it used to be a single-family residence, and then that was converted into a commercial on the first floor. And now we're just trying to convert it back to Residential B --

BRENDAN SULLIVAN: Is this for --

FERNANDO DALFIOR: -- as a single bed.

BRENDAN SULLIVAN: Is this Fernando speaking?

FERNANDO DALFIOR: Yes.

BRENDAN SULLIVAN: Yeah, all right. If you could just introduce yourself for the record, give your address.

FERNANDO DALFIOR: Yeah, Fernando Dalfior, the owner of 131 Sherman.

BRENDAN SULLIVAN: Great. Thank you, Fernando. All right, is there anything else to add?

ERIC ZACHRISON: It's a, you know, pretty
straightforward project, single-family, we're not increasing
the footprint, nor the building height.

Trying to do a little bit of green space on that
existing deck. We're going to decrease the size a little
bit. You know, that's pretty much the only outdoor space
that we have there now.

Removing the exterior stairs, and put one of the
stairs inside the building, and adding -- leaving living
space, like expanding the living space into the basement as
well.

BRENDAN SULLIVAN: Okay. Did you have any
outreach to the neighbors at all, or --

FERNANDO DALFIOR: No.

BRENDAN SULLIVAN: There is no --

FERNANDO DALFIOR: No, I have not.

BRENDAN SULLIVAN: -- there is no correspondence
in the file.

ERIC ZACHRISON: No. We didn't.

BRENDAN SULLIVAN: Okay. Anything else to add at
this point? You don't have to, you'll have a chance once
again, we'll come back to you.

ERIC ZACHRISON: Yeah, I don't think --
BRENDAN SULLIVAN: Okay. Let me open it to the Board for discussions. Jim Monteverde, questions, or comments?

JIM MONTEVERDE: Yes, just one. I'm looking at the Level 2 plan and the proposed roof deck at 400 plus square feet. Could you describe what's the intended use for that roof deck?

FERNANDO DALFIOR: Yes. The roof deck actually exists as right now. You can see all along the Sherman Street. The purpose of the deck is to create outdoor living space, since, you know, we are right on the lot lines and two, you know, we have two frontages on this -- on Sherman and the side street.

JIM MONTEVERDE: Mm-hm.

FERNANDO DALFIOR: So basically, we just have a tiny little stall on the back, and nowhere to have any outdoor space besides expanding to that second-floor decking.

JIM MONTEVERDE: Okay. So will that be furnished in some way or left open? How will you use it?

FERNANDO DALFIOR: Open. The idea is to add some green space, some planters and put some plants along the
railing. So that's -- that was the concept that we're going
to go with.

JIM MONTEVERDE: Okay. Thank you.

ERIC ZACHRISON: Thank you.

BRENDAN SULLIVAN: Wendy, any questions?

WENDY LEISERSON: No questions.

BRENDAN SULLIVAN: Jason, any questions at this
time?

JASON MARSHALL: No questions.

BRENDAN SULLIVAN: Matina, questions?

MATINA WILLIAMS: No questions.

BRENDAN SULLIVAN: Okay. 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
we ask that you take no more than three minutes to comment.

[Pause]

There appears to be nobody calling in. There is
no correspondence in the file. I will close the public
comment portion of the hearing. Is there anything else that
you wish to add at this time, Fernando? Or -- you don't have to.

FERNANDO DALFIOR: No, no, no, not at this time, unless you have any questions.

BRENDAN SULLIVAN: Okay. Any member of the Board have any other questions, or are we ready for a motion for a motion?

JIM MONTEVERDE: Ready.

JASON MARSHALL: Yeah, ready.

BRENDAN SULLIVAN: Okay. This is a variance. Let me make a motion, then, to grant the variance as per the application and the drawings contained therein. That the work be consistent with the drawings that are submitted, the supporting statement and also the dimensional form.

The Board finds granting the relief for Section 5.31, 5.26 conversion, and Section 8.22.3 nonconforming structure.

And the criteria of Section 10.30 granting of the variance, 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 existing structure is a
restaurant, which was converted from a single-family home many, many years ago, a neighborhood institution, and that in order to reconvert it back into a residence and to comply with the FAR open space and setback requirements, it would be quite punitive to require the petitioner to remove sections of the building in order to comply with those sections of the Ordinance.

The Board finds that the hardship is owing to the size of the lot, the shape and size of the existing, which predates the existing ordinance, and as such is encumbered by the Ordinance and the requirements thereof.

The Board finds that desirable relief may be granted without substantial detriment to the public good. The Board finds that the conversion of a restaurant back to its original intent as a single-family resident would be an attribute to the neighborhood, and be more consistent with the character of the neighborhood.

That the desirable relief may be granted without nullifying or substantially derogating from the intent and purpose of this ordinance, to allow fair and reasonable use of the property and the repurposing and conversion of an existing commercial building back to a code-compliant use as
a residence.

The Board grants the variance on the condition that -- again, as stated, that the work be consistent with the drawings initialed by the Chair and supporting statements.

On the grating of the variance, Jim Monteverde?

JIM MONTEVERDE: Jim Monteverde voting in favor.

BRENDAN SULLIVAN: Wendy Leiserson?

WENDY LEISERSON: Voting in favor.


JASON MARSHALL: In favor.

BRENDAN SULLIVAN: Matina Williams?

MATINA WILLIAMS: In favor.

BRENDAN SULLIVAN: And Brendan Sullivan yes.

[All vote YES]

Five affirmative votes, the variance as per the application is granted. Good luck.

FERNANDO DALFIOR: Thank you.

ERIC ZACHRISON: Thank you.

BRENDAN SULLIVAN: You're welcome.
(8:24 p.m.)

Sitting Members:  Brendan Sullivan, Jim Monteverde, Wendy Leiserson, Jason Marshall, and Matina Williams

BRENDAN SULLIVAN:  The Board will now hear Case No. 163850, 1075 Cambridge Street.  Mr. Kelley or Mr. Anderson?  Mr. Stetson?

ROBERT STETSON:  Good evening.

BRENDAN SULLIVAN:  Representing?

ROBERT STETSON:  Good evening.  Robert Stetson, I'm an attorney at Bernkopf Goodman.  I represent Clover Food Labs.  With me this evening is Chris Anderson from Clover, and I believe also Taylor Harper, who designed the space.

Clover is seeking a special permit to extend its current kitchen into the former BISq restaurant space at 1075 Cambridge Street.  This is within --

BRENDAN SULLIVAN:  Before we -- I don't want to take your thunder, but I just want to raise a couple of issues.

ROBERT STETSON:  Sure.
BRENDAN SULLIVAN: Are you aware of the comments by a couple of the neighbors?

ROBERT STETSON: We --

BRENDAN SULLIVAN: Mr. Anderson, are you aware of the comments?

CHRISTOPHER ALPHEN: Yes.

ROBERT STETSON: We are aware of those comments, yes.

BRENDAN SULLIVAN: I think they're significant, and I was just wondering whether or not you're going to address those, and whether -- has there been outreach to the neighbors regarding some of their -- the issues that they have raised?

ROBERT STETSON: We intend to address those issues tonight in some fashion. However, we are happy to address them further with the neighbors after tonight's meeting, if there are any additional inquiries by the Board.

BRENDAN SULLIVAN: Okay.

ROBERT STETSON: But I do want -- we are aware of them. We did learn of the comments this week, and Mr. Anderson is prepared to address them during his brief comments.
BRENDAN SULLIVAN: Okay. I guess the thought that I have is that if we go through the hearing, it's going to be a cash, and you're going to have to reassemble the same five members of the Board.

The alternative would be to address these issues, and then come back to the Board with something that's more memorialized as far as a statement of understanding and agreement as to how you're going to operate not only the proposal, the proposed applicant space, but also the existing.

And it seems to be the existing where it's sort of -- you know, the rub is coming in, because, obviously, there's a fear of the unknown with an expansion of existing issues, let's put it that way.

And so just in the interest of getting this to a resolution sooner, not knowing when we would continue this, and whether or not we could assemble the five-member Board could be an issue.

Let me just poll the members of the Board. Jim, are you aware of the correspondence from the neighbors?

JIM MONTEVERDE: No.

BRENDAN SULLIVAN: Jim Monteverde?
JIM MONTEVERDE: I'm sorry. No, I'm not.

BRENDAN SULLIVAN: Okay. Wendy, are you aware of --

WENDY LEISERSON: Yes.

BRENDAN SULLIVAN: Yes, okay.

WENDY LEISERSON: Yes, I'm aware of the opposition.

BRENDAN SULLIVAN: I don't know how to put this, but do you feel that they should be addressed outside of this and then come back to us, or that we should hear the hearing, and then hash those issues out, and then potentially they may have to come back or not?

WENDY LEISERSON: I believe that the concerns weren't satisfaction, and I -- unless the counsel for the petitioner can represent that those concerns have been satisfied, I would like to -- I think it probably behooves both parties, or all parties, if they continue and come back with some solid ground achieved, rather than --

BRENDAN SULLIVAN: Okay.

WENDY LEISERSON: -- risk a further delay.

BRENDAN SULLIVAN: Jason, are you aware of the letters of opposition?
JASON MARSHALL: I -- yeah, I am aware. I think they raise serious concerns. It's of course -- it's up to the applicant as to whether you want to seek a continuance. I think it probably would be more efficient to do so.

And to the Chair's point, you may be able to come back sooner than later, if we had to reassemble the five Board members here tonight. But, again, it's your choice.

BRENDAN SULLIVAN: Okay. Matina, are you aware of the letters of opposition?

MATINA WILLIAMS: I'm aware of the letters of opposition.

BRENDAN SULLIVAN: And your thought on either going through with the hearing tonight or continuing and letting basically a bottom line coming back to us?

MATINA WILLIAMS: I mean, it's best if they -- you know, go back, address the issues, and be heard sooner than not address the issues and the continuance.

BRENDAN SULLIVAN: Yep.

MATINA WILLIAMS: But again, it's their choice.

BRENDAN SULLIVAN: Okay. All right. So Mr. Stetson, and I guess Mr. Anderson, what are your -- again, we can --
ROBERT STETSON: Well, I think having heard from the Board, we're going to take your queues, and we thank you for your thoughtfulness on this, and we will move to continue at the Board's convenience.

BRENDAN SULLIVAN: I think it better be sooner.

OLIVIA RATAY: June 30, that's two --

BRENDAN SULLIVAN: June 30 would be the earliest.

Mr. Anderson, does June 30 work for you?

CHRIS ANDERSON: And just to be clear, what would be -- being heard now, what would be the -- not the consequence, but what would delay things versus coming back on June 30?

BRENDAN SULLIVAN: Well, that's a -- let me see. Jim Monteverde, would you be available on the thirtieth?

JIM MONTEVERDE: Yes.

BRENDAN SULLIVAN: Wendy, would you be available on the thirtieth of June?

WENDY LEISERSON: I'm checking my calendar.

BRENDAN SULLIVAN: I'm going to ask the same question of Jason and Matina. If you can check your calendars.

MATINA WILLIAMS: Let's see.
JASON MARSHALL: I'm available on the thirtieth.

BRENDAN SULLIVAN: Okay. Matina, are you available on the thirtieth?

MATINA WILLIAMS: I want to say that I'm not available. I have pending stuff. So.

BRENDAN SULLIVAN: Okay.

WENDY LEISERSON: I am available.

BRENDAN SULLIVAN: Okay. It does bump up against the fourth of July sort of on weekend type thing. So that's -- so one member would not be available?

Or you could be heard by a four-member Board, if we were to continue then. You would need all four votes for the -- whereas if you were heard by a five-member board, then you could get four out of four. We need four out of five votes.

CHRIS ANDERSON: What would be the other proposed dates?

BRENDAN SULLIVAN: I'm sorry?

CHRIS ANDERSON: What would be the other proposed dates to be heard?

BRENDAN SULLIVAN: After June 30 would be fourteenth of July?
OLIVIA RATAY: Or the twenty-eighth.

BRENDAN SULLIVAN: The fourteenth of July or the twenty-eighth. So Jim, on the fourteenth or twenty-eighth of July?

JIM MONTEVERDE: I'm available for either.

BRENDAN SULLIVAN: Okay, Wendy, fourteenth or the twenty-eights of July?

WENDY LEISERSON: I'm available on the fourteenth -- not clear, but could be available on the twenty-eighth.

BRENDAN SULLIVAN: Okay. Jason, fourteenth and twenty-eighth?

JASON MARSHALL: I'm available on the fourteenth. I am not available on the twenty-eighth.

BRENDAN SULLIVAN: Matina on the fourteenth of July?

MATINA WILLIAMS: It looks like I'm available for both of them.

BRENDAN SULLIVAN: Okay. So if we were to continue it, we could be heard on the thirtieth. If we heard the case, and we needed to continue it, it would be July 14? So it's your call.

CHRIS ANDERSON: So again, today we're coming back
on another date, and the thirtieth would be the soonest,
right?

BRENDAN SULLIVAN: That would be the soonest,
correct. And if we were to hear the case and continue it,
then it kicks it off until the fourteenth of July.

CHRIS ANDERSON: If you hear it tonight, right,
then it would postpone to the fourteenth?

BRENDAN SULLIVAN: Then the first available would
be the fourteenth.

CHRIS ANDERSON: Okay. I'd like to hear it
tonight, then.

BRENDAN SULLIVAN: Okay. All right. So then
we'll pencil you in tentatively for the fourteenth. Okay.
Took longer to discuss it than to hear the case. Okay, Mr.
Stetson, you're on.

ROBERT STETSON: Thank you very much. As you all
know, Clover is seeking a special permit to extend its
current kitchen into the former BISq Restaurant space at
1075 King Street. This is within the same building, and
it's adjacent to the Clover space.

I'd like to make just three points for the Board's
consideration with regard to Special Permit Case Number.
First, this is a space expansion only, not an operations expansion. It's about 1500 square feet, but currently Clover's kitchen is undersized for its current operation. Basically, it operates a cooking operation and a baking operation out of an undersized kitchen space.

But it can only be one or the other at any given time. When Clover is cooking, it shuts down the baking, and essentially stores it in the corner. When it's baking, it has to shut down the cooking, and it has to set up the baking operation. This is inefficient, and it causes a lot of strain on both baking equipment, as well as Clover's operation.

By moving the baking equipment into the former BISq space, it will essentially operate in a more permanent location, and we can hope to eliminate that efficiency.

Second, and I'll let Mr. Anderson speak to this more concretely, but we don't believe there will be any increase in the parking or the traffic needs or the delivery issues that were raised by the two abutters, because Clover will not be allowing patrons into the former BISq space.

We actually expect that deliveries, which -- again, was the central issue raised by abutters -- we expect
deliveries to decrease, because by having some additional room, we'll have also some additional room for storage. So overall, the hope is that there will not just be, you know, no increase from the prior use as a restaurant, but actually a reduction in the current and existing use and operation of Clover.

And ironically, if this were -- if this baking portion of the location were designed to simply serve as a retail bakery serving patrons, which would likely be a more intense use in terms of deliveries and parking and traffic, the bakery would be permissible in this zone.

And the last point, in terms of the Special Permit Criteria that I wanted to bring up is that really Clover's central mission is to be environmentally conscious.

And we hope that this special permit will support that mission. One of the main tenets at Clover is locally sourced goods, locally sourced food. Having that baking operation open to the public, basically being able to walk on the street, watch your bread being baked from locally sourced ingredients, and then you can walk next door and buy the sandwich freshly made that you just watched being baked, is really the type of transparency that Clover's operation
really strives for.

And so with that, I'd like the hand it over to Mr. Anderson to make a couple of points in particular about the abutters' concerns. Thank you.

CHRIS ANDERSON: Thanks, Robert. I appreciate it. And just highlighting what Robert said is that we would be moving the existing bakery equipment and the existing bakery operation into that space, so it would have a permanent home, so we don't have to fold it up and clean it and put it away and break it back out again.

It also solves another concern of ours, which in baking you have a lot of flour going everywhere, which is an allergen and a contaminant, and another use for isolating the bakery on the former BISq space is to be able to control the flour and baking into that space and isolate it down.

There's no intended -- we don't want to make any changes to the façade or the exterior of the building. We're looking to keep all that intact, and as Robert said, making it visual and transparent for all our customers that come by and to be able to see the bread being made and coming to our restaurants and then enjoy that on a daily basis.
Our hopes are to reduce traffic on Cambridge Street with reduced curbside and also the patrons that used to frequent BISq, and/or another restaurant in that space. We do want to recognize the delivery issues that we've had on Elm Street.

Back in 2012, we had several vendors that did not comply with the Noise Ordinance of Cambridge, and several of those vendors had recurring issues. We were penalized in 2012, and we took that very seriously.

From that, we changed our relationship with our vendors, and also expectations with our management team. And for over a decade, we haven’t had any further issues with deliveries.

Recently, there's been two new vendors coming out of COVID that had -- are new to us and our operations. And those two vendors have come in with two citations. Since then, we have instituted a three-strike policy and our terminating relationship with vendors that cannot comply with the Noise Ordinance set forth by the City of Cambridge.

The City of Cambridge has been increasingly difficult for residents and also business owners to operate in, as a lot of Cambridge Street has been taken up by patio
dining and curbside pickup, and also all of Webster has
turned from parking to bike lanes, and it has really caused
a constriction for residents and parking.

And our hopes is by moving the existing bakery
over into the space that we could free up storage to hold
more product, so we can decrease the amount of deliveries
that we're taking in. It's advantageous to both the
abutters and also Clover, as it reduces burden on operations
receiving many small deliveries each day and rolling those
up into bigger deliveries, which will decrease traffic on
Elm Street, which has been the pinch point in that area for
a long time.

I also just want to call out during COVID, a lot
of restauranteurs, it was very difficult for us, and many of
us have developed a delivery program, which is now part of
our business. So many patrons during Clover did not come
in, they ordered takeout, and/or we had to reach the
customers where they were.

So we, like many, many other restaurants, started
doing delivery programs. And that function of putting food
into boxes and stickering them and delivering them takes up
more space.
And that's one of the reasons why we want to move the bakery, as well as to create that space for our delivery program.

Coming out of COVID in a post COVID landscape, I think habits are permanently changed. And sales have not materialized back to pre-COVID levels, and I don't think they will be, as people's habits have changed long-term.

And I think delivery will be a needed business for us to reach our consumers that are now staying at home. So from there, a lot of those are -- that is where the space is needed.

So we take our business and operations very seriously. We're mission oriented. We're all about local ingredients, environmental issues, and we also take the issues and concerns of our abutters very seriously.

BRENDAN SULLIVAN: Okay. When I open it to public comment, perhaps they will call in and we will hear from them. If not, then I will read some of the comments that we have received into the record.

But is there anything else, Mr. Stetson, that you want to add at this time? You'll have a chance to rebut or comment later in the proceedings also.
ROBERT STETSON: Nothing further at this time, Mr. Chair.

BRENDAN SULLIVAN: Let me open it to comments by the Board. Jim Monteverde, any --

JIM MONTEVERDE: No questions, no comments. Thank you.

BRENDAN SULLIVAN: Okay, Wendy, any comments, or questions at this time?

WENDY LEISERSON: Yes, I do have a question, which is you mentioned a three-strike policy, is that three-strike policy written into your contracts with your vendors?

ROBERT STETSON: No. We currently have an at-will relationship with our vendors, but I'd be more than happy to put something in writing. We're serious about and committing to that.

BRENDAN SULLIVAN: Okay.

WENDY LEISERSON: And do you have any comments about -- have you read the letters from your -- you said you have read the letters, correct? From --

ROBERT STETSON: Correct, yes.

WENDY LEISERSON: -- neighbors. Why do you think that they've characterized the interactions with you the way
they have? Or with your staff, whoever it is they're talking about?

ROBERT STETSON: I think the area is a really challenging area. You have a question commercialized zone business abutting in the same street as a residential building.

And like I spoke of the constraints earlier with all the reduced parking, it's a real challenge for business owners and also residents to find parking and operate.

I think it's created further congestion onto that street of Elm Street, which is the front-facing of those abutters, and I do believe that this move will help increase capacity and reduce the receiving, which is the primary issue with our abutters.

We'll also reduce foot traffic from our Clover employees, as those employees that come in through the employee entrance on Elm Street will now be able to come through the front door on Cambridge Street to operate the bakery.

WENDY LEISERSON: And have you reached out to your neighbors about this petition? Have you spoken to them?

ROBERT STETSON: I have not. I just received the
letters through the portal yesterday, so I haven’t had a chance to physically reach out to them.

But like I did in 2012, I opened all those to conversations and coffee. You know, it's a mutual relationship for business owners and residents to live together and operate successfully and be in agreement and peace. So I believe in that.

WENDY LEISERSON: Okay, thank you. No more questions at this time.

BRENDAN SULLIVAN: Matina, any questions, or comments at this time?

MATINA WILLIAMS: No. I think everything I was -- had concern with Wendy asked. So thank you.

BRENDAN SULLIVAN: Jason, any questions, or comments at this time?

JASON MARSHALL: Yeah, just a few. And it is easier going after Wendy asked her questions. Mr. Anderson, I have -- I mean, some of this -- I have some of the similar concerns that, that Wendy shared.

And I'm trying to square, I think your comment's in good faith, and it must be really difficult to run a restaurant, particularly now, and I do take as good faith
that you've tried to be responsive.

I'm having a hard really hard time squaring that
with the comments that are in the record. So more
discussion about that will be helpful, hearing from
neighbors, and then hearing your response I think will be
helpful.

Separate from that, just to get a little more of
the sort of lay of the land, so you're moving the baking
operations, you're not expanding but you're moving it? Is
that correct?

CHRIS ANDERSON: Yeah. So the bakery itself sits
within the kitchen, and then when the bakery bakes, it
unfolds, so we bake bread, and then all the equipment gets
consolidated into the corner.

We're looking to just take that equipment and put
it in the BISq space, so that we can permanently set it up
and we don't have to unfold it and fold it again.

And also, when you do fold it up into the corner,
it takes up space. So we're looking to utilize the BISq
space, which we were leasing to a restaurant and just
recapture that space now that they're not there into putting
our bakery --
JASON MARSHALL: Yeah, I think I can --

CHRIS ANDERSON: inner that location.

JASON MARSHALL: -- I think I can understand the -- I think I understand the need. Would the move -- could you at least theoretically, would that lead to more production of the baked goods?

CHRIS ANDERSON: I mean, sure. It's in a spot now where you could operate it longer periods of time. I mean, we could operate it for longer periods of time in its existing space, we would just have to, you know, give and take the existing production around it so it's more of, like, moving operations around to run them.

JASON MARSHALL: Yeah. You don't have to start and stop anymore, so you could -- you could have -- you could have more production. But, you know, I'm not sure if you will, but you could?

CHRIS ANDERSON: In theory, yes.

JASON MARSHALL: Yeah. All right. I'm just -- I'm just trying to -- I'm trying to get you, this isn't a "gotcha" question, I'm just trying to get to whether or not because the standard requires us to look at traffic and congestion, whether this could lead to more deliveries, if
there is more production. I don't know if there's the correlation there.

So that's where my question's going to.

CHRIS ANDERSON: Yeah. And -- and if it was curbside pickup from our delivery program, that would drive more traffic, yes. But we've actually seen a shift from folks coming in to pick up their at-home meal boxes to actually being delivered to the household.

When we originally started our curbside program, the City of Cambridge was very generous and actually gave us the majority of the street on Elm Street, which I do have some remorse for the residents that abut us on Elm Street. But it was our only way to generate revenue for that restaurant.

So since then, we've given those parking spaces back that were reserved for curbside onto Elm Street, and most of those meal deliveries now are delivered versus pickup.

JASON MARSHALL: All right. Thanks for the response. That's all I have for now, Mr. Chair. Thanks.

BRENDAN SULLIVAN: I guess if I'm rethinking of what the proposal is, is that I'm thinking rather than an
expansion of your business, it may happen they grant relief.

But rather than you becoming a bigger company,
that by your grabbing this space next to your operation,
that it will be more efficient use of your operation.

Is that maybe a correct characterization of it?

CHRIS ANDERSON: Yes, Mr. Chair. I mean, I think "expansion" might give it the wrong kind of feel. I think that what we're looking to do is broaden the area which is permitted under the special permit to that space.

When we originally got that building, we just couldn't afford the tall rent, and that's why we subdivided it. I think the intent was to have the special permit cover that whole area.

You know, coming out of this and being an operations guy, I have a simple analogy of just when you remove locks out of the river, the river can move faster. So a lot of eliminating congestion touches receiving, actually reduces labor, which reduces the amount of people that need to be in the building, which then is all due to congestion.

And our hopes are that the building becomes more efficient, and there's less congestion there -- again, which
ties into this whole theme of less people, less operations, and my intent is to have less receiving, and there's additional storage capacity and things are flowing a lot better.

BRENDAN SULLIVAN: All right. Are you on site most of the time?

CHRIS ANDERSON: Correct.

BRENDAN SULLIVAN: You are? All right. Let me open it to public comment, and -- yeah. 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 I will give you up to three minutes in which to comment.

DAVID BUCK: David Buck.

BRENDAN SULLIVAN: Dave Buck?

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

BRENDAN SULLIVAN: Yes.

DAVID BUCK: Okay. Are you supposed to see me too?

BRENDAN SULLIVAN: Sorry?
DAVID BUCK: Are you supposed to be able to see me also?

BRENDAN SULLIVAN: No, that's okay. As long as we hear you.

DAVID BUCK: Okay. Yeah. So I'm one of the people who submitted comments, and -- and so I think I -- I can say that -- that what Chris and the other person have said apply to the period of time not -- in the fairly near future, when we're still getting out of the pandemic.

And of course, we don't know if that will ever really end, but I'm thinking a little more long-term than that.

Because though I would not expect traffic to do an abrupt upturn from -- from the change that's proposed, but what I do think, that over a period of three to five or -- well, maybe two to five to more years -- partly because there is new construction on the other side of Clover, there's the new building going up right next to that, there's a building that apparently is not fully occupied right across the street from that building, there's going to be even more pressure on this area here in terms of traffic, in terms of people, and to me it seems like it's going to be
I do have trouble believing -- you know, I can certainly state that putting the bakery in a new space certainly makes sense for the business. By the way, I have a lot of respect for Clover's products.

But also, just the fact that in addition to the moving the bakery, they've said there is going to be a café, meeting spaces and offices. I have trouble believing that that would not involve more traffic from employees -- maybe employees who don't normally work in the building -- as well as, as well as vendor representatives, not necessarily deliveries, but vendor representatives.

Second of all, with the boxed lunches, I -- and I recognize that they're not increasing the number of spaces in the restaurant seating, but I think really that their boxed lunch business could really grow significantly.

To me it seems that they are going to have the capacity to make that happen, and I have trouble believing that all of that is going to be covered by deliveries. I would think that after a period of time, after people are less -- less hesitant to go out for their meals, that there would be a lot more people driving to the location to pick
up their lunches, or maybe sit in the café, I'm not sure. So that's essentially what I have to say. And again, it is partly because of the two new buildings in the area that are right directly across from the -- right almost next to the Clover location. I have trouble believing it's just not going to create a more serious capacity issue. Thank you.

BRENDAN SULLIVAN: Great. Thank you. There seems to be nobody else calling in. There is correspondence from Colby Swettberg, and he's a longtime owner and resident of Elm Street, across the street from Clover. "I'm writing to voice my opposition to the proposed expansion of Clover. The plans to expand are extremely concerning, since we have to deal with their constant traffic, trash, noise, loud music, and rude employees. I assume that this expansion will increase delivery activity on Elm Street. "Their vendors make a habit of delivering outside of hours stipulated by the new Noise Ordinance, before 7:00 a.m. on weekdays and before 9:00 a.m. on weekends and holidays. "We also listen to Clover's own vans making noise
as early as 4:00 a.m. We have recently complained to the Licensing Commission, et cetera."

So that is one comment. There is also pictures, actually, and comments by Michael Noll, who said that the photo was taken on April 18 demonstrating two photos, the traffic issues on Cambridge Street.

He mentions that Clover occasionally parks their vehicles in residential parking spots overnight on Elm Street, and he fears that the expanding kitchen will increase deliveries and make situations worse.

BRENDAN SULLIVAN: And there is other correspondence also. What time do your employees arrive for work?

CHRIS ANDERSON: The restaurant opens at 7:00. So some folks are in there at 6:00, 6:30. And the restaurant closes at 10:00, and there's folks in there closing down the restaurant thereafter, and then the bakery happens overnight.

BRENDAN SULLIVAN: Okay. Well, creating noise disturbance at 4:00 in the morning is not acceptable, and I was subjected to that with the fire station across the street from me, where deliveries were coming at 4:30 in the
morning, and it can be quite disconcerting. And after
repeated requests and assurances, it still continued.

But anyhow, can you assure us for the record and
granting of the special permit that what would be the
earliest that anybody will be arriving at the location?

CHRIS ANDERSON: Um --

BRENDAN SULLIVAN: Or, if somebody arrives
earlier, that they be very, very quiet, and not noticeable
at all?

CHRIS ANDERSON: Absolutely. So we have some
folks entering at 5:00 just preparing for the open and
kitchen. That is behind the restaurant. And then we have
the bakery team that bakes overnight, which leaves probably
between 2:00 and 4:00 in the morning.

BRENDAN SULLIVAN: Okay, and --

CHRIS ANDERSON: They've got to have that --

BRENDAN SULLIVAN: And while they're there,
they're totally inside, no doors open, no windows open?

Even during the summer months, is that correct?

CHRIS ANDERSON: No doors and no windows are open.

No, we run the air conditioner at that point. And if it was
-- the bakery was in the BISq space, it would be over on the
Cambridge side away from Elm Street.

Employees do leave occasionally to take a smoke break. And our smoking policy is over by Dunkin Donuts on Cambridge Street. So it's on the other side of the building two block over from us.

BRENDAN SULLIVAN: And deliveries?

CHRIS ANDERSON: There's no deliveries before 7:00. And -- well, that's where we had those two violations. Those two deliveries that were spoken of by the letters have been addressed by the Licensing Commission, and they have been dealt a severe warning, with stating that if there's another delivery within the next 30 rolling days, that they would be terminated, our relationship with them would be terminated, and it's very, very serious.

BRENDAN SULLIVAN: Okay. All right. Well, again, I would implore you to, if you haven’t ready -- and this is public record -- is to read the letters, take them into consideration, take them to heart, and I get the sense that you are a very responsible person, you run a good operation, however, it does have its adverse impact on the people who have to live next to Clover and its surrounds.

I will close the public comment part and reading
of any letters. Mr. Stetson, any comment before we take it back to the Board?

    ROBERT STETSON: Only one comment, Mr. Chair, is that, you know, we see this as not just a way to cut down on, you know, some of the overnight baking operation and moving the baking operation more towards Cambridge Street, but it's also we believe a -- you know, a much less intense use for that space, as opposed to if this was a retail bakery, for instance, which is permissible in that space.

    And so, you know, really the whole idea here is just to have this baking operation in service of the existing restaurant. Thank you.

    BRENDAN SULLIVAN: Great. Thank you. Let me close the presentation part and turn it over to the Board. Jim Monteverde, comments?

    JIM MONTEVERDE: I have no comments, thank you.

    BRENDAN SULLIVAN: Wendy Leiserson, any comments?

    WENDY LEISERSON: My only comment is I actually like Clover, and applaud its mission, but I am concerned about how to -- I know the Licensing Commission has jurisdiction over, you know, enforcing the noise ordinances and, I mean, the other complaints that have been made.
But I just wonder if there was any way to assure the neighbors, because they are saying that this has been going on for a long time, and it's one thing to -- I mean it's, it doesn't seem to me that they're satisfied that they don't have to continue to be vigilant and report violations.

So I'm just wondering if the Board has any creative suggestions about how to satisfy the neighbors' concerns.

BRENDAN SULLIVAN: Okay. I think that the Licensing is probably the heavy hand here, and that they're jurisdiction over the operation could probably outweigh whatever, you know, there would be more immediate by them than any other conditions that we imposed.

But they were granted a special permit back in July 29, 2011, and it was to seek -- to open up a hub of operations at 302 Elm Street that would include a large kitchen and café as well as meeting spaces and offices.

And they were taking over an existing bakery, so that the -- they were permitted back then by the Board, and this is sort of taking over some additional space.

I think what's gone wrong is probably the impact and maybe some bad behavior, potentially by some employees
who were inconsiderate.

Also, I think that obviously vendors who just do their own thing, but I think that Chris, you have probably tried to address those issues to the best of your ability, or potential ability. But maybe you can top that ability a little bit more and be more responsive, to avert these and avoid these things in the future.

Wendy, does that seem to make sense, or?

WENDY LEISERSON: Yes. I -- I -- I understand what you're suggesting. And perhaps something as little as having your -- if you don't already, not only having your three-strike policy with regard to vendors, but also posting the neighborliness policy in your -- for your staff to comply with, if you don't already.

BRENDAN SULLIVAN: Okay. I think probably, Chris, I don't know, do you have some kind of posting inside for employees, rules of behavior type thing regarding being sensitive and respectful of our neighbors?

If you could just sort of remind employees number one, and then so I think what Wendy is asking -- are you looking for a policy, Wendy, to be inserted into the decision, or for vendors and delivery materials?
WENDY LEISERSON: Not necessarily. I'm just expressing the desire that there be something concrete to offer your neighbors to show that you are, like, visibly show that you are responded to them.

BRENDAN SULLIVAN: So it's the sense of the Board potentially granting the special permit, but we do it with sort of encouragement to ameliorate any other concerns and past bad behavior. Does that sum it up?

WENDY LEISERSON: Yes, thank you.

BRENDAN SULLIVAN: Okay. Matina, any questions at this time, any further comments?

MATINA WILLIAMS: No.

BRENDAN SULLIVAN: Jason, any further comments at this time? Ready for a motion?

JASON MARSHALL: Yeah, just briefly I think the fact that you're not changing the use here is key, at least to my decision.

And then to the conversation that just took place, you know, I think Chris, I hear you committing to being a good neighbor. It seems like you have made efforts recently, particularly with vendors. Hopefully you'll do the same with any employees. And that's encouraging.
You know, inevitably, it seems like Clover will be back before this Board at some point in time. I would expect and hope that the Board will pay close attention to how Clover has interacted with neighbors. Certainly, if I'm on that case, I will be disappointed if some of the same concerns come up again.

BRENDAN SULLIVAN: Great. Let me make a motion, then, to grant the special permit as per the application. Supporting statements, dimensional forms and the drawings contained in the application and initialed by the Chair.

The Board finds that the requirements of the Ordinance cannot be met unless we grant the special permit.

The Board finds that traffic generated or patterns of access or egress would not cause any additional congestion, hazard, or substantial change in established neighborhood character by the accumulation of this particular space by the existing operation.

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, which is the expansion of the operation into the adjoining space by existing equipment, potentially
new equipment, into the space to make a more efficient
operation.

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

   The Board finds that testimony has shown that with
the addition of additional square footage, that it would
make the operation far more efficient, probably much safer
for the workers in the business.

   The Board finds that the proposed use would not
impair the integrity of the district or adjoining district.

   The Board finds that there is an existing
operation there, an identical operation, and that it has not
impaired the integrity of the district, and that the
granting of the special permit would not derogate from the
intent and purpose of the Ordinance. The purpose of the
Ordinance would be to allow for the business, small
business, to expand to increase the efficiency of their
operation.

   On the motion, then, to --

WENDY LEISERSON: Mr. Chair? I'm sorry, I
apologize for being out of order, but I wonder if you could
also add one of the findings or however you want to put it
was that we were represented that there would be no
significant increase in the amount of delivery traffic, and
in fact anticipated reduction in the amount of deliveries
within the space for storage.

Brendan Sullivan: Yeah, as further presentation?

Wendy Liseron: Yes.

Brendan Sullivan: Okay. So noted and
incorporated by reference. So Wendy's comments. On the
motion, then, to grant the special permit, Jim Monteverde?

Jim Monteverde: In favor.

Brendan Sullivan: Wendy?

Wendy Liseron: In favor.

Brendan Sullivan: Matina?

Matina Williams: In favor.

Brendan Sullivan: Jason Marshall?

Jason Marshall: In favor.

Brendan Sullivan: And Brendan Sullivan in favor.

[All vote YES]

Five affirmative votes, the special permit is
granted. Okay.

Robert Stetson: Thanks to the Board for your time
and consideration.

    CHRIS ANDERSON: Thank you as well.

    MATINA WILLIAMS: Can we have two minutes?

    BRENDAN SULLIVAN: We can have five minutes.

    MATINA WILLIAMS: Thank you.

    BRENDAN SULLIVAN: The Board will convene in five minutes.

    MATINA WILLIAMS: Thank you.

    (BREAK)
* * * * *

(9:15 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Wendy Leiserson, Jason Marshall, and Matina Williams

BRENDAN SULLIVAN: Okay, we're all here. The Board will hear Case No. 170043 -- 281 Concord Avenue.

JAMES HEFFERNAN: Good evening to the Board, this is Attorney Jim Heffernan for Rich May, P.C. on behalf of Cathy Wang.

BRENDAN SULLIVAN: Okay in reviewing the application, before we get into the merits of it, the application is a Special Permit for a Change in Use and Occupancy, 281 Concord Avenue.

And the original Certificate of Occupancy was in the basement was for storage; first-floor office space, second floor office space.

And now you want to pivot to private and corporate events to use as space on the first floor in the garden area, such as wedding showers, baby showers, birthday parties and so forth.

And you're seeking relief under 4.35 -- 1-1
commercial recreational establishment, Section 4.35g, a
nightclub; and Article 10, Section 10.40. Is that correct,
Mr. Heffernan?

JAMES HEFFERNAN: That is partially correct. And
I apologize, I got on board this week and got up to speed,
and upon seeing the agenda, seeing the nightclub part, I was
surprised by that and that is a mistake. There is no
intention to open a nightclub here. That use should be
stricken from the applicant.

BRENDAN SULLIVAN: Okay. One of the criteria,
Section -- Article 4, Section 4.35.1.1, commercial
recreation establishment, that under Zoning Ordinance
6.36.511, you are required to provide parking, one space for
every 400 square feet.

There is approximately 2800 square feet there now,
so you would have to provide a lot of parking. And it
obviously appears that not able to provide that parking.
However, the application is not seeking relief for parking.

So even if we were to grant the relief, well let's
put it this way -- if we were to entertain granting of the
relief we couldn't, because you'd be in violation of that
section of the parking requirement.
So where I'm going is that it would appear that you should continue this matter, and you may require a new filing to seek relief under 6.36, and the reasons why you cannot comply, and the reason why we should grant the special permit for relief from that particular section, as well as the other sections that you're applying for, and also that to modify the fact that you're not seeking relief for 4.35, which would be a nightclub.

JAMES HEFFERNAN: Understood. And I appreciate your care and attention to this. With your suggestion to continue from hearing the prior hearing, is the June 30 a possibility or are we -- do we have time to modify for relief under the parking?

BRENDAN SULLIVAN: Well, you would have to -- a new filing would be that you would have to file it immediately.

JAMES HEFFERNAN: Yeah.

BRENDAN SULLIVAN: Maybe Monday-ish or so, and there has to be an advertising for it.

OLIVIA RATAY: It's for Case --

BRENDAN SULLIVAN: June 30, and they would be able to file and readvertise? Because it has to be readvertised
for two weeks prior. So it would be tight, but you probably could do it.

JAMES HEFFERNAN: Okay. So if we're -- just to rehash it, if I got a call filing in by Monday regarding the parking, it's tight, but we can make it on June 30?

BRENDAN SULLIVAN: Correct. I would have to double check with Maria Pacheco, where she's really the guru on this, and -- but it appears that that would work for the June 30. What I will do is to keep the case alive, I will continue this case, so that we don't run afoul of the repetitive petition instruction.

JAMES HEFFERNAN: Uh-huh.

BRENDAN SULLIVAN: And then review it over the weekend, obviously, and you might even have conversation with Maria tomorrow evening, actually, so that she can leave that spot open for you.

JAMES HEFFERNAN: Understood. Understood. I really appreciate your --

BRENDAN SULLIVAN: And also a new application to clearly state exactly what the proposed operation will be. Because the nightclub does raise issues.

And also, you're saying you just were on board the
last few days or so?

JAMES HEFFERNAN: Yeah, let me clarify that all I too. I -- you know, I represent Cathy for quite some time. She is a -- I'm biased because she is a good person. I don't usually just jump on anything for a random client, and -- I think -- she understood this was a simpler process than it is, and so I was happy to jump on board, because I do know the site, and I know her well.

BRENDAN SULLIVAN: Okay.

JAMES HEFFERNAN: But hearing about your concerns about parking, what you're saying to me makes a lot of sense.

BRENDAN SULLIVAN: Right. And what you want to do is review the correspondence and the letters in the file, the public record anyhow. So --

JAMES HEFFERNAN: Yes.

BRENDAN SULLIVAN: -- if you need any help, or see if there's any additional ones. All right.

JAMES HEFFERNAN: Yep. And we have reviewed those, and we were prepared to answer a number of those concerns. But you're raising a very critical point about parking.
BRENDAN SULLIVAN: All right. Good. Any comments by members of the Board regarding the continuing of this matter? Jim, any?

JIM MONTEVERDE: No comment.

BRENDAN SULLIVAN: Wendy, Jason, Matina, any comments?

COLLECTIVE: No comment.

BRENDAN SULLIVAN: Okay. Let me make a motion, then, to continue this matter, Case No. 170043, 281 Concord Avenue, to June 30, to June 30, 2022 at 6:00 p.m. on the condition that the petitioner change the posting sign to reflect the new date of June 30, 2022 and the new time of 6:00 p.m., that that any new submittals pertaining to this particular case, #170043 that is not any new submittals and changes to the documents, that they be in the file be by 5:00 p.m. on the Monday prior to the June 30 hearing.

Also, that the petitioner signed a waiver of the statutory requirement for a hearing and a decision to be rendered thereof. Maria can send that to Jim, and you can sign it please and e-mail it back.

And I would ask that it be in by 5:00 p.m. a week from Monday, so through all of next week you send that back.
And that is a condition to the continuing of this matter.

MATINA WILLIAMS: Mm-hm.

BRENDAN SULLIVAN: On the motion, then, to continue this matter to June 30, Jim Monteverde?

JIM MONTEVERDE: In favor.

BRENDAN SULLIVAN: Wendy?

WENDY LEISERSON: In favor.

BRENDAN SULLIVAN: Jason?

JASON MARSHALL: Yes, in favor of the continuance.

BRENDAN SULLIVAN: Matina Williams?

MATINA WILLIAMS: Yes, in favor of the continuance.

BRENDAN SULLIVAN: Brendan Sullivan yes in favor.

[All vote YES]

BRENDAN SULLIVAN: On the five affirmative votes, this matter is continued until June 30, 2022, at 6:00 p.m.

See you then.

JAMES HEFFERMAN: Thank you very much.
Sitting Members: Brendan Sullivan, Jim Monteverde, Wendy Leiserson, Jason Marshall, and Matina Williams

BRENDAN SULLIVAN: The Board will hear Case No. 170035 -- 238 Brookline Street. Mr. Rose? Mr. Hodgman?

THOMAS ROSE: My name is Thomas Rose. I'm the architect representing the Hodgmans.

BRENDAN SULLIVAN: Okay. It's yours. What was the issue?

THOMAS ROSE: The issue was just really to, you know, the construction has been finished. There were some minor changes to the exterior of the building, and we submitted the documents showing them. This is two windows that were added, and also a roof terrace that was changed to a roof deck, a rear entrance.

BRENDAN SULLIVAN: And how did this happen?

THOMAS ROSE: It's just during the process of construction the client made some changes.

BRENDAN SULLIVAN: Went outside the drawings that were approved?
THOMAS ROSE: Correct. All the changes were made within the setbacks. I don't see really any issue with it, but obviously there is some. So we just want to change the documents and upgrade the drawings.

BRENDAN SULLIVAN: Well, when you were granted a variance, back in 2019 any changes to that relief, even though it may be compliance, still requires further relief to amend that case, basically.

That's the policy -- always has been the policy of the Board, and actually not of the Board, but of the Department of Inspectional Services and the Commissioner.

THOMAS ROSE: Correct.

BRENDAN SULLIVAN: Let me open it to comment. Jim Monteverde, any comments?

[Pause]

Jim?

JIM MONTEVERDE: Sorry. No comment.

BRENDAN SULLIVAN: Wendy, any comments at this time?

WENDY LEISERSON: No comments right now.

BRENDAN SULLIVAN: Okay. Jason?

JASON MARSHALL: No comment.
BRENNDAN SULLIVAN: Matina, any questions, or comments at this time?

MATINA WILLIAMS: Not really, no.

BRENNDAN SULLIVAN: Okay.

MATINA WILLIAMS: Because you -- if I understood, his just said the changes just happened. They --

JIM MONTEVERDE: Wow.

BRENNDAN SULLIVAN: -- were granted original relief, and during construction, the owner, I guess, made some changes, and felt that that was, I guess, okay and didn't realize that -- I guess, I don't want to put words into your mouth, but -- didn't realize that they were going outside of what was approved, and that would require an amendment to the original variance that was granted.

MATINA WILLIAMS: And the architect didn't know?

Changes were --

BRENNDAN SULLIVAN: I don't know. Mr. Rose, were you?

THOMAS ROSE: No, we were aware of that. We were aware we'd have to -- so we're going through the process.

BRENNDAN SULLIVAN: Yeah.

MATINA WILLIAMS: Hm.
WENDY LEISERSON: Matina, do you have more to say, because I have the old case, at a prior case, that might address what you're asking about.

MATINA WILLIAMS: Okay.

WENDY LEISERSON: Would like me to chime in at this point?

MATINA WILLIAMS: Sure.

WENDY LEISERSON: Sure. So the one thing I didn't am a little concerned about is when I looked back at the original decision that Gus Alexander wrote up, in the narrative it does say that, you know, the case started in 2019.

The petitioner was working with his neighbors to address concerns, you know, that the case had been continued a number of times in order to try to accommodate the abutting neighbors. The plans had gone through a number of iterations.

You know, based on the facts that were listed by the Chair at the time in that prior decision, I find it difficult to understand why the petitioner would not have understood, based on his own statement about how many times the plans had been revisited and how many delays there were...
Why the petitioner would have thought it would be okay to simply make changes, and then ask for forgiveness.

ROY HODGMAN: You know, it's -- it's -- it just, it's very normal during construction that you see opportunity. So it's -- I didn't think it was going to be a huge issue to, you know, submit some changes. I mean, it's just it happens all the time.

MATINA WILLIAMS: But this is submitting changes afterwards, though. You went and did it.

ROY HODGMAN: I didn't realize I'd have to have given permission before I made those changes. I just thought, you know, it was part of, you know, we would submit it as an as-built when the job was finished.

BRENDAN SULLIVAN: Well, being in the trade, I think you either -- you always run it by the Building Inspector that you're making these changes, because knowing ultimately down at the end of the road, he is going to have to look at the relief that was granted, the drawings that the relief was based on, and are there any changes to that?

So, you know, you may have kicked the can down the road, but eventually it might have to face up to it. And here we are, tonight. So -- and I know that maybe it was a
decision that let's keep going and not stop construction,
and so on and so forth.

I don't know if that was a decision that was made then, and -- you know, the lens for forgiveness instead of permission now. It doesn't happen all the time. It shouldn't happen all the time.

Anything else? Who was it, Matina? Anything else, Matina or Wendy?

ROY HODGMAN: Hi. I'm Roy, the petitioner or owner of the property.

BRENDAN SULLIVAN: Yep.

ROY HODGMAN: We'll give you a little bit more color about what's going on here. During the course of construction and in viewing the building process, we identified two areas in the house that were darker than they might otherwise be if we had added windows. We decided to add windows, or we decided to draw windows into the plan to see what it would be like to build them.

The builder that we worked with was in contact with the Building Department in March of 2021 to notify them or ask for permission to make these changes.

And it's my understanding that he got a response
back saying it was fine. So he proceeded to build the two extra windows and change the back patio to a porch, and it was only upon the final inspection months later that we learned that this was a problem.

Previously, we thought there had been approval from I think it's the Building Department -- I'm not sure to whom the builder submitted these changes.

But he seemed to think that he had gone through the correct process with the City to notify them that there were going to be these two extra changes.

BRENDAN SULLIVAN: Okay.

ROY HODGMAN: Another good point -- so I also, Wendy you brought up earlier the history of this case. Yeah. It was continued a bunch. We worked with our neighbors quite a bit. The two changes that we're talking about here do not face the neighbors that we were having all these discussions with.

And the two neighbors that we do face, the changes face, the windows face: One of them has written a letter in support of the change to the case today, it faces out on Brookline Street.

And the other one we haven't heard from, and
havent -- it hasnt been an issue with that yet.

BRENDAN SULLIVAN: Anything else, Matina or Wendy

at this time?

MATINA WILLIAMS: No, I'm all set. That shines

some light on some things.

BRENDAN SULLIVAN: 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 in which to comment.

ROY HODGMAN: "Rac?"

RUTH CARRETTA: Hi. Actually, it's Ruth Carretta

and --

CARLOS SALAMANCA: Carlos Salamanca. We're the

abutters from 99 Allston Street.

RUTH CARRETTA AND CARLOS SALAMANCA: -- and let's

see. Let's see. In -- we were the folks as Roy Hodgman had

said that they had done a lot of the negotiations about the

final design of the house.

We -- even with the final design, we still were
not satisfied, we still felt that the increase in the size of the house was still a lot larger than what we felt that was much larger than what we had -- let's see, what would have wanted to see and impacted, you know, the enjoyment of our house.

It's true that the Board at the time in May of 2020, or March of 2020 -- you know, I think had decided that overall that the petitioners would still be able to go through with the plan, and so, you know, we -- let's see -- we were still disappointed with that outcome.

But fast forward, let's see, it's true that the windows that were added do not impact us. So, you know, that is indeed fine.

But one thing I was -- when I was taking a look at the BZA application that Wendy had referenced it looked to me like the total gross area of the house was much bigger than what had been originally approved, but not much bigger, I should say. 145 square feet larger.

And we were not sure where that was, where that space was added. So that was a question that we had.

And two, the issue of the need to do this also seemed to have to do with, let's see grading and drainage
issues. And so, let's see, we've also noticed that we've had some additional problems with additional pools' filling of the water in our back yard, and we didn't know if the -- let's see, what was done in order to accommodate, you know, some of the drainage issues and grading issues might be causing that.

Maybe not, it could be -- it could be our other neighbor that also abuts our property, that also made some significant changes that could be causing it.

But, you know, we were curious today to hear, you know, kind of where that square footage is and if that was indeed something that would impact us, and also that some of the drainage and let's see grading issue adjustments --

So look forward to some input, and thank you.

CARLOS SALAMANCA: I have a comment. You know, when we went in front of the City and, you know, our neighbors, the ones submitting the petition tonight, got permission to go forward, we did the best to explain that what they were going to do was going to cause inconveniences for us.

In the end, in spite of what we said, the City went ahead and gave them permission to do what they've
stated on paper. I'm frankly not surprised that in the middle of it all without consulting the City, they made changes that weren’t in agreement with what they had told the City that they would do.

So I wasn't -- I had expected the City, if anything, to send an inspector in, you know, while the work was being done, to make sure that they were following through with -- what they had agreed they were going to do.

And I'm surprised by the reaction of the Board now this finds out that they in fact went beyond what they had agreed to do, and are surprised that they did things without, you know, pretty much leaving the City in the dark until now.

BRENDAN SULLIVAN: Thank you.

ROY HODGMAN: I think we can respond to a couple of those points, if that's okay?

BRENDAN SULLIVAN: Well, let me go through the --

ROY HODGMAN: Sure.

BRENDAN SULLIVAN: -- all the comments, and then you can. That's the end of the people calling in. If you just want to respond to the last comments?

ROY HODGMAN: Sure. Carlos, in response to the
question, the statement about leaving the city in the dark, our intention was not to dupe the City or intentionally mislead our building plans or anything like that.

We did draw up new plans, submit them to -- I don't even know, some part of the City, and it is my belief, I operated under the assumption that when our builder said that the changes were approved and okayed by the city, that it was all right to do that.

If I had known at the time that it was -- that was not the right process to add two windows and change the patio to a porch, we would have done it differently. But that I didn't know.

I learned this later when the inspector did come to verify that we had built the stuff the way that we said we were going to build it. And when it wasn't up to what they were expecting, this whole process triggered.

So as much as we can, we were trying to follow the right process with the City to make sure that the building that we wanted to build and the changes to that building were done in accordance with whatever procedures were necessary to make these things happen.

About this extra square footage, Tom can explain
where that comes from.

THOMAS ROSE: Well, that's when you change the
terrace, the entry terrace changed to the deck. So a deck
with a roof over it becomes part of the FAR calculation. So
that's where the calculation... We thought we had a little bit
of a buffer to cover that, but we're just a little over the
allowable FAR.

BRENDAN SULLIVAN: And how many square feet does
that add, Tom?

THOMAS ROSE: Idvt-- one second, I just have to
look. I believe we're two square feet over the allowable.
It added about seven -- give me a second, I just want to be
careful here.

BRENDAN SULLIVAN: I'm going to ask staff to pull
up A3-1.

ROY HODGMAN: Yeah.

BRENDAN SULLIVAN: Okay. Thank you.

ROY HODGMAN: So it's approximately -- it's three-
sixths by about seven, seven-and-a-half feet, so seven point
five feet, so --

BRENDAN SULLIVAN: 30, 30 some odd square feet?

ROY HODGMAN: Right.
BRENDAN SULLIVAN: Just going back, A3-1 shows a window there. That was added?

ROY HODGMAN: Yes. Correct.

BRENDAN SULLIVAN: Then, so that's the nature of the relief being requested tonight, and the modification to the grant.

Sheet A3-2?

ROY HODGMAN: That's the other window, yes.

BRENDAN SULLIVAN: That window was added, and also the deck was maybe expanded, and that the roof was applied over it?

THOMAS ROSE: No, the roof was there as part of the original. It was going to be just stepping on to, like --

BRENDAN SULLIVAN: I'm sorry, the roof was always there?

ROY HODGMAN: Yes, yeah.

BRENDAN SULLIVAN: Okay. But how does -- was that square footage not -- I think it's in your application.

THOMAS ROSE: Because it was a terrace. It was graded up to a terrace, as an entry terrace. You know, so we didn't -- I didn't include that in the original
BRENDAN SULLIVAN: Okay. So it's the addition of
the --

THOMAS ROSE: The steps.

BRENDAN SULLIVAN: -- the platform?

THOMAS ROSE: The platform and the steps.

BRENDAN SULLIVAN: Yeah. Which basically then
triggers the far calculation?

THOMAS ROSE: Correct.

BRENDAN SULLIVAN: Okay. And those are the only
basically three changes?

THOMAS ROSE: Correct.

BRENDAN SULLIVAN: Okay. All right. I will close
the -- well, no, there was one letter from Brian Albrecht,
A-l-b-r-e-c-h-t dated May 12.

"We are writing in support of the petition set
forth in Case No. 170035. The changes made during construction
to the rear deck are minor and kept within the original
design principle. In our opinion, the changes have no
impact to the surrounding neighborhoods.

"Thank you.

"Brian and Jennifer Albrecht."
BRENDA SULLIVAN: And that is the abutter. That is the sum and substance of the communication. Any comments? I will close the public comment part. Any questions by members of the Board? Jim?

WENDY LEISERSON: I'm sorry, go ahead.

BRENDA SULLIVAN: Go ahead, Wendy. Yep. Any comments or questions?

WENDY LEISERSON: I just have one question. Mr. Rose, were you present during the project, did you help the builder to redesign this plan?

THOMAS ROSE: Yes, I did.

WENDY LEISERSON: So you knew at the time this was built, even if the builder and the homeowner did not, that this would have to go back to the Zoning Board, did you not?

THOMAS ROSE: Yes.

WENDY LEISERSON: Yes. So my only comment would be even though this may be minimal, I'm uncomfortable with the attitude that a change could be made, knowing that you will have to go back to the Board --

THOMAS ROSE: Oh, we --

WENDY LEISERSON: -- for forgiveness.

THOMAS ROSE: We thought we had. We've had -- you
I know, we had, our contractor had submitted some information, and we felt we had -- we were okay with this.

WENDY LEISERSON: But you were present during the original Zoning case, correct?

THOMAS ROSE: Correct.

WENDY LEISERSON: Right. And you said earlier tonight that this happens all the time, you have to go back when changes are made to the Zoning Board, that's what I understood you to have said earlier.

THOMAS ROSE: No, I said -- what I meant was that, you know, changes during construction process, things change. That happens all the time.

WENDY LEISERSON: Yes, yes, that does. Yes.

Okay, thank you.

BRENDAN SULLIVAN: Wendy -- I'm sorry, Jason, any comments, questioning? (sic)

ROY HODGMAN: No, I -- well, let me ask this. You brought up a submittal from the contractor. Is that in the record anywhere. I don't think I saw that.

BRENDAN SULLIVAN: It is not in the record right now.

ROY HODGMAN: So we have been working with this
contractor to get -- I was anticipating a question like this -- we've been working with him for weeks to get his copy of this submission.

And what we have from him is that on March 26 of 2021, the application for house modifications were submitted from #113138, and they were approved and sent back to him, so then he decided to move forward with the modifications.

This -- I have it in a text message from him, but I don't have a copy of this communication between him and to whomever he submitted this application for modifications.

JONATHAN MILLER: It's a frustrating file to act on.

THOMAS ROSE: Yeah.

ROY HODGMAN: Yeah. I mean, listen, I don't -- in no way does any of this make me happy. I wish we had figured out earlier on that that particular process was not the right way to go about making some modifications and addressed this at the time.

I apologize that I didn't know then that it was going to be a larger deal than it is. I wish we had solved it at that time, but we haven't, so I want to try to make it right.
JASON MARSHALL: It's not a "no big deal" type of a case. And I haven't been on the Board for a very long time, but I haven't seen a case like this come up. So it's not run-of-the-mill. It's just not a --

ROY HODGMAN: Right.

JASON MARSHALL: -- not a regular occurrence, so.

THOMAS ROSE: I don't think anybody said it would be run of the mill here.

JASON MARSHALL: No, but, you know, it seemed like, the beginning of their presentation made it seem like it was not a big deal.

And as the questions have come up, and we've had discussion, it's -- it's not de minim-- it's not de minimis. So I'm going to leave it there.

BRENDAN SULLIVAN: Wendy, any questions? Or any further comments?

WENDY LEISERSON: Not at this time, no.

BRENDAN SULLIVAN: Okay. Jim? Can I ask you, Jim Monteverde?

JIM MONTEVERDE: No. I have no further questions, thank you.

BRENDAN SULLIVAN: All right. I will make a
motion to grant the relief to amend BZA Case No. 017217 -- 4019 (sic), and to allow for the addition of two windows, and for the deck and the stair, Drawing A as shown on the drawing A31 and A32.

The Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship, because it would require the petitioner to remove the two windows in question and also the deck in order to comply with the tenants and the granting of the original application back in 2019.

The Board finds that the hardship is related to the fact that the size of the lot, the structure that -- the size of the structure that is sited on the lot, and that, which predates the existing ordinance, and as such that the structure is encumbered by the ordinance, and any modification, albeit the one that triggered the initial request for a variance and any modification of the court ordinance, would be difficult for the homeowner to comply with doing -- knowing the encumbrance of the existing ordinance.

The Board finds that desirable relief may be granted without substantial detriment to the public good.
The addition of the windows and the back deck would have no detriment to the public good, or nullifying and that 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, which is to allow some modifications to single-family homes, to add some fenestration into the interior of the house, and also to allow for a safe entry/exit from the structure by means of a deck with a suitable platform.

On the motion, then to amend the original case, and to incorporate the changes as a part of it, Jim Monteverde?

JIM MONTEVERDE: I vote in favor.

BRENDAN SULLIVAN: Wendy Leiserson?

WENDY LEISERSON: I'm struggling with this one.

BRENDAN SULLIVAN: Shall I come back to you?

WENDY LEISERSON: Yes, please. Yeah.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: In favor.

BRENDAN SULLIVAN: Matina?

MATINA WILLIAMS: In favor.

BRENDAN SULLIVAN: Back to Wendy.
WENDY LEISERSON: I'm going to vote in favor, but if -- but I do not like setting this precedent for asking for forgiveness.

BRENDAN SULLIVAN: Okay. I think that the -- my feeling on it is that to deny it would I think in my way would be, you know, would be -- well, I think somewhat punitive and to the homeowner that would have to remove the two windows and the decking, and would have really a great deal of hardship and effect on the home, and that the existence of them is somewhat minimal, if any.

The actions are not de minimis, but the effect of it I think to me is minimal. So I will vote for in support of granting the variance to amend the original case.

[All vote YES]

BRENDAN SULLIVAN: Five affirmative votes, the variance is granted.

ROY HODGMAN: Thank you.

THOMAS ROSE: Thank you.

WENDY LEISERSON: Thank you, Chair, for putting into words what I could not. Thank you.
11:53 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Wendy Leiserson, Jason Marshall, and Matina Williams

BRENDAN SULLIVAN: The Board will hear Case No. 170524, 11 Gray Gardens East. This is to be scheduled for 8:00. Is it 8:00 yet?

JIM MONTEVERDE: [Laughter]

PETER BEMIS: Oh, yeah.

BRENDAN SULLIVAN: Just barely.

JIM MONTEVERDE: Just about, yeah.

BRENDAN SULLIVAN: Just barely.

JIM MONTEVERDE: Was that a.m. or p.m., yeah?

WENDY LEISERSON: 8:00 somewhere.

BRENDAN SULLIVAN: It is 8:00 somewhere, you're right. Okay. Case No. 170524 -- 11 Gray Gardens East. Mr. and Mrs. Davis or Bemis, who's presenting?

PETER BEMIS: Good evening. It's Peter Bemis here, Engineering Design Consultants.

BRENDAN SULLIVAN: Okay.

PETER BEMIS: Can you hear me, Mr. Chairman?
BRENDAN SULLIVAN: Yep. The floor is yours.

PETER BEMIS: Great. Thank you very much. So I would like to start off by saying Peter Bemis, Engineering Design. So I'm here on behalf of the Davis family, owners of 11 Gray Gardens East.

But I definitely want to distinguish myself from the previous petition, because we do have a situation where a project was built with a flaw, if you will, not compliant with a plan.

But it is the plan itself that was the flaw in this case. The Board approved a plan drafted by a Gene Brooks Landscapes back in March of '21, and it reflected setbacks to a dwelling, and that is the specific relief that the Board granted.

There was a two-foot and a four-foot six setback, it was defined on that plan. And you have a five-foot side yard setback for the spa.

And the circumstances that we found when we did our field as built for this project, we did find that the spa was indeed built four-sixths from the house, because there's a facet in the house, so they took that as the closest setback to the spa, and then they also held that
two-foot setback.

But then that pushed the spa closer to a boundary line -- unwittingly to a boundary line, because when the landscape architect, or landscaper, whoever drew this, they put the tie distance at about the midpoint of the spa at five feet, and not at its closest point.

So from our way of thinking, it's a geometry exercise, and one that they failed miserably at. And unfortunately, there was no sealed document here. There wasn't a plan by an engineer or by a surveyor. It would have given the Zoning Board the assurance that the mathematics of the proposal were correct.

So that's really the difference between the last petition and this petition. The properties are separated by a six-foot stop gate fence. There is a garage on the abutting property, that's about a foot from the lot line, based upon the survey work that we did.

And when you look at the physical plan that the landscaper drew, you would conclude that what they built is correct. And I'm not -- thank you, you can illustrate my drawings. I apologize for not having that up to start with.

But you can see probably in the second plan it has
more detail. Thank you. It shows those dimensions that I've just described to you.

Again, it's showing the 7.4 to the building when you're parallel to the midpoint, if you take that closest facet that's shown there on the building line, that's four-six. And your decision said no closer than four-six, and two feet.

So the contractor was given a contract by a homeowner, and from my perspective executed that contract to the best of his abilities. But then when he was required to get an as-built, he hired our firm to do to that work, and we had to inform him that he didn't comply with zoning.

We did bring that the attention of the Building Inspector, and that's how we got involved in filing this petition on behalf of the homeowners.

So again, to recap, you've got a minimum setback for a structure like the spa of 10 feet. You did waive it to four-six and two feet, and the expectation was that you would be complying with a five-foot side yard setback.

But in this case, that couldn't be observed, because geometrically that was impossible. They are off by 0.6 feet from the water line of the spa.
And I hope that you would see the difference between this petition and the one before us. And I hope that you would see the difference between this petition and the one before us. I know a couple members didn't seem too happy with the previous one, and I would hope that you find this one in proper keeping, and thank you for your time.

BRENDAN SULLIVAN: And you're probably thinking, "Boy, why do we have to follow them?"

PETER BEMIS: Well, I was thinking that, Mr. Chairman, regrettably, all night, while you were doing all those other petitions. [Laughter].

BRENDAN SULLIVAN: So then to avert this problem, who got the contractor started? Did he sort of just go by the plan, or was it the landscape architect who --

PETER BEMIS: Oh, I don't know who hired who. The Davises are here, if you want to promote them so they can special.

BRENDAN SULLIVAN: And I don't want to belittle the thing, but I'm just wondering if -- I mean I got the sense it was probably all done in good faith and everything like that, and just --

PETER BEMIS: Yeah. That's my conclusion as well
Mr. Chairman. And again, from our perspective, we do this in a lot of communities.

When we come in to go to a Board like yours and ask for relief, it's based upon a ground survey, so that we can represent the dimensions that are shown on the plan. And it's sealed as well.

What I looked at the for the plan that was used for the contract document, it's not sealed by the license, individual, and has dimensions on it that aren't even tied down properly. So to me, the project was destined to failure. When I look back at it, and -- you know, a backward, you know, look.

But all I can say is from the time that we found that we -- they were in the Zoning violation, everyone's been, obviously upset about it and looking for relief from this Board.

So it's just disappointing to follow the last case, where I think that -- they might have been looking for forgiveness. We're not looking for forgiveness, we're looking for recognition that what was done to start this project is really what's at fault, not the execution. Thank you.
BRENDAN SULLIVAN: Jim Monteverde, any questions?

JIM MONTEVERDE: Well, my only thought is did the -- has the contract to lay the work out, I mean, I would assume that it gets laid out first? There's control lines are set?

PETER BEMIS: Yes, sir, so if you --

JIM MONTEVERDE: -- at some point?

PETER BEMIS: Yes.

JIM MONTEVERDE: I'm sorry, go ahead.

PETER BEMIS: No, I was going to say yes. And that's what I'm getting at is they observe that four-six distance from the -- that closest point to the building. I'm sorry that we didn't label that.

We prepared the document that you have as part of the as-built when we submitted the building. So this is the way you would illustrate it to the Building Inspector, to show them the setbacks. So that other distance is four-six.

JIM MONTEVERDE: Okay, but I guess I'm -- what I'm asking -- the question I'm asking is did the -- at the beginning, the outset of construction when someone was mobilizing and laying things out, they didn't realize it was a dimensional bust at that point?
PETER BEMIS: I don't think they would have realized it, sir. If you look at the drawing that was done -- and I'm not sure if staff can bring that up -- the plan done by Gene Brooks Landscapes, but this very much appears to be the same, the same drawing when you look at it. It's about two feet off of the corner of the garage.

That's why I'm saying dimensionally it's very, very close --

JIM MONTEVERDE: Yeah.

PETER BEMIS: -- to what it was supposed to be.

So we do comply with everything, except for that side yard setback. In other words, it's more off the house in the body there, but it's still four-six off of the closest point on the -- on the north side of the building.

JIM MONTEVERDE: Okay. Thank you.

PETER BEMIS: Yes, sir.

BRENDAN SULLIVAN: Wendy, any questions?

WENDY LEISERSON: I just wanted to make a couple of comments, which is in do see distinctions between this case and the prior case.

One is that in the original decision approving this plan, I don't find in the decision narrative that there
was opposition by neighbors or multiple continuances and negotiations, such that the homeowner would have been, you know, primed to have to deal with neighbors and the Zoning Board.

And the second point I would make is that there is no opposition now, and there was no opposition then. So I do see that this is a good faith, clearly good faith. There was no redesign here. It was simply an error. So those are my comments.

BRENDAN SULLIVAN: Great. Thank you. Jason.

JASON MARSHALL: I agree with Wendy. I also appreciate Mr. Bemis' presentation and the explanation. Thank you.

BRENDAN SULLIVAN: Matina?

MATINA WILLIAMS: No comments. I do agree with Wendy and Jason. And I did -- I really did appreciate the presentation.

BRENDAN SULLIVAN: Okay. Thank you. I sat on the original case, and there was no problem with it. It is -- it has therapeutic value to it, for health reasons, and it's not just recreational, there's a component to that, but it's also tucked way around the back of the house -- lovely
house, lovely landscape, and at a cul-de-sac.

And it's really not noticeable at all. It has no impact on really anybody, other than the residents who add the positive impact.

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 we would ask three minutes limit for comments.

There's nobody calling in. We are in receipt of correspondence from Larry Nathanson/Nathanson (pronunciation)

"To the Board of Zoning Appeal, I am long-term, 1935, resident of #3 Gray Gardens East, a neighbor of Thaddeus and Juliana Davis at #11 Gray Gardens. A surveying technicality has resulted in less than applied for side yard setback between the Davis's approved plunge pool and their property lines.

"Since the plunge pool itself is entirely on their property and it will be used for exercise and physical and
mental health maintenance, I can believe that the Davises should granted a variance in this case.

"In addition, I doubt that the variance will result in any possible infringement on property use by any of the neighbors or property owners involved in this case.

"Larry Nathanson, MD.

3 Gardens East."

And that is the sum and substance of any communication. I will close the public comment. Anything else to add? You don't have to. Peter?

PETER BEMIS: No, sir. I'm all set, thank you.

BRENDAN SULLIVAN: Okay. Back to the Board, ready for a motion?

JIM MONTEVERDE: Ready.

BRENDAN SULLIVAN: Let me make a motion, then, to grant the relief requested, which is to modify the spa plans approved in BZA Case No. 107421. The Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner, because it would require the petitioner to [be] removing sections of spa and surrounding material in order to comply with the setback requirements.
The Board finds that the requirements requiring that action would be somewhat punitive, and onerous to impose upon the homeowner.

The Board finds that the hardship is owing to the size of the lot, the siting of the house on the lot, which, though the lot having plenty of areas, the siting on the lot, which predates the existing ordinance and as such is encumbered by the requirements of the ordinance, and as such any structure of this nature, which is very tight in dimensions, would require some relief from the ordinance.

The Board finds that desirable relief may be granted without substantial detriment to the public good. The Board finds that the location of the spa has absolutely no effect on the public good whatsoever, and as testimony has shown from abutting properties, it's hardly noticeable, and have no effect on adjoining properties.

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 the adjoining properties are substantially away from this structure, and that has no effect on them whatsoever, and that the granting of this
would be fair and reasonable relief from the ordinance, and also the modification to the plan, and on the condition that the plan be initialed by the Chair and incorporated as the as-built document.

Jim Monteverde on the granting of the modification -- granting of the variance to modify the original application?

JIM MONTEVERDE: I vote in favor.

BRENDAN SULLIVAN: Wendy Leiserson on the motion?

WENDY LEISERSON: In favor.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: In favor.

BRENDAN SULLIVAN: Matina?

MATINA WILLIAMS: In favor.

BRENDAN SULLIVAN: Yes.

[All vote YES]

BRENDAN SULLIVAN:

On the five affirmative votes, the variance to modify the original case is granted. Good luck.

PETER BEMIS: Thank you very much.

MATINA WILLIAMS: Thank you.
Sitting Members: Brendan Sullivan, Jim Monteverde, Wendy Leiserson, Jason Marshall, and Matina Williams

BRENDAN SULLIVAN: The Board will hear Case No. 165777 -- 50 Church Street. Ting-Ho Tam or Barry Tam?

BARRY TAM: Hello? How's everybody doing today?

BRENDAN SULLIVAN: Yes. Okay. It's your presentation.

UNIDENTIFIED SPEAKER: It's up to you.

BARRY TAM: Yes. So we have a presentation. So we -- I know it's been a long night. We will try to keep it brief. So a short introduction about ourselves. We're here today to seek approval of a special permit to operate our bubble tea shop as a formal business in the Harvard Square District.

And we're looking to open and operate the bubble tea shop, called "Gong Cha." And this will actually be our very first store as businessowners.

TING-HO TAM: So the space we are currently --

BRENDAN SULLIVAN: Just introduce yourself for the
1 record, that's all.

    BARRY TAM: Hi. My name is Barry. This is my
cousin Ting-Ho.

    TING-HO TAM: My name is Ting.

    BRENDAN SULLIVAN: Okay.

    BARRY TAM: We're both owners of Gong Cha. So
like I said, the space that we're currently going to be
occupying was once tenanted by Dado Tea.

            They were operating it for over the past 15 years,
and then due to unforeseen circumstances of COVID,
unfortunately we had to shut down our operations.

            Dado Tea previously did serve bubble tea drinks,
which is also the same business model that we are serving as
well. And we're just both excited, enthusiastic, and happy
to resume providing bubble tea drinks to the Harvard Square
community for many years to come.

    TING-HO TAM: Okay. So, like, a little bit about
ourselves and Gong Cha. Gong Cha is famous for its
Taiwanese-style bubble tea. It was founded in 2006 in
Taiwan.

    And in 2019, Gong Cha was actually acquired by TA
Associates, and this is a private equity firm based in
Boston. They have their headquarters at the John Hancock building in Back Bay. And we're actually really localized, and we're established in Boston.

And a fun fact about Gong Cha, it's Chinese for offering the best tea to the emperor. It also represents teas and beverages of the highest and finest quality.

And we also want to dedicate the [4:19:19 indiscernible] buying our quality tea drinks to the Harvard Square community.

BRENDAN SULLIVAN: Okay.

BARRY TAM: What makes us unique is that, you know, we provide quality tea, quality products and quality services, as well as -- selected approved suppliers and vendors.

And most of our tea leaves are sourced specifically and directly from Taiwan.

BRENDAN SULLIVAN: What are your hours of operation?

BARRY TAM: From 11:00 a.m. to 11:00 p.m. But we will be having our operations start at 9:30 for our preparation work --

BRENDAN SULLIVAN: Yep.
BARRY TAM: -- getting the teas, prepare our bubble, so that way we can open at 11:00 a.m.

BRENDAN SULLIVAN: And that's no more intense than the previous occupant?

BARRY TAM: Yes.

BRENDAN SULLIVAN: Just about the same? Okay.

BARRY TAM: Yes, sir.

BRENDAN SULLIVAN: All right. Good. Any comments, Jim Monteverde?

JIM MONTEVERDE: No comments, thank you.

BRENDAN SULLIVAN: Wendy, any comments, questions?

WENDY LEISERSON: What were the hours of operation of the prior business?

BARRY TAM: It's 11:00 a.m. to 11:00 p.m.

WENDY LEISERSON: And that is what Dado Tea was as well?

BARRY TAM: I'm not sure what Dado Tea was before; we weren't here during that time. But we are subject to change our hours, in terms of traffic and how busy the days are.

WENDY LEISERSON: Okay. Thank you.

BRENDAN SULLIVAN: Jason, any questions, comments?
JASON MARSHALL: No comments or questions at this time, thanks.

BRENDAN SULLIVAN: Matina?

MATINA WILLIAMS: No comments.

BRENDAN SULLIVAN: Okay. And I don't have any either. 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 we will give you up to three minutes to comment.

There appears to be nobody calling in. We are in communication -- receipt of communication from Sarah Scott, the Community Development Department.

"Last night the Harvard Square Advisory Committee discussed the special permit application by Gong Cha to operate a Formula Business, fast-order, quick service food establishment at 50 Church Street.

"The Harvard Square Advisory Committee supports the application, and notes -- noted that the business will be replacing a similar -- similar establishment."
We recommend that the BZA approve the special permit, with the condition that the signage remain as presented in the application, specifically Harvard Square Advisory Committee members expressed a desire to maximize window transparency to maintain abstinence and connection between the public realm and the anterior space. Nine members voted in favor of this recommendation; one member abstained.

"From Sarah Scott."

There is also correspondence from Sean Hope.

"Writing to express our strong support for approval of the tea shop at 50 Church Street. Due to the devastating impact of COVID on retail environment, the Square desperately needs unique and interesting places to visit and shop."

And he goes on to say that he will also be opening up a store adjacent to it, and that he approves this application.

There is correspondence from Ben Gram, who is a General Manager of the Sinclair -- strong support. There is Time Techno, the Swiss Watchmaker, who is voicing support, Passim also and voicing support. So it sounds like
everybody is -- and also from Phil Cunningham, who is the Property Manager, who is in support for the operation.

I will close the public comment part. Anything else to add to your presentation. You don't have to.

BARRY TAM: No, I just wanted to conclude that, you know, if any of our neighbors are here tonight, you know, we would just like to extend our warmest welcome, and --

BRENDAN SULLIVAN: Okay.

BARRY TAM: We're two young men that are looking forward to opening our first store here in Harvard Square.

BRENDAN SULLIVAN: Thank you. In considering the application for a special for fast-order or quick-served food, the Board of Appeals shall find in addition to other criteria expressed in Section 10.40, that the following requirements are met:

The operation of the establishment shall not create traffic problems. I think the Board can find that it will not.

It will not reduce any available parking, mostly walk-in trade.

It will not threaten the public safety in the
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streets or the sidewalks, and it will not encourage or
produce double parking or the adjacent public streets.

The physical design, including colors and use of
materials of the establishment shall be compatible with and
sensitive to the visual and physical characteristics of
other buildings, public spaces and uses in the particular
location.

You will maintain the existing signage. Can we
get a commitment for that?

BARRY TAM: Right. If you could pull it up.

BRENDAN SULLIVAN: You may change the lettering,
but I think what they're looking for is the size and the
impact of that signage.

BARRY TAM: Yeah. I'm not sure if Olivia Ratay
could share our -- we do have exterior signage in the
application. I think it's on page 11, or page 5. Yep. So

BRENDAN SULLIVAN: Yeah. Okay. So --

BARRY TAM: As you can see, we're keeping the
existing bracket. We're just going to replace it with the
similar dimensions of the sign.

BRENDAN SULLIVAN: Great. Okay. Thank you. The
establishment feels a need for such a service in the neighborhood or in the city.

And I think the Board can find that the tea establishment services not only the Asian community, the fast-growing Asian community, but also those who like good, healthy food, and the letters of support from adjoining businesses, solidifies that feeling that there is a big for such service in the neighborhood.

The establishment will attract patrons primarily from walk-in trade, as opposed to automobile or related trade, and the Board will find that it is a similar establishment as was there before, and that the environments of Harvard Square do support walk-in trade.

The establishment shall utilize biodegradable materials and packaging, and food and utensils and other items provided for consumption. Can you agree to that, that you will provide biodegradable materials? You're not serving any food, so there's really -- the containers, the cups that you're providing, you know, are they biodegradable?

BARRY TAM: Well, our -- we use plastic cups, but we use paper straws and plastic straws. But we also have
designated trash bins and recycle bins. And behind the
back, we have compost there. We also have a trash
compactor, and a cardboard compressor.

BRENDAN SULLIVAN: Okay. The establishment shall
provide convenient, suitable, and well-marked waste
receptacles to encourage patrons properly to dispose of all
packaging materials, utensils and other items provided with
the sale of food.

You're not providing food, but with the sale of
the product. So you have attested to the fact that you are.

The establishment complies with all state local
requirements applicable to egress and ingress, and the use
of all facilities on the premises for handicap and disabled
patrons, persons. And so you can establish that fact, that
it complies with that. And that's it.

Other than that, the requirements of Article
10.40, the Board finds that it appears that the requirements
of the Ordinance cannot be met without the -- well, can be
met, even with a granting of the special permit.

The Board finds that traffic generated or patterns
of access or egress would not cause congestion, hazard, or
substantial change in the established neighborhood
The 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. And we also cite the letters of support from adjoining businesses, who welcome the addition of this establishment.

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 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.

BRENDAN SULLIVAN: On the motion, then, to grant the special permit, Jim Monteverde?

JIM MONTEVERDE: In favor.

BRENDAN SULLIVAN: Wendy Leiserson.

WENDY LEISERSON: In favor, both in law and to please the teenagers in my life.

COLLECTIVE: Thank you.
BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: In favor.

BRENDAN SULLIVAN: Matina?

MATINA WILLIAMS: In favor.

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

[All vote YES]

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

COLLECTIVE: Thank you.

BRENDAN SULLIVAN: Good luck.

COLLECTIVE: Thank you guys, appreciate it.

BRENDAN SULLIVAN: Yep, you'll see Wendy down there.

WENDY LEISERSON: [Laughter] No, Wendy's not allowed to go with the teenagers anymore.

COLLECTIVE: We welcome everybody. Thank you, guys.

WENDY LEISERSON: Thank you. Good luck.

COLLECTIVE: Please visit us.

BRENDAN SULLIVAN: Good luck.

COLLECTIVE: Thank you.
1           BRENDAN SULLIVAN: And that's it, folks.
2           JIM MONTEVERDE: All right. Thank you very much.
3           BRENDAN SULLIVAN: Thank you very much.
4           JASON MARSHALL: Ladies and gentlemen, Mr. Chair, good work, everybody.
5           MATINA WILLIAMS: Thank you.
6           JIM MONTEVERDE: Goodnight.
7           WENDY LEISERSON: Have a good night.
8           MATINA WILLIAMS: Have a good night. Bye.
9           BRENDAN SULLIVAN: Bye. Everybody stay well.
10          WENDY LEISERSON: You too.
11          MATINA WILLIAMS: You too.
12          [10:21 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 __31st__ day of ____May__, 2022.

Notary Public

My commission expires:

July 28, 2028
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