BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY JUNE 9, 2022
6:00 p.m.
Remote Meeting
via
831 Massachusetts Avenue
Cambridge, Massachusetts 02139

Brendan Sullivan, Chair
Jim Monteverde, Vice Chair
Andrea Hickey
Wendy Leiserson
Laura Wernick
Matina Williams
Jason Marshall

City Employees
Olivia Ratay, Zoning and Building Associate

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PROCEEDINGS

* * * * *

(6:00 p.m.)

Sitting Members: Brendan Sullivan, Wendy Leiserson, Jim Monteverde, Laura Wernick, Andrea Hickey, and Jason Marshall

BRENDAN SULLIVAN: Welcome to the June 9, 2022, meeting of the Cambridge Board of Zoning Appeal. My name is Brendan Sullivan, and I am 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 state their names 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 and 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: Here.

OLIVIA RATAY: Laura Wernick?

LAURA WERNICK: Here.

OLIVIA RATAY: Wendy Leiserson?

WENDY LEISERSON: Here.

OLIVIA RATAY: Andrea Hickey?

ANDREA HICKEY: Present.

OLIVIA RATAY: Jason Marshall?
JASON MARSHALL: Here.

OLIVIA RATAY: Brendan Sullivan.

BRENDAN SULLIVAN: Present and audible.
(6:03 p.m.)

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

BRENDAN SULLIVAN: First case I’m going to call tonight is continued case No. 155114, and also in conjunction with that No. 155115 -- No. 155116; 33 Webster Avenue, 33 Webster Avenue, 35 Webster Avenue, and 35 Webster Avenue.

Mr. Anderson, are you on the line, or shall I read the transcript?

DAN ANDERSON: Hello, Mr. Chair. Dan Anderson, Partner at Anderson, Porter Design. I am present.

BRENDAN SULLIVAN: Okay. We are in receipt of correspondence from Mr. Anderson.

"Dear Chair and members of the Board, I am writing on behalf of Parviz Parvizi, the owner of 33-35 Webster Avenue to request a continuance of the open cases No. 155114, No. 115115 (sic), and No. 155116.

"Mr. Parvizi has been in conversation with his abutters regarding his proposed plans, and is now in receipt of building site location plans from the property owner at
1 41 Webster.

2 “A copy of the certified plot plan of the recently
3 constructed structures was delivered to him on May 23, 2022,
4 from Len Yang, his abutter at 41 Webster Avenue.
5
6 “This information is being incorporated into our
7 site model to provide updated sun shadow information, and
8 more accurately address questions regarding the impact of
9 the proposed addition and renovation work.
10
11 “In addition to updated shadow studies, Mr.
12 Parvizi has requested alternative design studies from
13 Anderson Porter design to respond to abutters.
14
15 "We respectfully request additional time necessary
16 to complete this work and further communications with the
17 neighbors regarding the Anderson Porter Design.”
18
19 That basically sums it up. That hasn’t changed,
20 Dan?
21
22 DAN ANDERSON: That has not changed. No, thank
23 you.
24
25 BRENDAN SULLIVAN: Okay. So there’s a motion on
26 the floor then to continue this matter, conclusively Case
27 No. 155114, No. 115115 (sic), No. 155116 on Webster Avenue
28 until September 8, 2022 at 6:00 p.m. on the condition that
the petitioner change the posting signs to reflect the new
date of September 8, 2022 and the new time of 6:00 p.m.

That any new submittals pertaining to the
aforementioned three cases that are not currently in the
file be in the file by 5:00 p.m. on the Monday prior to the
September 8 hearing.

There is one other thing, we are in receipt of
correspondence --

JASON MARSHALL: Mr. Chair, before you move on --

BRENDAN SULLIVAN: Yes?

JASON MARSHALL: -- if I am on this case, I cannot
do September 8. It would have to be a subsequent Thursday.

BRENDAN SULLIVAN: And you are on the case. So
thank you, Jason.

OLIVIA RATAY: September 22?

BRENDAN SULLIVAN: September 22?

JASON MARSHALL: Yes, that’s fine. Thank you for
accommodating.

BRENDAN SULLIVAN: Dan, September 22?

DAN ANDERSON: That’s acceptable, provided that
the rest of the Board can be there.

BRENDAN SULLIVAN: Yeah. The rest of the Board,
so it’s – I will speak for Gus, he’s not here – Jason, Jim Monteverde and Laura are available on September 22?

JIM MONTEVERDE: That’s correct.

BRENDAN SULLIVAN: Okay. Also, Dan, there was correspondence in the file for 6 Lilac Court. I won’t read the whole thing, but despite they had put in some recommendations, they’re saying in the second paragraph, “Despite this recommendation, since the hearing, we have not received any communication from Mr. Parvizi, nor from his architect, Dan Anderson, and of this Thursday’s BZA hearing with regard to our reasonable concerns.”

The letters in the file, I would ask that you read it and you have conversations with Leon Sun and Zi Wang (phonetic) 6 Lilac Court, if you would.

DAN ANDERSON: Yes.

BRENDAN SULLIVAN: Then on the motion, then, to continue this matter until September 22 at 6:00 p.m., Jim Monteverde?

JIM MONTEVERDE: Yes, in favor.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: Jason Marshall yes, in favor.

BRENDAN SULLIVAN: Laura?
LAURA WERNICK: Yes, in favor.

BRENDAN SULLIVAN: And Brendan Sullivan yes.

[All vote YES]

On the affirmative vote of four members of the Board, the matter is continued until September 22 at 6:00 p.m.

There was another case, Dan, Case No. 168852 -- 35 Webster Avenue, which is the appeal. I’ll read the correspondence dated June 6.

“Dear Mr. – members of the Board, on behalf of the petitioner, we respectfully request a continuance of the hearing with this appeal currently scheduled” —

Well, we can’t hear it until 6:30, unfortunately.

“The petitioner is in process of evaluating his design options and additionally has a related special permit application that is pending with this Board, and if granted my render the subject matter nonapplicable.”

I didn’t read that it was scheduled at 6:30. Is that correct? I have here on the schedule that it’s scheduled for 6:00. 6:00, yeah, okay. So that’s a misprint, all right.
So we can proceed with it accordingly, and due to some of the schedule, the petitioner is requesting a continuance of the hearing of this matter until the evening of September 8. That’s -- that has not been heard by the Board; however, it is recommended that it be heard on the night of September 22, correct?

DAN ANDERSON: That’s acceptable.

BRENDAN SULLIVAN: Okay. So on the motion, then, to continue this case, which is an appeal of the Commissioner’s determination be continued until September 8 – September 22 at 6:00 p.m. on the condition that any new submittals not in the file currently be in the file by 5:00 p.m. the Monday prior to September 22.

That the petitioner is -- I don’t believe there is a posting sign. Is that correct? There is no posting sign for that appeal? No, there was no – okay, so you don’t have to change that. Just that if there’s any new submittals that they be in the file by 5:00 p.m. on the Monday prior to the September 22 hearing at 6:00 p.m.

I will ask the same members – Jim Monteverde on the motion to continue this matter?

JIM MONTEVERDE: I agree.
BRENDAN SULLIVAN: Jason Marshall on the continuance?

JASON MARSHALL: Yes, in favor.

BRENDAN SULLIVAN: Laura Wernick?

LAURA WERNICK: Yes, in favor.

BRENDAN SULLIVAN: And Brendan Sullivan is in favor.

[All vote YES]

BRENDAN SULLIVAN: On the vote of 4 affirmative votes by members of the Board, this matter is continued until September 22 at 6:00 p.m. Thank you, Dan.

DAN ANDERSON: Have a good night.

BRENDAN SULLIVAN: Well, unfortunately we’re going to have to wait until 7:15.

JIM MONTEVERDE: Really?

BRENDAN SULLIVAN: Yeah, even though it is continued. It still has to be heard.

JIM MONTEVERDE: Mr. Chair, don’t we have a #107 Washington Avenue and #27 Fayerweather?

BRENDAN SULLIVAN: Oh, I’m sorry, I’m sorry, I’m sorry, you’re right.

JIM MONTEVERDE: Before we all depart. Yes.
BRENDAN SULLIVAN: Oh, I’m sorry.

UNIDENTIFIED SPEAKER: #107 is ready to go.

BRENDAN SULLIVAN: Oh, wait a minute. I’m sorry. I’m reading – not going well here originally. I’m reading by the original date, which was 7:15.

JIM MONTEVERDE: Oh.

BRENDAN SULLIVAN: So this was continued until 6:00 p.m.
(6:12 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Wendy Leiserson, Laura Wernick, and Jason Marshall

BRENDAN SULLIVAN: So let me call, then Case No. 163086 -- 107 Washington Avenue.

KEVIN RICHARD: Could I introduce myself?

BRENDAN SULLIVAN: Yes. Introduce yourself for the record, please?

KEVIN RICHARD: My name is Kevin Richard. I’m the General Contractor for #107 Washington street. My company is Cambridge Craftsman.

DENNIS SCANNELL: And I’m Dennis Scannell, the owner and it’s #107 Washington Avenue. There is a Washington Street, but it’s on --

KEVIN RICHARD: Yes.

DENNIS SCANNELL: -- the other side of Cambridge, yeah.

BRENDAN SULLIVAN: The reason why we continued this the last time is that we felt that the drawings were insufficient, number one, for the members of the Board to
completely understand, but also for us to be able to pass it off to the Building Inspector to make an evaluation that what we were approving was what he needed to issue a building permit for.

Notice that the drawings having updated in much better detail. I’m satisfied with them, ran it briefly by the Building Inspector, he thought that it was probably sufficient. There may be some other details he’ll be looking for, but it does not affect the relief that’s being requested.

Anything else to add, Kevin to --

KEVIN RICHARD: Other than - not other than I have other drawings, but they are related to the foundation, the deck framing, roof framing, the soffit, the finished details. But I didn’t think that that was --

BRENDAN SULLIVAN: Does not change?

KEVIN RICHARD: -- not needed or --

BRENDAN SULLIVAN: Does not change the parameters of the relief being requested?

KEVIN RICHARD: Correct, yeah.

BRENDAN SULLIVAN: Okay. And so, the dimensions, the parameters are here, dimension and --
Okay, other members of the Board have reviewed the drawings?

JIM MONTEVERDE: Yes.

BRENDAN SULLIVAN: Any --

LAURA WERNICK: Yes.

BRENDAN SULLIVAN: -- questions by members of the Board at all?

JIM MONTEVERDE: No questions.

LAURA WERNICK: No questions.

BRENDAN SULLIVAN: Okay. Shall I make a motion, then, on the requested relief? Okay.

JIM MONTEVERDE: Yep.

BRENDAN SULLIVAN: Let me make a motion, then, to grant the special permit as per the application. The Board finds that the requirements of the ordinance can be met.

The Board finds that the replacement and enlargement of the deck does not reduce the setback, as it is within the existing ell of the house.

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 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
-- in fact, it would enhance the livability and in fact the
safety of the entry and exit from the structure, and would
not cause any concern to the occupant or proposed -- and the
citizens of the city.

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

In furtherance, under Section 8.222d, relief may
be granted. The Board may grant a special permit for the
alteration of or enlargement of a preexisting dimensionally
nonconforming, detached single-family dwelling 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 alteration of such preexisting, nonconforming detached single-family dwelling or two-family dwelling may only increase a preexisting dimensionally nonconforming conformity, but does not create a new dimensional nonconformity.

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

On the motion, then, to grant the special permit as per the plans, the dimensional form and any supporting statements for Case No. 163086, Jim Monteverde?

JIM MONTEVERDE: I vote in favor.

BRENDAN SULLIVAN: Wendy Leiserson?

WENDY LEISERSON: In favor.

BRENDAN SULLIVAN: Laura Wernick?

LAURA WERNICK: In favor.

BRENDAN SULLIVAN: And Jason Marshall?

JASON MARSHALL: Yes, in favor.
BRENDAN SULLIVAN: Yes. On the vote of four (sic) members of the Board, the special permit is granted.

[All vote YES]

KEVIN RICHARD: Thank you, Board.

DENNIS SCANNELL: Thank you so much.

BRENDAN SULLIVAN: Now, who is Sitting? Is it regular members for tonight? It’s Jim, Jason?

JASON MARSHALL: Yeah, I’m on.

OLIVIA RATAY: -- it’s --

BRENDAN SULLIVAN: Laura, so she’s just going to sit for the continued?

OLIVIA RATAY: Yeah.

BRENDAN SULLIVAN: Okay.
(6:18 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Wendy Leiserson, Laura Wernick, and Jason Marshall

BRENDAN SULLIVAN: Okay. The Board will hear Case No. 165327 -- 27 Fayerweather Street.  Mr. Rafferty?

JAMES RAFFERTY: Thank you. Good evening, Mr. Chair, and members of the Board. For the record, my name is James Rafferty. I’m appearing on behalf of the applicant, would be Joseph Glenmullen, who is present on the call this evening.

This is a case – this is a continued but not heard case before the Board. And the continuance came about as a result of a request by some abutters the last time the case was before the Board that there be additional time for consideration of exploring possible modifications to the plan.

The applicant readily agreed to that. A meeting was held, and if you have had an opportunity to review the entire file, both the original filing and this filing, you’ll notice that significant changes have resulted in the
application since it was originally filed.

I thought it might be helpful to play this
briefly, walk through the amended application, because
several of the requested approvals are no longer being
sought.

I should start with the variance. The application
included a variance request --

BRENDAN SULLIVAN: Jim, if I can just sort of --

JAMES RAFFERTY: Sure.

BRENDAN SULLIVAN: -- set the table a little bit
here, correspondence has come in in the last couple of days.

And I just to make sure that the Board members
have reviewed it all, there was correspondence from Tad
Heuer from Foley Hoag, and he is representing Eric Nelson,
the owner of 31 Fayerweather Street, the direct abutter to
the proposed project.

And I won’t read the whole thing, but the revised
plans do begin to address at most a few issues concerning
Dr. Nelson — specifically the effect of light, air, and
privacy from initially proposed 17.5-foot-long by 39-foot-
high rear addition.

The revised plan has marginally reduced the height
of the rear addition, and now with respect to the side yard setback. However, the revised plans nearly double the addition’s height, and he goes on to state -- he basically is asking the Board to continue this matter.

Nevertheless, Dr. Nelson continues to believe there remains an opportunity to reach a mutually agreeable compromise with respect to height and bulk. “We respectfully request that the Board continue this matter to its next meeting on June 30, 2022, to provide him sufficient time following his return on June 20 to discuss the newly revised plans with the applicant, with the goal of identifying a solution that will allow him to support the project.”

In response – and I don’t mean to take any of your thunder away, but correspondence came in today, “To the members of the Board, I’m writing” -- from Mr. Rafferty” -- I’m writing to address the request by Counsel for the owner of 31 Fayerweather Street that was filed with the Board requesting a continuance in the above-captioned case. “A similar request was filed by the same property owner a few days prior to the originally scheduled hearing on April 28.
“The revised plans were filed with the Board this
Monday prior to the 5:00 p.m. deadline. In addition, that
same afternoon the office forwarded a copy of the revised
plans to Attorney Heuer and Professor Froot, the owner of 33
Fayerweather Street.

“As a result, the applicant’s revision to his
plans, the issues represented in this application are fairly
straightforward. As a two-family dwelling, the structure is
entitled to the special protection afforded one- and two-
family residential structures in General Law Chapter 40
Section B, a request for a continuance to afford time for
amicable solution is certainly reasonable. However, in this
case, that has already occurred.

"In light of that fact, we respectfully suggest
that the Board proceed with this evening’s hearing."

So that’s where we are. And you’re wishing to
proceed?

JAMES RAFFERTY: We are, for the reasons set forth
in the correspondence, being very mindful of the fact that I
understand the Board’s preference, and candidly, it has been
my preference and my client’s -- it’s not his first
appearance before the Board.
He places a high value on outreach to neighbors and abutters. He reached out to everyone before he even filed this application several months ago.

I think we find ourselves in a situation where some abutters are not pleased, but the point that I wanted to make in terms of the change in the application, the bulk of the application prior to the last continuance involves an extension that continued the nonconforming right-side setback, which was admittedly rather close. It was a five-foot setback in a district where that minimum was 15 feet.

As I’m sure Board members know, the recent modification or amendment to the Ordinance in Article 8 follows the Supreme Court’s ruling in Bellalta. Such additions can occur when there are not any new nonconformities.

So the plans as originally filed did have a – the rear addition continuing with the five-foot setback. That was eloquently addressed in the continuance request by Attorney Heuer about his impact on his clients.

And for that reason and for other reasons, Dr. Glenmullen readily agreed to a continuance, met at the homes, had an in-person meeting, and did have conversations
and discussions about how he could modify the addition to make it a conforming addition.

At the end of the day, that’s exactly what he did, and with a considerable amount of effort, such that the application today for the board is a conforming addition, meaning that there are no nonconformities being intensified or created.

Those cases have a special stature when it applies to one- and two-family structures. And in this case, the thinking is that most of the discussion -- and it’s contained in another piece of correspondence from another abutter, who says that he would only support a one-story addition. And it’s a significant divide.

The one-story addition is not what the applicant wishes to construct. The abutter who’s expressing a desire for the one-story addition was himself the receipt of a variance five years ago, where he got an addition in excess of 25 percent of the original GFA. This is an application for an addition less than 25 percent, and that’s why it’s before you as a special permit case.

It’s a large house, but it’s no surprise that all the houses in this particular neighborhood are large. The
lots are large. The open space requirements, the setback requirements are the greatest that exist in the city.

So when a conforming addition, a conforming setback is presented, it’s a little hard to make the case that a conforming addition complies with the setbacks and makes – doesn’t exceed FAR, meets the open space requirements.

It’s hard to envision what it is that the applicant would need to do to meet the criteria requirement as set forth in the Special Permit standards.

So we have – I have talked to Mr. Heuer as recently as a few minutes ago about whether or not there is something that could be achieved in terms of a further renovation. At the moment, candidly, I’m not sure what that could be. So we didn’t succeed with that.

So I understand the Board has its own preferences as to how cases like this proceed, so it is the applicant’s preference that the case proceed, because he believes that the exercise in further exchange and revision is taking place, and it is taking place in a manner that significantly addresses the issues that were contained in the first correspondence.
And that is the bulk of the house being five feet off the setback. That’s no longer present. And I think in light of that, and the conduct that the applicant has demonstrated, he believes it’s appropriate for the Board to hear the case as currently presented.

BRENDAN SULLIVAN: All right. Let me ask the members of the Board -- Laura, Wendy, Jason, and Jim if you understand the issue before us as far as either continuing the matter or proceeding. And I would ask your thoughts on this.

Laura, your thought?

LAURA WERNICK: I would suggest that we proceed.

BRENDAN SULLIVAN: Okay. Wendy?

WENDY LEISERSON: Mr. Chair, I actually did not realize that I was on this one. I thought I was only on the continued case, the prior case. So I will - I have read the file from previously, but I did not read the updated information for this case today.

BRENDAN SULLIVAN: Okay.

WENDY LEISERSON: So I should not be considered on this one.

BRENDAN SULLIVAN: Okay. Jason, your thought?
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1 Sorry, I’m just coming off video. It sounds like the
2 applicant wishes to proceed and understands – and I know Mr.
3 Rafferty’s here often, so understands the implications of
4 that.

5 I will say for me I’m ready to hear the case if
6 that’s what they want to do. When I reviewed the case file,
7 I did not see the most recent correspondence that you
8 described. So I would – I would need to request the
9 applicant to walk through the request in a little more
10 detail. And I would consider it in light of this new
11 information.

12 BRENDAN SULLIVAN: The request to proceed, or – or
13 – I’m sorry, what --

14 JASON MARSHALL: Well, I’m hearing from Mr. Rafferty that the applicant wishes to proceed and have the
15 case heard tonight.

16 BRENDAN SULLIVAN: Right. Okay.

17 JASON MARSHALL: That’s my understanding. And I
18 had not seen the correspondence that you had read and
19 referenced a few moments ago.

20 BRENDAN SULLIVAN: Okay.

21 JASON MARSHALL: So if this case does proceed
tonight, I would request that Mr. Rafferty walk through the
record in a little more detail, so I could have a better
understanding of what’s being asked of the Board.

BRENDAN SULLIVAN: I think so. Yeah, Jim Monteverde?

JIM MONTEVERDE: I’d be prepared to hear this tonight.

BRENDAN SULLIVAN: Okay. Attorney Heuer, are you
on the line at all?

TAD HEUER: I am.

BRENDAN SULLIVAN: All right. If you could very, very briefly just state your -- because members have not read your letter – even though I touched upon it, if you could just very, very briefly state your position?


The correspondence that we submitted was in response to the revised plans that were submitted on Monday at the 5:00 p.m. deadline. My client did -- as Mr. Rafferty has accurately stated -- meet with several of the abutters, and the applicant in early May.
At that time, they were informed that he would go back and do some revisions and present them to them. Mr. Nelson -- Dr. Nelson -- let them know that he was going to be in Europe on business from the middle of May until June 12, and he is there currently.

These plans came in, you know, at the 5:00 p.m. deadline because of the time change and other issues, including the fact that the applicant does not use e-mail -- meant that it was essentially very difficult, if not impossible, to have a thorough review of the plans.

That being said, you know, there’s full understanding that there’s a desire for the Board, for the applicant and the abutters to meet and have discussions. Our position is simply that knowing of these particular circumstances, asking the abutter here, Mr. Nelson, to do that review essentially from afar, knowing that the applicant – knowing full well that it’s going to be challenging for him to do so. It’s just a very tight window, particularly as there had been a significant time.

But, you know, you don’t need to submit by the deadline, you can submit after, or you can submit well before, that would have given him the opportunity to have
that review and have that - hopefully have that discussion.

And again, the request for a continuance here is only for three weeks. There’s no attempt to stretch this out further than that, and my client does indeed believe that there could be discussions had that would allow for modifications that would allow him to score (sic) the project.

He’s just asking, given the circumstances, for the time to do that, since essentially the clock has reset. We now have different plans from the ones that were submitted in the first case.

BRENDAN SULLIVAN: Great, thank you. I just want to make sure the lineup here. Laura’s sitting on this? Wendy, you’re sitting on this case? Now or --

WENDY LEISERSON: I -- well, I have been listening, but I was - I’m not --

BRENDAN SULLIVAN: Okay -

WENDY LEISERSON: -- on the agenda. But I will also call your attention, Mr. Chair, there’s another letter in the file from residents at 57 Lakeview also requesting additional time to review these plans.

BRENDAN SULLIVAN: All right. Okay. And Jason
and Jim. All right, so the sense of the Board, shall we continue? And again, let me run through again. Laura, you say we shall proceed?

LAURA WERNICK: Yep, that was correct, yes.

BRENDAN SULLIVAN: Okay. Wendy, your thought to continue or to proceed?

WENDY LEISERSON: I would prefer to continue in light of the fact that two neighbors are asking for additional time and that I have not reviewed the latest correspondence.

BRENDAN SULLIVAN: Okay. Jason, you’re proceed or continue?

JASON MARSHALL: I was not aware of the correspondence that Wendy had just referenced, and I think in light of that, if you have any request, I would favor proceeding. But again, it’s the applicant’s case and if the applicant wants to proceed, I am prepared to hear it tonight subject to what I had described earlier.

BRENDAN SULLIVAN: Okay. Again, Jim, proceed or continue?

JIM MONTEVERDE: Proceed.

BRENDAN SULLIVAN: Okay. And the Chair says to
proceed. So Mr. Rafferty, you --

JEFF ROBERTS: Mr. Chair, having said that, if it were the case that the matter could come back in three weeks -- and I did and did indicate to Mr. Heuer in our conversations -- if this is going to be an attempt to negotiate this to a single-story addition, I didn’t think that that was a worthwhile exercise.

But with those parameters in place, and if the opportunity exists to return in three weeks, in light of -- I appreciate Ms. Leiserson’s acknowledgment there is a -- that is correct, I did see that late today -- a request from the rear abutter, I would -- my preference would be to -- I think my client is willing to continue if -- for this purpose, if in fact the opportunity to return on the date being suggested by Attorney Heuer is available.

If it was going to push the matter into the month of August or something -- I know it would probably continue to maintain its status as a case not heard, although I don’t know what the Chair’s position would be on what has happened thus far?

BRENDAN SULLIVAN: Yeah, we haven’t gotten into the merits, so.
JAMES RAFFERTY: Okay.

OLIVIA RATAY: Sounds like --

JAMES RAFFERTY: So as I said, if it’s -- I think if it is the case that -- and as you know, applicants always wish to proceed, there’s time, money and a variety of factors involved, but it’s also the case that I know the Board’s preference -- and I can assure you I’m not saying this to ingratiate my client to you, it is his strong desire, he intends to live here, intends for this to be his home, he would value a --

BRENDAN SULLIVAN: July 4 --

JAMES RAFFERTY: -- harmonious relationship with his neighbors. So if it could be accommodated in three weeks, recognizing that this will be the second time that the applicant has agreed to continue the case, we would not be opposed to that.

BRENDAN SULLIVAN: Okay, July 14, does that work for you?

JAMES RAFFERTY: I thought I heard a June date in Mr. Heuer’s correspondence?

BRENDAN SULLIVAN: There is June 30. We have one, two -- we have eight cases scheduled, and we have four
continued. We have 12 cases that night.

JAMES RAFFERTY: So --

BRENDAN SULLIVAN: We can get the matter on the fourteenth, but if you --

JAMES RAFFERTY: Well, I mean, often the request is on the part of the applicant. I think in this case -- and I apologize if this is too forward -- I mean, at this point we’re acceding to a second request in an effort to be accommodating and cooperative. I wonder if that might allow us to overburden the Board that night with one more continued case?

LAURA WERNICK: Mr. Chair?

BRENDAN SULLIVAN: Yes.

LAURA WERNICK: I’m not available on the July 14 date, if that makes any difference.

BRENDAN SULLIVAN: Yeah. This is a case not heard anyhow, on this particular. So it would be de novo, and would be -- well, possibly new members of the Board.

Let me make a motion, then, to continue this matter to June 30, in deference to, I think, your kindness to continue this matter, and allow the two abutters to have some time to review anyhow.
So you’re being kind, I think let us show some kindness back. So 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 at 6:00 p.m.

Any new submittals not in the file tonight entered into this particular case shall be in the file by -- shall be submitted by 5:00 p.m. on the Monday prior to the June 30 hearing.

We already have, I believe, a waiver. It has been already signed. So that is not necessary.

On the motion, then, to continue this matter to June 30, 2022, Laura Wernick?

LAURA WERNICK: I am in favor of the continuance.

BRENDAN SULLIVAN: Okay. Wendy Leiserson?

WENDY LEISERSON: In favor.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: Yes, in favor of the continuance.

BRENDAN SULLIVAN: Jim Monteverde?

JIM MONTEVERDE: In favor.

BRENDAN SULLIVAN: And Brendan Sullivan yes.

[All vote YES]

BRENDAN SULLIVAN: On the affirmative vote of four
members -- five members of the Board, this matter is
continued until June 30 at 6:00 p.m. Thank you.

JAMES RAFFERTY: Thank you very much.

UNIDENTIFIED SPEAKER: Thank you.

WENDY LEISERSON: Okay, Mr. Chair. This is Wendy
Leiserson. I am now officially signing off.

BRENDAN SULLIVAN: Signing off? Thank you, Wendy.

WENDY LEISERSON: Yes.

BRENDAN SULLIVAN: Thank you.

WENDY LEISERSON: Thank you.

LAURA WERNICK: I am signing off also. So --

BRENDAN SULLIVAN: Laura, thank you.

LAURA WERNICK: -- we’ll see you soon. Thank you.

ANDREA HICKEY: Mr. Chair, it’s Andrea Hickey.

I’m signing on.

BRENDAN SULLIVAN: Thank you.

JASON MARSHALL: Brendan, [Jason Marshall,] I’m
still here. I’m not signing anything.

BRENDAN SULLIVAN: [Laughter]

JASON MARSHALL: At your disposal.

BRENDAN SULLIVAN: So the lineup is Brendan
Sullivan, Jim Monteverde?
JIM MONTEVERDE: I’m here.

BRENDAN SULLIVAN: Jason Marshall, Andrea Hickey, and Matina Williams?

MATINA WILLIAMS: I am here.

BRENDAN SULLIVAN: Thank you. Great to hear your voice.
(6:39 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Andrea Hickey, Jason Marshall, and Matina Williams

BRENDAN SULLIVAN: Okay, the Board will hear Case -- is it 6:30 yet?

JIM MONTEVERDE: Yep.

BRENDAN SULLIVAN: The Board will hear Case No. 170721 -- 27 Craigie Street. Mr. Rafferty?

JAMES RAFFERTY: Thank you. Good evening again, Mr. Chair, members of the Board. For the record, James Rafferty on behalf of the applicants, Karl Iagnemma, Trustee of the Real Estate Trust that owns the property.

This is Mr. Iagnemma’s home, recently acquired home, and the application before the Board today seeks some very modest changes to a very stately house at the corner of Craigie and the intersection of Craigie Street and Sparks Street.

The property is located in the Old Cambridge Historic District, so prior to filing this application, the applicant appeared before the Historical Commission and
received a certificate of appropriateness for the proposed renovations.

As the Board knows, exterior alterations to houses in historic districts do require such approval.

From a zoning perspective, what the applicant is seeking to do is make two small changes -- one to the main structure and one to the -- one to the carriage house. The house is well within the allowed FAR. The changed area's about 100 square feet, but the house is currently about 600 -- 7000 square feet below the permitted GFA on the lot.

The changes to the main house are -- involve a corner. And if we could take a look maybe at Sheet A004, I think it’s the easiest way on the site plan to notice where this addition is taking place.

The house is -- the house is nonconforming, due to its height. So the proposed addition is slightly in excess of 10 percent. So that’s the purpose of the special permit and request. You’ll see it in the corner right.

The architect on the project is Mr. Boyes-Watson. I failed to identify him. I believe he may be on the call with us?

[Pause]
JAMES RAFFERTY: Okay.

JIM MONTEVERDE: Nope, I don’t see him.

JAMES RAFFERTY: He has enough confidence in my architectural abilities that he’s chosen not to appear. But even that case -- even I could probably have trouble messing this up. It’s -- as I said, it’s an enclosure on what has currently -- what has previously been an open porch.

They’re enclosing the porch in this left-hand corner. It represents an additional square footage of -- I think that particular portion of the square footage is around 400 or 500 square feet.

The other area of addition is occurring in the carriage house. The carriage house is a significant structure in its own right in the addition to the carriage house. That additional square footage, however, is in a separate structure, not limited to the 10 percent with the special permit.

So even the dimensional form reflects the fact that there is added GFA on the lot. It’s only the -- it’s only the GFA that’s contained in the corner space there that requires Board approval.

The rear -- in addition to A004, if you look at
the elevations, you can see on page A200 in the top right-hand side on the right side of the main house, you can see the change in elevations at image 3 along the rear.

And this is where the elevations are changing most notably from a design perspective, but from a zoning perspective, there’s little consequence, because that is not where the additional GFA is occurring.

The area in the carriage house, as I noted, additional area being created at the carriage house is occurring in a nonconforming structure, but it is less than 10 percent of that structure. So that’s the total of the case. It’s a special permit to allow for this conforming addition to a nonconforming structure.

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

JIM MONTEVERDE: No questions.

BRENDAN SULLIVAN: Okay. I don’t have any questions either. It appears to be quite grand, and in keeping with the side of the house. 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. There appears to be nobody calling in. We are in receipt of no correspondence, or we are not in receipt of any correspondence would probably be the better English.

We are actually in receipt of correspondence from the Cambridge Historic Commission. “The Cambridge Historic Commission hereby certifies pursuant to the Massachusetts Historical District Act and the Cambridge Historical Building and the Landmark Ordinance that the work described below is not incongruous to the historic aspects or architectural character of the building or district.”

And it lists, “To renovate the exterior of the house, add new doorway, landing, steps, construct an addition to the side and rear, add a pedestal door and two garage doors to the carriage house, extend the preexisting driveway, replace the in-ground police, alter the landscape, install air conditioning.”

And then it says, “Work to be carried out as indicated in the plans by Boyes-Watson Architects, Title 27 Craigie Street” and dated 02/03/22. Sum and substance of
any correspondence. Anything else, Mr. Rafferty, to add?

JAMES RAFFERTY: No, thank you, Mr. Chair.

BRENDAN SULLIVAN: No questions by members of the Board? Ready for a motion?

COLLECTIVE: Ready.

BRENDAN SULLIVAN: I’m making a motion, then, to grant the relief requested, which is a special permit seeking relief under 8.22d and Section 10.40, Special Permit Criteria.

The Board finds that it appears that the requirements of the ordinance can be met with the granting of the special permit.

The Board finds that Sections 8.22 allows for the construction of the proposed additions, per the application upon the issuance of the special permit, where -- as in this case -- the addition does not create any new nonconforming conditions.

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, and the Board finds that the proposed changes are well to the rear of the house and far
away from any public areas that would -- and have absolutely no effect on traffic or patterns of access or egress.

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 proposed use is similar to what it is now.

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 -- in fact it would be enhanced -- or to the citizens of the city.

The Board finds that the proposed use would not impair the integrity of the district or adjoining district, or otherwise derogate from the intent and purpose of the ordinance, to allow homeowners to improve their structures and the livability of their homes.

In furtherance to granting the relief in the Section 8.222d, the Board finds that it may grant a special permit for the alteration or enlargement of a preexisting dimensionally nonconforming, detached single-family dwelling or two-family dwelling not otherwise permitted in 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 alteration 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 Appeals is required to find, and does find, that the
alteration or enlargement shall not be substantially more
detrimental than the existing nonconforming structure to the
neighborhood, and the alteration or enlargement satisfies
the criteria in Section 10.43, as previously stated.

On the motion, then, to grant the relief
requested, Jim Monteverde?

JIM MONTEVERDE: I vote in favor.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: Yes, in favor.

BRENDAN SULLIVAN: Andrea Hickey?

ANDREA HICKEY: Yes, in favor.

BRENDAN SULLIVAN: Matina Williams?
MATINA WILLIAMS: Yes, in favor.

BRENDAN SULLIVAN: And Brendan Sullivan yes, in favor.

[All vote YES]

BRENDAN SULLIVAN: On the affirmative vote of five members, the special permit as per the application form, the drawings initialed by the Chair, and the dimensional form are approved.

JAMES RAFFERTY: Thank you very much, Mr. Chair. I should note that now that all the work is over, I see Mr. Boyes-Watson has joined us. But his contribution was invaluable.

BRENDAN SULLIVAN: Okay. I suspect he probably didn't think we were going to be proceeding this quickly. We're at 6:45?

JAMES RAFFERTY: Yeah.
** (6:49 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Andrea Hickey, Jason Marshall, and Matina Williams

BRENDAN SULLIVAN: The Board will hear Case No. 170706 -- 14 Granville Road. Mr. Rafferty?

JAMES RAFFERTY: Thank you, Mr. Chair. Good evening, once again. I’m James Rafferty, with offices at 907 Massachusetts Avenue appearing on behalf of the applicant, 14-16 Granville, LLC. Also present is the owner of the property, or the Principal of the LLC, Scott Shuster; and the Project Architect in this case is present, Evan Stellman.

And we’re here this evening for some modest relief associated with the renovation of a three-family home on Randall Road. The home is currently under renovation preliminary, because the vast majority of the renovation is occurring as-of-right within the structure.

The issues contained in the application involve the rear of the house, and maybe you could -- with the assist of the Board, we could look at the elevation that
depicts that. There’s a Sheet A002 that -- yes, this is -- this is perfect, A022. And Mr. Stellman could go through this, but I find this very illustrative.

The relief that’s being sought involves existing rear decks on the house there, and they’ve endured a significant amount of deferred maintenance. So it’s going to be necessary to replace them.

The proposal here is to extend them slightly, and also to place a set of exterior staircases in off the decks. And we have that in elevation in the next page.

It’s those staircases and the extended decks where all the added GFA in the application is occurring. All outside the envelope or the four walls of the structure -- in the case of the GFA on the first- and second-floor decks, it’s because the roof of the floor of the deck above renders those spaces covered and covered porches are subject to get included in GFA. So you’ll see the -- you’ll see the increases broken down on this sheet.

And then finally there is also a new stairway being constructed into the basement. That stairway is going to be under one of the new decks. So that stairway, even though it’s below grade, it also has a GFA implication.
So that’s the GFA aspects of this. It’s also the case that in two areas -- I believe two -- in two areas there are window wells being introduced into the lower level.

And as I’m sure the Board is familiar -- there’s been cases of this recently -- the introduction of window wells has the effect of changing the mean grade on the lot. And in some cases, it’s quite modest, and that is also the case here.

But the change in the mean grade affects the calculation for the height of the building. So this is one of those cases where by adding the window well, the height of the house from a Zoning perspective increases, notwithstanding the fact that there is no physical increase in the height of the house.

The roof is untouched. There’s nothing about the peak or the slope that is changing. The high point is where it is, but because the mean grade, as measured around the house, gets slightly adjusted to accommodate where that grade drops for the window wells, the applicant -- it’s necessary essentially to get a height variance to put window wells in the basement. It takes a minute to think about the
disconnect associated with that.

But this is going to bring air and light into the basement. The basement will be part of the first-floor unit. It is a basement now that is already above seven feet in height. So those are the two aspects.

Mr. Stellman is here and happy to go through any aspect of the renovation, particularly the portion seeking relief, if the Board wishes him to do so.

BRENDAN SULLIVAN: One question that I would have -- you just raised the issue of the height of the basement, and I notice that the basement had been excavated -- there is significant new piping gone on there.

And on the drawings, it’s claiming that the existing -- preexisting floor-to-basement height was seven-foot-two. Was that before the excavation seven-foot-two, or is that [the] condition that is there now?

JAMES RAFFERTY: It’s before. And I can -- I should perhaps have either Mr. Shuster or Mr. Stellman address the fact that they had -- they had a meeting with the Building Inspector prior to construction at the site to take those measurements.

The department has learned the hard way that those
measurements need to be verified or corroborated.

So in this case, before work began or a building permit was issued, the Building Inspector met on the site with both the architect and the property owner and verified the existing basement height to be in excess of seven feet.

BRENDAN SULLIVAN: Was that with Inspector Shaw?

SCOTT SHUSTER: Yes, it was.

BRENDAN SULLIVAN: Okay. All right.

JAMES RAFFERTY: Could you just identify who was speaking? That was you, Evan, right? Or was it Scott?

SCOTT SHUSTER: No, it was me, Scott Shuster.

JAMES RAFFERTY: Okay. So just identify yourself when you speak.

BRENDAN SULLIVAN: Okay. You were going to turn it over to -- I know, you, Evan or Scott, to just -- I guess the question I have is the rear porches, and the need to expand those. If we could show those, the staff could pull up what is proposed, to show what is existing and what is proposed.

EVAN STELLMAN: So if you -- this is Evan Stellman from Khalsa Design -- if you just zoom out on the sheet we were just on -- Sheet A22 -- so the top floor plans here are
the existing, and then the bottom -- the light blue areas are the new GFA.

So in the existing, the extent of the decks is highlighted in the green at the rear there. And on the new we’re moving the stair to the exterior, and essentially maintaining the same size of the decks. We’re just adding the stair to the left of those.

So really the decks aren’t increasing in size, it’s just the addition of the stair at the rear of the structure that’s making it larger.

BRENDAN SULLIVAN: Okay. And the front, if we could pull up the elevation of the front?

EVAN STELLMAN: Yep. So the front is the top right elevation here. We’re adding a deck above the existing first-floor porch.

BRENDAN SULLIVAN: That’s already there, is it not?

EVAN STELLMAN: So the porch is covered. There’s no access to a second-floor deck there, which we’d like to add in this application. And if I could, when I did some community outreach, one of our neighbors informed me that there actually had been a deck there before, and it was
removed had been a deck there before, and it was removed at
some point, so.

        JAMES RAFFERTY: Yeah. I think in the existing
condition, it has the feel of a roof for the first-floor
porch. Because the -- there aren’t door openings currently.
So it’s an opportunity to utilize access.

        But because it’s below the third floor and is not
covered, there is not a GFA implication here. So the -- in
the openings, the added openings face the street, and thus
are permitted as-of-right as well.

        BRENDAN SULLIVAN: Within this front yard setback?

        JAMES RAFFERTY: I’m --

        EVAN STELLMAN: That’s correct.

        JAMES RAFFERTY: I’m guessing it’s probably
nonconforming on the front, but the requirement for special
permits openings or nonconforming walls is not present on
those walls facing public --

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

        JIM MONTEVERDE: No questions, thank you.

        BRENDAN SULLIVAN: Jason Marshall?

        JASON MARSHALL: No questions.
BRENDAN SULLIVAN: Andrea Hickey?

ANDREA HICKEY: No questions.

BRENDAN SULLIVAN: Matina, any questions?

MATINA WILLIAMS: No questions.

BRENDAN SULLIVAN: All right. I have no further questions. Let me open it to public comment. Any members of the public who wish to speak should now click the button that says, “Participants,” and then click the button that says, “Raise hand.”

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

EVAN STELLMAN: Charles White? Charles White?

Charles, can you unmute?

CHARLES WHITE: I’m the abutter next door at 18-20 and I own the house there.

BRENDAN SULLIVAN: Identify yourself for the record, please?

CHARLES WHITE: Pardon?

BRENDAN SULLIVAN: If you could identify yourself for the record, name, and address?

CHARLES WHITE: Charles White, the owner of 18-20
Granville, the abutter.

BRENDAN SULLIVAN: Yep.

CHARLES WHITE: I’m fine with all of the proposed changes that have been suggested here. My only issue, as I’ve discussed with the developer, Mr. Shuster, is to make sure that the basement has proper drainage.

Both this house and my house are kind of notoriously bad for flooding. And with the separation of the sewers that’s improved somewhat, but it’s still a major issue.

And that -- what had been a basement that was basically utilities is now going to be bedrooms, which is fine. But everybody needs to make sure that whatever kind of cisterns and perimeter drains and pumps that are down there are adequate to handle it.

BRENDAN SULLIVAN: Right.

CHARLES WHITE: But other than that, it’s good development. I’m all for it.

BRENDAN SULLIVAN: All right. Thank you.

EVAN STELLMAN: David Lyons?

DAVID LYONS: Yes, thank you. Can you hear me?

EVAN STELLMAN: Yes.
DAVID LYONS: All right, thank you. David Lyons at 301 Huron #2, abutter to an abutter two doors away.

Thank you, Mr. Chair, and members of the Board for the chance to speak tonight. I sent a letter in earlier -- e-mail in earlier this morning to Staff, I don’t know if you’ve all received that, but raising similar issues to Mr. White.

So our building was renovated by Mr. Shuster about five years ago, and there were some issues with the basement renovation of the waterproofing and drainage. It was not previously habitable space and was converted to be habitable, which is a great improvement, but the drainage was not done first, and it took two years after our neighbors had moved in downstairs to put it right and fix it. It was just a difficult process.

So if you can just ask the developer and the City Staff to take care that the drainage issue -- the full system from the gutters, the connection to the stormwater drain -- that that’s all properly handled, that to the extent the space needs to be sealed, that that’s done correctly.

I don’t know what provisions are in the building
code or what not for you to oversee that, but I think it’s just appropriate oversight, not just for this development, for any other sort of basement development like this around town and in our neighborhood, where I understand there’s a high-water table and there are issues like this that is important.

So we’d ask for your attention to that issue and this and other matters. And other than that, I do support the relief. I think it makes sense. It would be good project, so thank you for your attention.

BRENDAN SULLIVAN: Thank you, David. There is nobody else calling in. We are in receipt of a form -- a petition.

“Members of the Board of Zoning Appeal, the undersigned met with Scott Shuster, the manager of 14-16 LLC (sic), the developer of 14-16 Granville Road.

“The undersigned has reviewed the plans for the project dated April 2, April 8, 2022, and writing to and can that I support the plan, and I respectfully suggest that you grant the applicant the relief sought.”

And it is signed by -- there are 21 individuals who have signed the petition. That is the sum and substance
of any correspondence that we have in the file.

The building application, did you -- were you -- did you receive review from the Department of Public Works?

JAMES RAFFERTY: Yes. Mr. Stoneham can, Mr. Chair, walk the Board through. There were several specific recommendations that the Civil Engineer for the project was provided by DPW. And all of them were implemented into the building permit. And Mr. Stellman, if you could quickly identify those methods?

The other thing worth noting as part of that is the existing asphalt driveway is being replaced with permeable pavers, which also will improve storm runoff as a result of the Civil Engineer’s review of these issues.

BRENDAN SULLIVAN: Okay. So, you have -- they did do a review, and they made recommendations and you will conform to those review? Okay.

There will be another one coming too, because I was out there today, and I met with a fellow from Public Works who was not pleased with the condition of the site, and during the heavy rains, it was very muddy along the driveway. I was not able to walk up the driveway at all, and there was an awful lot of runoff.
So I’m sure if you haven’t already, you will be hearing from Public Works on that regarding soil retention and all of that. But at any rate, as long as they’re on Board, and now you’re under their microscope, you will -- I’m sure -- take care to do the proper thing.

Mr. Rafferty, the hardship criteria, you’re asking for a variance?

JAMES RAFFERTY: All right. So the hardship here is somewhat related to the egress issues on the existing rear stairwells. They are of an era when the building code permitted winders, and this area with the expanded staircase and maybe Mr. Stellman could speak to them, but we did -- we did acknowledge in the application that we’re going to have code-compliant egress in the building as a result of the increase.

It’s also the case that the decks for the most part are preexisting. They are coming down as part of the renovation.

So going back up does represent the variance. But they are also an opportunity for -- to improve quality-of-life for the residents to give some opportunity for outdoor space, particularly in the current environment, where
spending time outside has taken on an added benefit.

So it’s related to the need for some outdoor amenity space and the improved exterior access, pursuant to the building code.

BRENDAN SULLIVAN: Okay. Anything else to add, or that’s the presentation?

JAMES RAFFERTY: That would be everything, thank you.

BRENDAN SULLIVAN: Okay. I’m going to open it back up.

JAMES RAFFERTY: I would just add -- and I -- because I do think it was important -- Mr. Shuster did an extensive outreach with neighbors visiting. Nearly everyone on Granville garnered their support, did have -- did hear some issues that we heard tonight from Mr. White and others and is committed to that.

But it’s also of note that the rear abutter, Ms. Goduti, who faces these porches and these egress, she found them to be a significant aesthetic improvement over existing conditions.

BRENDAN SULLIVAN: Great. Thank you. Let me throw it back to the Board. Jim Monteverde, any
questions?

MONTEVERDE: No questions, thank you.

BRENDAN SULLIVAN: Jason Marshall, any questions?

JASON MARSHALL: Thanks, Mr. Chair. I don’t have any questions, I just -- I have maybe a comment on the criteria for granting a variance. As you know, Mr. Chair, we scrutinize those factors extremely closely, as we are required to, and I’m always careful in terms of any precedent we set.

So just for me, the second prong of that in terms of what the hardship relates to -- topography, shape, soil -- I think Mr. Rafferty in the application lists shape. To me, that’s sufficient to grant it. I wouldn’t grant it based on size. I understand that that is not an allowable feature by which to grant relief under that prong.

So I just want to be call that to the extent I would support it, it would be based on the shape and the characterization of the shape of the lot and not size.

Thanks.

BRENDAN SULLIVAN: Well, the -- you’re saying that we could grant relief based on the shape of the lot?

JASON MARSHALL: Correct.
BRENDAN SULLIVAN: And that any expansion beyond the existing envelope triggers necessary relief from the Board?

JASON MARSHALL: I’m saying to grant an application based on the size of the lot being the hardship, or related to the hardship, is not allowable. It’s not what the -- it’s not what the statute says. Courts have looked at that and been very clear that the size of the lot is not an allowable basis by which to grant an application.

BRENDAN SULLIVAN: Because it’s not unique to the district?

JASON MARSHALL: Because the Zoning Ordinance is about, you know, regulating Dimensional Use.

BRENDAN SULLIVAN: Okay. Okay, Andrea?

JASON MARSHALL: I hate to be -- I do hate to be a stickler, but I will probably note that in future applications throughout, just to be consistent.

BRENDAN SULLIVAN: Okay, great. Thank you. Andrea, any comments? Questions?

ANDREA HICKEY: My only comments are that I appreciate the architect’s work in this case, making it sort of visually very easy to see what the ask is. I think the
stairs in the rear are an improvement over what is there now, and those are my only comments. I have no questions.

BRENDAN SULLIVAN: Okay. Matina, any questions, or comments?

MATINA WILLIAMS: No questions or comments.

BRENDAN SULLIVAN: All right. Let me make a motion, then, to grant the relief requested, it’s a variance. And they’re seeking relief, Table of Dimensional Requirements in Section 8.223, Nonconforming Structure, and the criteria for granting the variance under 10.30. 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 it would prevent the petitioner from performing much-needed alterations to allow for accessible and code-compliant egress and better circulation within the building.

The Board finds that the existing structure and the siting thereof predates the existing ordinance, and as such is encumbered by the existing ordinance, and that any expansion to the building would require some relief by way of variance from this Board.
The Board finds that the relief being requested is somewhat de minimis in relationship to the existing size of the structure, would improve the livability of the -- to the occupants of the structure, would allow better access to the basement units, which is allowable -- I’m sorry, the basement’s livable space.

Also, to the rear, that will allow some exterior space to the occupants of the first, second, third floor, which may not be afforded with the limited space in the rear yard, knowing that -- and these will be condominiums, Mr. Shuster?

SCOTT SHUSTER: Yes.

BRENDAN SULLIVAN: And that one thing I think that the ordinance may or may not really address is the fact that the prevalence of condominium form of ownership and the restrictions to open space and the use of open space, where in the past these were probably rentals, and everybody had use of the open spaces.

And I think what’s happening now is that there is dedicated open space, and that units -- unit owners, occupants of Unit #2 and #3 sometimes get precluded or shut out of some much desirable open space, useable space for
their enjoyment.

That being said, that the -- and Jason, I would ask you to chime in on this, that the hardship is directly related to the -- and I will ask you to fill in the blank on that one, that you can --

JASON MARSHALL: Shape.

BRENDAN SULLIVAN: -- to the shape of the lot, or cash and as such that the existing structure is encumbered by the Ordinance.

Desirable relief may be granted without substantial detriment to the public good, and the Board finds that the proposed alterations will enhance the aesthetics of the building, #1, which is in very great disrepair, and that that will improve the adjoining properties and their valuations and their enjoyment by the owners.

That the desirable relief may be granted without nullifying or substantially derogating from the intent and purpose of the ordinance to allow for the improvement to property by property owners and bringing certain aspects up to code-compliance.

On the motion, then, to grant the relief requested
as per the drawings submitted initialed by the Chair, supporting statements and the dimensional form for 14 Granville Road as per the application, Jim Monteverde?

JIM MONTEVERDE: In favor.
BRENDAN SULLIVAN: Jason Marshall?
JASON MARSHALL: In favor.
BRENDAN SULLIVAN: Andrea Hickey?
ANDREA HICKEY: In favor.
BRENDAN SULLIVAN: Matina Williams?
MATINA WILLIAMS: In favor.
BRENDAN SULLIVAN: Yes.
[All vote YES]
BRENDAN SULLIVAN: On the affirmative vote of four members of the Board -- five members of the Board, the variance is granted. Thank you.

JAMES RAFFERTY: Thank you, Mr. Chair, and members.

EVAN STELLMAN: Thank you, Board.
Sitting Members: Brendan Sullivan, Jim Monteverde, Andrea Hickey, Jason Marshall, and Matina Williams

BRENDAN SULLIVAN: The Board will hear Case No. 174527 -- 241 Grove Street. Looks like Mr. Rafferty’s night at the opera here tonight. Mr. Rafferty?

JAMES RAFFERTY: Yes. I apologize for my --

BRENDAN SULLIVAN: No, it works, it works.

JAMES RAFFERTY: -- ubiquitousness (sic). But it’s a good thing I have one of those personalities that people enjoy.

So for the record, the same James Rafferty that’s been on the last three cases at 907 Mass Avenue. This is an application involving a single-family house on Grove Street in the Residence A-1 District.

And not unlike the prior case, the applicants have been in discussion and conversations with some abutters. They did receive a request from an abutter that they consider an extension seeking a continuance to -- in order to review some aspects of the plan. And they agreed to do
One of the reasons the applicant today happens to be for this evening is high school graduation, and the abutters’ daughter or son or the child is graduating from Cambridge Rindge and Latin, and Mr. Downes is and -- it’s not Ms. Downes, it’s Ms. Kensky, I apologize -- they were sympathetic to that, and do want to give an opportunity to hear some other voices, so that they are asking the Board -- they’re agreeing to seek a continuance in order to be responsive to their neighbors’ request, particularly given the fact that the high school graduation is occurring this evening.

BRENDAN SULLIVAN: Great. Thank you. Any questions by members of the Board regarding the request for a continuance?

JIM MONTEVERDE: No questions.

BRENDAN SULLIVAN: Hearing none, I’ll make a motion to --

MATINA WILLIAMS: No questions.

BRENDAN SULLIVAN: -- as per the request by the petitioner to continue the matter 241 Grove Street, BZA Case No. 174527 to June 30, 2022, at 6:00 p.m. on the condition
that the petitioner waivers in the file and any new
submittals to the application not in the file be submitted
by 5:00 p.m. on the Monday prior to June 30 hearing.

There is also correspondence from -- as you
previously noted from Duncan and Diana MacArthur in the
file. A letter came in actually earlier today, Mr.
Rafferty, that you would review and respond to that, to the
MacArthurs.

And that the posting sign be changed to reflect
the new date, June 30, 2022, and the new time of 6:00 p.m.

On the motion, then, to continue this matter, Jim
Monteverde?

JIM MONTEVERDE: I vote in favor. Thank you.

Brendan Sullivan: Jason Marshall?

JASON MARSHALL: In favor.

Brendan Sullivan: Andrea Hickey?

ANDREA HICKEY: In favor. And I would just like
to ask this that the record reflect this as a case not
heard.

Brendan Sullivan: Correct. And Matina Williams?

MATINA WILLIAMS: In favor.

Brendan Sullivan: And Brendan Sullivan yes to
continue.

[All vote YES]

BRENDAN SULLIVAN: On the affirmative vote of five members of the Board, the matter is continued as a case not heard to June 30, 2022, at 6:00 p.m.

JAMES RAFFERTY: Well, thank you again, Mr. Chair and members of the Board. Have a good evening. I regret I have no further case before you. But I --

BRENDAN SULLIVAN: You’re leaving? Oh, okay.

JAMES RAFFERTY: I’m leaving. And I’m sure that will not disappoint any of you. But thank you.

BRENDAN SULLIVAN: Enjoy the rest of the evening.

JAMES RAFFERTY: You as well. Thank you.
(7:18 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Andrea Hickey, Jason Marshall, and Matina Williams

BRENDAN SULLIVAN: The Board will hear Case No. 171481 -- 5 Cottage Court.

BRENDAN SULLIVAN: Musco, or Mr. Royer?

CHRIS ROYER: Yes. I’m Chris Royer, Architect for the project. And I believe my clients, the Muscos, or the owners of the property, will be joining momentarily.

Is it possible to bring the drawings up? Like to particularly look at the exterior elevations I think would be the most useful on the second sheet. There we are.

If Lisa Musco is on, she -- I thought she might say something about having reached out to the neighbors and gotten positive responses. Her sons have lived there for a number -- in this cottage for a number of years. Their daughter may be moving in, and the Muscos may -- are thinking they may retire here. And they’re making improvements over time.

A few years ago, they installed new windows and
new siding, had it painted and removed the overhand at the
front door.

So if you look in the upper left-hand corner, the
southeast elevation, they would like to install a new roof
overhang at the door. They would like to remove two windows
and rework, rebuild -- well, refurbish the front landing and
steps. There are currently no railings on the landing and
steps and they’d like to add those. That front wall of the
house is in the setback.

Then to the upper -- in the upper right corner of
the drawing, of the sheet, is the southwest elevation. This
wall of the house is not in the setback. But we are
proposing to add a small deck and a new exterior door
because the one-car parking space is at that side of the
house.

And as I read the Zoning Ordinance, I think this --
we may be able to do this by right, Section 5.24.2 says a
deck is permitted. This deck would be permitted because it
does not project more than 10 feet and it is not more than
four feet above grade. So -- but I included it just to make
sure I was interpreting things correctly.

And then in the lower left, the rear, which is in
the setback, we are proposing to rework the windows. You can see the dashed lines where we are removing two windows and proposing to put three smaller windows in their place in the kitchen.

So it’s actually a reduction in the mount to window area. But that worked better with the kitchen counter and so forth.

I did highlight that we have -- are proposing skylights, but they are not within the setback, and I believe we can do those by right.

And then in the lower right, we are not proposing any changes to the northeast elevation, but we have put a red dashed line around that front landing and the roof projection above the door.

So those are the modest changes that we are proposing, and we would like permission to construct.

BRENDAN SULLIVAN: My only comment when I reviewed this -- actually when I was at the house was noticing that currently it has 931 square feet. That’s -- it’s a beautiful house, very compact. And you’re only adding 20 square feet.

CHRIS ROYER: That is just the roof overhang on
the front porch. So there’s really no addition to the house other than covering that front landing.

BRENDAN SULLIVAN: Right. Which to my mind is a very necessary thing for protection from the weather. And also, it adds to the aesthetics of the house. So I think it’s another one of those pieces that really belongs there. That’s what I thought.

But I must commend you for the very detailed and very well-done drawing -- very easy to follow. Let me open it to members of the Board. Jim Monteverde, any questions?

JIM MONTEVERDE: No questions.

BRENDAN SULLIVAN: Jason?

JASON MARSHALL: No questions.

BRENDAN SULLIVAN: Andrea?

ANDREA HICKEY: No questions. And I would also like to thank the presenters for a very clear presentation, easy to follow. Thank you.

BRENDAN SULLIVAN: And Matina, any questions?

MATINA WILLIAMS: No questions.

BRENDAN SULLIVAN: Okay. 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’re calling in by phone, you can raise your hand by pressing *9 and unmute or mute by pressing *6. And you will have up to three minutes to comment.

Nobody is calling in. As you previously noted, we are in receipt of two pieces of correspondence. One is from Kathy Chen (phonetic). And it is -- Lisa Musco has written to all of her neighbors outlining what they have done to the house and what they’ve proposed to do in great detail.

And Kathy Shannon (phonetic) writes back, “Thanks for the update. Everything looks great to me. We are all glad you are staying in the neighborhood. Please let us know when things will commence, and if you need any accommodations using the court and so forth.”

And there was also correspondence from Ruth and Stefan Economou. And they are also, “Again, thank you for the update.” And they are in full support. They are in full support of the project.

There is also another letter in correspondence from Ken Zolot -- Z-o-l-o-t who is -- “It’s nice to hear from you. Your love of the property is wonderful to read about. It looks like you have a nice plan. Best of luck
with it.” And that is the sum and substance of any correspondence.

I will close public comment at this time. Anything to add, delete, change, Chris, at all?

CHRIS ROYER: No.

BRENDAN SULLIVAN: No? Okay. Let me make a -- ready for a motion?

ANDREA HICKEY: Ready.

JIM MONTEVERDE: Ready.

JASON MARSHALL: Ready.

BRENDAN SULLIVAN: Make a motion, then, to grant the relief requested for the special permit as per the application to construct an overhang over the front door, with side deck with steps and reinstalling new windows, as per the drawings, supporting statements and dimensional form and initialed by the Chair.

Under 10.40, it appears that the requirements of the Ordinance can be met with the granting of a special permit.

The Board finds that the new overhang railings at the front door replace an old overhang and railings that were removed several years ago, and will make the front
entry much safer for business and occupiers of the house.

And the changing of the windows is a realignment reflecting interior changes, and are quite proper and de

minimis.

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.

And 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 -- in fact it would be enhanced by the addition of this covering over the front deck area.

And the Board finds that the railings also would be a safety issue -- a safety issue that will be addressed and will add greatly to the livability of the house.

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 allow the homeowners to improve and alter their structures to make it far more livable and also safer.

Also in furtherance of granting of the special permit under Section 8.222d, the Board finds that it may grant a special permit for the alteration or enlargement of a preexisting dimensionally nonconforming, detached single-family dwelling or two-family dwelling not otherwise permitted in Section 8.22.1, but not the alteration or enlargement of a preexisting nonconforming use...

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

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

On the motion, then, to grant the special permit as per the application supporting statements and accompanying drawings, Jim Monteverde?

JIM MONTEVERDE: In favor.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: In favor.

BRENDAN SULLIVAN: Andrea Hickey?

ANDREA HICKEY: In favor.

BRENDAN SULLIVAN: Matina Williams?

MATINA WILLIAMS: In favor.

BRENDAN SULLIVAN: And Brendan Sullivan in favor.

[All vote YES]

BRENDAN SULLIVAN: On the affirmative vote of five members of the Board, the special permit as per the application is granted.

CHRIS ROYER: Thank you all very much.

BRENDAN SULLIVAN: Thank you. We have one minute.

JASON MARSHALL: Moving along. Moving along quick tonight, so far.
(7:29 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Andrea Hickey, Jason Marshall, and Matina Williams

BRENDA N SULLIVAN: Okay. The Board will hear now Case No. 169773 -- 54 JFK Street, LT Harvard Square, Inc.

So Lim Ting?

SO LIM TING: Hello. Hi.

BRENDA N SULLIVAN: Okay. Identify yourself for the record, please?

SO LIM TING: Hello, everybody. My name here is So Lim Ting, and I’m from LT Harvard Square, Inc.

BRENDA N SULLIVAN: And tell us what you would like to do.

SO LIM TING: Oh, we would like to propose to set up bubble tea at 54 JFK Street. Formerly, it’s a Boston Tea Shop, and we’re just trying to do bubble tea there.

BRENDA N SULLIVAN: Okay.

SO LIM TING: We currently have a location at Central Square.

BRENDA N SULLIVAN: Okay. It’s pretty simple.
Questions by members of the Board? Jim Monteverde, any questions?

JIM MONTEVERDE: No questions.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: No questions.

BRENDAN SULLIVAN: Andrea Hickey?

ANDREA HICKEY: No questions.

BRENDAN SULLIVAN: Matina, any questions, or comments?

MATINA WILLIAMS: No questions.

BRENDAN SULLIVAN: And I have none. I’ll open it up to public comment. Any members of the public who wish to speak should now click the button that says, “Participants,” and then click the button that says, “Raise hand.”

If you are calling in by phone, you can raise your hand by pressing *9 and unmute or mute by pressing *6, and you will have up to three minutes to comment. There’s nobody calling in. We are in receipt of correspondence from the Community Development Department, Harvard Square Advisory Committee.

“The Harvard Square Advisory Committee met on Wednesday, May 18, 2022, to discuss the special permit
application by Moge Tee at 54 JFK Street. The meeting was conducted pursuant to the provisions of section 2050 of the Cambridge Zoning Ordinance in advance of the applicant’s request for a special permit from the Board of Zoning Appeal.

“Thus, the Committee Members, after discussion, the Committee decided to forward a report to the BZA with a positive recommendation, with all 10 members present and voting in favor. All 10 members present are voting in favor.

“The applicant proposes to operate a bubble tea shop. This use is considered both a Formula Business and a fast-order, quick serve food establishment. While fast-order quick food establishments are allowed as-of-right in the base zone, Business B, the use requires a special permit from the BZA because it qualifies as a Formula Business, and is located in the Overlay District.

“Members of the Committee were supportive of the applicant’s proposal, highlighting that the business will be replacing a similar establishment.

“The committee noted that curb management is a general concern on this stretch of JFK Street it didn’t not
think should impact the applicant’s ability to be granted the special permit. Committee members did encourage the applicant to find strategies to mitigate impacts from delivery service vehicles.

“The Committee also encouraged the applicant to source biodegradable products, including hot and cold cups.

Respectfully submitted,

Sarah Scott,
Associated Zoning Planner, Community Development Department.”

We are also in receipt of correspondence -- a member of the public --

“To the Board of Zoning Appeal, I am writing in support of Moge Tee permit application to the BZA. They have a successful location in Central Square at 605 Massachusetts Avenue and hundreds of other locations worldwide.

“We think they will be a great addition to Harvard Square, and will be a good fit in the space formerly occupied by Boston Tea Shop at 54 JFK.

“Sincerely yours, Raj Dhanda -- R-a-j D-h-a-n-d-a.”
BRENDAN SULLIVAN: There is also correspondence writing to support So Lim Ting and his business proposal to set up Moge Tee at 54 JFK Street.

“After a long day of working and studying, my colleagues and I often grab bubble tea to relieve ourselves. Harvard Square is all about diversity; however, our bubble tea selection in Harvard Square are not diverse enough. We only have Kung Fu Tea.

“Looking forward to having Moge Tee tea at Harvard Square. Their brown sugar bubble tea and avocado cheese foam are amazing, and regards.

“Regards, Junhan Zhao, Z-h-a-o Department of Biomedical Informatics 10 Shattuck Street, Boston.”

That is the sum and substance of the correspondence. Anything else to add, So, to the proposal or pretty simple?

SO LIM TING: That’s it. Thank you.

BRENDAN SULLIVAN: Okay. Thank you. Any other questions by members of the Board, or ready for a motion?

JIM MONTEVERDE: Ready.

MATINA WILLIAMS: Ready.
BRENDAN SULLIVAN: Let me make a motion, then, to grant the special permit to operate a fast-food Formula Business.

Under the Fast-Order Food Establishment 11.30, the Board has to find -- in considering application for special permits for fast-order food establishment, the Board of Zoning Appeals shall find in addition to the other criteria specified in Section 10.40 that the following requirements are met:

The operation of the establishment shall not create traffic problems.

That there not be -- reduced any available parking.

They will not threaten the public safety in the streets and the sidewalks, or they will not encourage or produce double parking on the adjacent public streets.

And it may be safe to say that the Board does find that none of those will happen because of the -- this establishment going into this location.

The Board finds that the physical design, including colors and use of materials, shall be compatible with and sensitive to the visual and physical
characteristics of this other buildings, public spaces and uses in the particular location.

Do you have a schematic of your proposed sign, signage?

SO LIM TING: I think --

BRENDAN SULLIVAN: There was in the file. So basically, you’re -- the Boston Tea Shop sign will come down, and your name will go up there in its place?

SO LIM TING: Yep, correct.

BRENDAN SULLIVAN: The same size?

SO LIM TING: The same size.

BRENDAN SULLIVAN: Okay.

SO LIM TING: Everything’s the same.

BRENDAN SULLIVAN: Okay. So the Board finds that that requirement is satisfied. The establishment fulfills the need for such service in the neighborhood or in the city, and it has replaced an existing tea shop. Correspondence has shown that it would be a welcome addition to one other, the bubble tea establishment in the Harvard Square are.

The establishment will attract patrons primarily from walk-in trade as opposed to drive-in automobile -
related trade. And it’s safe to say that that would be satisfied because it’s the same operation as before, and that created no problems that we know of, and neither should this one.

The establishment shall, to the greatest extent feasible, utilize biodegradable materials in packaging the food and utensils and other items provided for consumption thereof.

And you will agree to, to the greatest extent feasible, utilize biodegradable utensils? Yes.

BRENDAN SULLIVAN: And 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 or their product.

So there will be receptacles inside the building and potentially out on the landing? Do you have -- provided that you don’t obstruct any --

SO LIM TING: Right.

BRENDAN SULLIVAN: -- egress?

SO LIM TING: Yes.

BRENDAN SULLIVAN: The establishment complies with
state local requirements for the handicapped and disabled persons, but that cannot be satisfied, because it’s up some steps. And it’s an existing location. And that requirement would be onerous and very difficult to satisfy.

And I think we can probably grant relief knowing that it’s an existing establishment, as replaces an existing establishment.

Does the Board so find that those requirements have been met?

ANDREA HICKEY: Yes.

BRENDAN SULLIVAN: In furtherance of -- okay, and the requirements -- in furtherance of the granting of a special permit, it appears that the requirements of the ordinance can be met with the granting of the special permit.

The Board finds that traffic generated, or patterns of access or egress would not cause congestion, hazard, or substantial change in the established neighborhood character. And the Board finds that it is replacing an existing establishment of similar use.

The Board finds that the continued operation of or development of adjacent uses, as permitted in the Zoning
Ordinance, would not be adversely affected by the nature of the proposed use. In fact, potentially enhanced by the addition of additional patrons to this particular locus and adjoining locuses (sic).

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.

And the Board finds that as per the application, the establishment will use all of the existing mechanical systems in place. There would be no new exterior equipment required, and that there would not be any health, safety, or welfare detriment to the occupants -- to the patrons, or to the general citizenry of the citizens of the city.

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

The Board notes the letter of support from the Harvard Square Advisory Committee.

On the motion, then, to grant the special permit to operate a Fast-Food Formula Business, Moge Tee at 54 JFK Street, Jim Monteverde?
JIM MONTEVERDE: In favor.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: In favor.

BRENDAN SULLIVAN: Andrea Hickey?

ANDREA HICKEY: Yes, in favor.

BRENDAN SULLIVAN: Matina Williams?

MATINA WILLIAMS: Yes, in favor.

BRENDAN SULLIVAN: Brendan Sullivan yes.

[All vote YES]

On the affirmative vote of five members of the Board, the special permit is granted. Good luck.

SO LIM TING: Thank you so much.

BRENDAN SULLIVAN: Thank you. We’re running ahead of schedule. Four minutes.
(7:45 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Andrea Hickey, Jason Marshall, and Matina Williams

BRENDAN SULLIVAN: Okay. The Board will hear Case Number No. 121039 -- 65 Banks Street, Lubavitch of Cambridge, Inc. Rabbi? Rabbi Hirschy?

MORRIS SCHOPF: I am actually not Rabbi --

BRENDAN SULLIVAN: Oh.

MORRIS SCHOPF: -- I am Morris Schopf, the architect for the Chabad. We need to make an arrangement for Rabbi Hirschy to be admitted to the meeting.

BRENDAN SULLIVAN: Okay.

MORRIS SCHOPF: Can we do that?

BRENDAN SULLIVAN: Yep. Rabbi Hirschy, you’re on mute. You have to unmute.

[Pause] Okay. Rabbi Hirschy, are you audible?

RABBI HIRSCHY ZARCHI: Yep.

BRENDAN SULLIVAN: Okay. All right, who’s ever --

RABBI HIRSCHY ZARCHI: Yeah.

BRENDAN SULLIVAN: -- going to present the case?
MORRIS SCHOPF: I’ll start, and then I’ll turn it over to the Rabbi. On July 15 --

RABBI HIRSCHY ZARCHI: Yes, we’re on now, I apologize.

MORRIS SCHOPF: It’s okay. That would be Rabbi Hirschy and Elka, the Zarchis, they are there. Okay. And on July 15 last year, the Lubavitch of Cambridge received a Special Use Permit for a property at 65 Banks Street, which is in the Residential C-1 Zone. It is an existing, nonconforming structure on a nonconforming lot.

And the demand for day care services in that location has resulted in their desire to finish the basement of the existing structure without changing the footprint of the building, and to add an exterior conforming entrance to the basement under Section 5.31 of the Ordinance.

In addition, they would like to have the basement area added to their Special Use Permit for day care. There is an exhibit which you can bring up, which shows the plan of existing and proposed basements.

On the left is the existing basement. It has a ceiling height of approximately seven feet. There is a laundry room and some other things there.
On the right is the proposed renovation of the basement to increase the ceiling height to add a bathroom for staff, a small office for staff, a bathroom for children, and an area for day care of children in addition.

The addition of the FAR requires a variance. The hardships are associated with the existing conditions of the site, and the requirement for additional day care facilities.

Rabbi Hirschy and Elka will tell you now about why they need this additional FAR at this location.

RABBI HIRSCHY ZARCHI: So thank you very much, Morris. Just -- can you guys hear me?

BRENDAN SULLIVAN: Yes.

MORRIS SCHOPF: Oh, yeah.

RABBI HIRSCHY ZARCHI: Okay. So just by way of background, about this particular application, we were in contract to buy this building and to close on this property in November or December of 2020.

For lack of a better word, a thief came along and claimed that he was the rightful heir of the sellers, thinking that maybe no one will show up and he can use -- you know, and win himself a property. So that froze our
transaction.

And because of the COVID backup in Probate Courts, it took about eight, nine months for the closing to actually happen. The day the hearing was set, the gentleman never showed up.

[Pause]

BRENDAN SULLIVAN: You’re on mute. Rabbi Hirschy, you’re on mute, so you’ll have to unmute.

RABBI HIRSCHY ZARCHI: Oh, I’m sorry.

BRENDAN SULLIVAN: Yep.

RABBI HIRSCHY ZARCHI: Have you heard anything, or I should start from the beginning --


ELKA ZARCHI): Yeah, they heard that, “So nobody showed up.”

RABBI HIRSCHY ZARCHI: Yes. So nobody showed up to the hearing. Once he learned that there was a hearing set, he never showed up, and then they quickly -- the Probate Court finalized the transaction.

And they only then were able to come before the Committee, you may recall. And that was already close to the summertime. And we had the urgency to try to get this
place in shape for the program in September.

So it’s -- the reason why this is relevant is so at the time we only applied for a building permit for the first and second floor, because even that required a Herculean effort to get it ready in time for September.

It was -- to us we assumed -- I mean, we -- it was never even a question to us that the building in its entirety was granted a change of use. It was only when things were settled now, and we had the bandwidth and the time to renovate the basement properly were we informed that we would have to come before the Committee again, because technically speaking, that was not included in the change of use at the time.

So I just wanted to kind of clarify the narrative. We were always -- this is -- we always assumed that the entire building was -- the entire space was fit for this and was approved for this. We only learned this technicality recently.

You know, the -- having given that background, I’ll really turn it over to Elka, who is the Head of School, who knows the particulars of the day-to-day operation and can hopefully, you know, address any concern that may exist.
Thank you.

ELKA ZARCHI: So thank you for your time. I just -- I know that there were some --

BRENDAN SULLIVAN: Elka, if you could just add a --

ELKA ZARCHI: I’m sorry?

BRENDAN SULLIVAN: If you could just state your name for the record.

ELKA ZARCHI: Yeah. Elka Zarchi, and I am the Head of School, Cambridge Preschool of the Arts.

BRENDAN SULLIVAN: Okay.

ELKA ZARCHI: And my name, I think, was on the original application.

BRENDAN SULLIVAN: Yeah.

ELKA ZARCHI: So I just -- I know, you know, we’ve spoken before about the importance of having a day care in our neighborhood, where there are so many young families and so few options.

And I know that there have been two neighbors who are worried about the congestion and the parking that this might -- parking situation that it might bring to the neighborhood.
So I just want to clarify that, you know, we’re a community school and we’re a neighborhood school. And right now, there are -- I looked, you know, I looked through the lists again and there are exactly two families who are not in walking distance. Everyone else is in walking distance, and most days does walk.

Our other -- because we’re a community builder, and we’re a neighborhood school, our other locations in Inman Square and West Cambridge and in East Cambridge really service those neighbors, and we’re really servicing right now the Harvard Square neighborhood.

On average, maybe three to five families may drive, you know, in the morning if they’re on their way to work or it’s raining. But because we became aware of the concern of neighbors’ driveways being blocked, we immediately sent out a schoolwide communication.

We actually sent out two on the same day so that it couldn’t be missed. We had every family sign off and confirm that they saw it. I myself stood out there to enforce it. We have ample parking across the street. We live at 54 Banks Street, which is directly across the street.
Our driveway is completely empty in the morning, so that parents can pull in and do drop-off safely. There’s a crosswalk that the City put in right in front of our house so they can cross safely and easily. They can pull into our driveway.

And our parents -- you know, our parents are part of the neighborhood. So they all want to be friendly, respectful, and great neighbors. I wish that I would have known earlier that once in a while a driveway was being blocked, because I would have obviously immediately put an end to it.

We also -- I realized today when I was standing outside, you know, because I myself have been out there just watching and making sure that we were respecting everyone’s driveways, and also the bike lane, I did notice a few cars who actually were not POTA related do the same thing.

So I’m not sure if sometimes we’re lumped together with just, you know, people having a hard time finding parking -- you know, just running into Louie’s or the new grocery -- I forgot, Surrey Market, et cetera.

But I also would like everyone to know that we hired, you know, one of our Site Directors specifically to
stand outside from now on at drop-off and at pickup to really make sure that people are being seen, and that nobody is blocking driveways, blocking the bike lane, and pulling into 54 if necessary.

As far as the concern about staffing parking, our staff -- also a lot of our staff walks, but the staff that drives has ample parking at 65, and if need be, they can always park in our driveway.

So even, you know, even the class that we do add, it’s not adding that many children to what we already have, and it’s a lot of families that now just have one more child so that they can bring every age to the same location.

So I don’t know if that was -- I think those were the main concerns. But if there was anything else, I’m happy to address it as well.

MORRIS SCHOPF: Elka, would you talk briefly about the actual number of children in the classrooms? The application indicates the number of children who are -- the license would permit, but if you’d speak a little bit to the fact of your smaller classes being the license total number, et cetera. Would you do that, please?

ELKA ZARCHI: Sure. So our preschool classes
would never actually hit the 20 that we are allowed to have, according to the EEC. But the reason why we ask the City to permit for as many as the EEC would allow is so that if two classrooms ever emerge, or if there was an activity, there was an activity -- you know, in one of the common spaces or joint Shabbat party for example, that we would be within the building -- within the Certificate of Occupancy permit number as well as the EEC number.

BRENDAN SULLIVAN: Okay. Thank you. One question that I have -- this can be to Morris or Elka -- back on July 15, 2020 when we came for the initial special permit, you stated -- and I sat on that case -- stated that the property contained a two-family house -- you at that time stated that the proposal was to convert the use to day care for the next few years while the petitioner’s new facility was being renovated. You stated that the building would not be materially altered.

Ms. Zarchi stated that affordable day care was badly needed in the neighborhood; stated that the students would be arriving on foot and so would not affect the traffic. But whatever happened to the renovation at 243 Hampshire Street?
ELKA ZARCHI: So right now, we have -- we have
started -- we are operating there. We only have -- we only
have two classrooms there, because the tenant hasn’t vacated
yet. They’re waiting for new properties.

COVID, obviously, has not been helpful. But when
Luna’s does -- Luna is our tenant -- and when they find
themselves a new home, our plan is to continue to finish up
the renovations and expansion there.

BRENDAN SULLIVAN: Okay. All right. So once you
were located on Banks Street, you found out that you are
needed in the community, and that --

ELKA ZARCHI: There are some --

BRENDAN SULLIVAN: -- you get a lot of families
from the Graduate Housing?

ELKA ZARCHI: We do. We have a lot of Graduate
Housing families, and then we also have a lot of just young
professionals who live in the neighborhood. We have quite a
number of physicians who live in Harvard Square. We have --
we have a couple of faculty members. But we also definitely
just have families who live, you know, who just live in the
neighborhood, not necessarily Harvard.

BRENDAN SULLIVAN: Were there any other
establishments of your type in the neighborhood that offer this type of service, this day care?

ELKA ZARCHI: The only established day schools are preschools that exist within Harvard Square. It would be use, it would be the one on Walden and Concord, and the one in Inman Square, which is both part of our organization.

BRENDAN SULLIVAN: Okay.

ELKA ZARCHI: But even non -- even Harvard has moved Peabody for now. They have moved out of their space. They moved across the river. So I don’t -- I am not aware of any preschools directly within our neighborhood, actually.

BRENDAN SULLIVAN: All right. Thank you. Let me open it up to Members of the Board. Jim Monteverde, any questions?

[Pause]

Jim?

JIM MONTEVERDE: Sorry, I was muted. No questions.

BRENDAN SULLIVAN: Jason Marshall, any questions, or comments?

JASON MARSHALL: Thanks, Mr. Chair. I think I
I want to hear from other members of the Board and public comment, and then maybe provide feedback at that time. Thanks.

BRENDAN SULLIVAN: Okay, great. Thank you. Andrea Hickey, any comments, questions?

ANDREA HICKEY: Yes. If I could ask the petitioners, how many parking spaces are there across the street at 66 Banks?

ELKA ZARCHI: 66 is where the school is and -- 65, I’m sorry -- 65 has four --

MORRIS SCHOPF: Five cars.

ELKA ZARCHI: -- so five cars tandem. And in our driveway at 54, we can --

ANDREA HICKEY: That’s what I meant to ask. I meant to ask just about 54, I’m sorry.

ELKA ZARCHI: Another five.

ANDREA HICKEY: All right. Okay.

ELKA ZARCHI: Sorry. Yeah.

ANDREA HICKEY: That’s okay. So approximately nine between the two properties?

ELKA ZARCHI: Correct. Thank you.

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

MATINA WILLIAMS: No comments or questions.

BRENDAN SULLIVAN: Okay. And I have none.

ELKA ZARCHI: Yeah, we -- oh, I will add that we also have a few more parking spaces at 48, which is also part of our property. So we have four more parking spaces there. But we never really need it for 60 -- we never really use it for the preschool.

MATINA WILLIAMS: Thank you.

BRENDAN SULLIVAN: Okay. Let me open it to public comment. Any members of the public who wish to speak should now click the button that says, “Participants,” and then click the button that says, “Raise hand.”

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

MORRIS SCHOPF: Elizabeth Foote?

BRENDAN SULLIVAN: Elizabeth? You can either press *9 or unmute or mute by pressing *6.

ELIZABETH FOOTE: Can you hear me?

BRENDAN SULLIVAN: Yes. Can you identify yourself for the record, please?
ELIZABETH FOOTE: Great. My name is Elizabeth Foote. My husband, Eric Thorgerson is here with me. We reside at 29 Surrey Street, our -- we’re on the corner of Surrey and Banks, and our driveway exits out our back door and is across from 65 Banks.

I did send a -- a letter of opposition on Monday. I don’t know if the Board had a chance to read that, or whether you want me to restate what was in the opposition?

BRENDAN SULLIVAN: Yes, we have.

ELIZABETH FOOTE: You have read it?

BRENDAN SULLIVAN: Yes.

ELIZABETH FOOTE: Okay. That -- that really summarizes the way that we and other neighbors of ours feel about having so much traffic on Banks Street that it makes our neighborhood less of a neighborhood, less residential. And we did indeed think that the school was going to be temporary. We believed that it would not cover three floors. We have concerns about student safety as well as ours.

We aren’t sure the state health code allows day care in basements and third floors. We thought it was only on first floor. We have absolutely nothing against day care
and school. The children are adorable, and it just is not fitting for our neighborhood. We do feel a great deal of detriment.

What we see are parents idling up in front of our driveway. And honestly, we’re retired so it’s not such hardship for us, but it changes our day, and we say, “Well, we were -- you know, in a year or two it’ll be different.”

So the car stops idling, the child removed, the parents go in, talk to teachers. There’s an entry process that’s a little bit lengthy. And so, we know that for about 45 minutes in the morning we’re going to have some trouble.

I appreciate the attempt to mitigate that trouble, but I -- we feel that an increase in students will only exacerbate the problem for us and for the kids and for the parents.

Brendan Sullivan: Okay, thank you. Doris Jurisson?

Doris Jurisson: Yeah, hi there. There is Doris Jurisson at 22 Banks Street. And I certainly confer with Elizabeth’s thoughts and, you know, the day care itself is definitely. The people are delightful, and there is certainly a lot of foot traffic. But there is no -- there
is no place for drop-off.

And it is -- creates -- I would have to agree a very difficult situation, where there just simply are cars dropping off, whether you’re local or not, you’re maybe dropping your children off and having to rush out to your job in the car.

There is car drop-off, and it is a very difficult situation. There simply is no place to create a curb cut in front there that would be a safe position to get people out of the car. Again, they’re very young children.

And growing it to 66 is -- it’s just very worrisome. Once Harvard starts up again, you’re in the heart of, you know, the Harvard buses running and a lot of traffic coming through here.

And it’s -- it’s just -- it’s not best. I think there may be -- there’s a lot of property that is owned, and there may be some other options for constructing a more safer, better way to go about doing it.

But I think the way it’s configured now is not appropriate or does certainly create some harm to the neighbors.

BRENDAN SULLIVAN: Great. Thank you for your
comments. There appears to be nobody else calling in. We are in receipt of a couple correspondences to the Board of Zoning Appeal.

“We are writing to express our support and eagerness for the new Cambridge Preschool of the Arts class at 65-67 Banks Street. POTA is such an incredible gem of a school and absolute bedrock of our Cambridge community. When we first found ourselves looking for day camp, we were somewhat dismayed at how few options there are, and how oversubscribed they were in our part of Cambridge.”

It goes on to:

“It is not only an excellent day care, such a wonderful school, teaching them about their home and their community --“ and asks us to grant relief; Haining Gouinlock -- G-o-u-i-n-l-o-c-k and Brendan Corcoran, 15A Ellsworth Ave.

There is also correspondence from Sarah and Michael Mendelson writing a letter to support -- "express our support for the Preschool of the Arts Harvard Square School expansion.

"As a resident of Cambridge as well as a parent of a child who attends the school, we feel this expansion will
help to continue to build the already wonderful community
that has been created. Students and parents of POTA truly
love this community, and this expansion will only add value
to the neighborhood."

And that is the sum and substance of the
correspondence. The other letter that had come in the
previous speaker voicing opposition and concerns by the
existence of the day care center there.

I will close public comment. Morris, any other
comments or --

MORRIS SCHOPF: No. I think that we presented our
case completely and --

ELKA ZARCHI: Morris, I think there are a few --

BRENDAN SULLIVAN: Speak up.

ELKA ZARCHI: -- there are a few hands raised, and
I think that they also had submitted letters, but I see
their hands raised now.

MORRIS SCHOPF: Yes. So we should recognize the
other raised hands.

LEAH ROSENBERG: Oh. There are how many other
people? Okay. So they wish to speak? So they wish to
speak?
ELKA ZARCHI: I think so.

BRENDAN SULLIVAN: Are they there? Leah Rosenberg? Yeah, you're on mute.

LEAH ROSENBERG: Oh, no I'm not. I'm not muted anymore. Hi. My name is Leah Rosenberg. I live at 47 Banks Street. So I am a close neighbor.

And I have two children in the POTA program, and I can't speak more highly of this day care. My son, who's four and a half, has been in it since 6 months of age. My daughter, right here, who's two, is in it. We absolutely think the world of it.

I'm an essential worker at Massachusetts General Hospital, and it's incredibly important to have stable, consistent day care. And POTA has really made it possible for me to work during this pandemic. So I really can't speak more highly of it.

And I as a neighbor, I completely agree that we -- that's why -- yeah, that's why we chose to live here, and, you know, we are all willing to collaborate with our neighbors in any way to keep everyone safe and comfortable in our neighborhood. Thank you so much for the time.

BRENDAN SULLIVAN: Thank you. Is there any other
person who's raising their hand wish to comment?

RABBI HIRSCHY ZARCHI: Rabbi, you're on mute.

BRENDAN SULLIVAN: Yes, all right. If you would identify yourself for the record?

AVISHAY BEN SASSON-GORDIS: Hello. My name is Avishay Ben Sasson-Gordis. I live on 4 Ashley's Terrace, which is within the neighborhood. My only way to leave the area with a car is through Graham Street and Banks Street.

So I am -- I too suffer from the post COVID increase in number of cars in our neighborhood, including the difficulty to find parking in the area, and we've all felt it since the end of the pandemic.

I think, though, as a resident of the neighborhood and someone who has their 3-year-old in the day care and somebody who has their upcoming third child who's supposed to be born in October on the waitlist for a place in day care at Harvard Square, and someone who had -- who has had their child for three years on the waiting list for Harvard day care and hasn't gotten a spot in it, despite being a grad student.

The community that POTA creates is one of the things I appreciate most about it, the Preschool of the
Arts. And living in the neighborhood, we just spoke to friends of ours over the weekend hanging out and going to the parks in the area how great it is to see people's faces in the morning.

So when we think about neighborhood life and the ability to see people and walk, one of the things we appreciate is those moments we cherish on the way there and back, never any trouble crossing streets with our young children. And I totally understand the concern about parking.

And one of the things I appreciate is that it's not being denied. During the pandemic, POTA was one of the schools -- we had a child in a different school -- that set the strictest rules and had an expectation from parents to meet the rules that are set in order to protect the community.

And listening to Elka and Rabbi Hirschy describe the willingness to do what's needed to protect the community and neighborhood, I trust that both us as the parents in the community but they can do what's needed to make this possible, because for the texture of the community living in the area to continue to develop on the very young scale of
things, we need those classroom spaces around.

Brendan Sullivan: Great. Thank you. Thank you for your comments. Anybody else who is raising their hand.

Jesse Lempel: Hi, this is Jesse Lempel. Do you hear me?

Brendan Sullivan: Yes.

Jon Landry: Hi. I'm a POTA parent as well, and I live on 1008 Mass Ave, you know, just around the block from Banks Street.

And I -- so first of all, I would like to say that I think -- and I don't know if this has been adequately explained in public, but a lot of parents who go to POTA live in the immediate vicinity as I do.

And as Avishay and others have mentioned and, you know, we typically almost always walk to pick up and drop off. So, you know, that will mitigate. And the concerns about congestion are legitimate, but that certainly will mitigate concerns.

And I just want to emphasize how important POTA is to us as parents, and having a reliable day care is really, really crucial. And, you know, the alternative to having reliable day care is when you have -- you know, you have to
travel to drive to a day care that fits, that has availability and that fits whatever you are looking for as a parent.

And that could be -- you know, blocks or 20 minutes in the more commute and driving. That itself creates a lot of congestion, which is completely unnecessary if we can utilize the space that is already available.

So I think that -- you know, the congestion concerns are mitigated by the local population, and just everyone lives nearby and there are a lot of people who live nearby. And if you restrict the space, that actually would add to congestion throughout the neighborhood by forcing people to drive to other day cares, where they're not immediately located next door.

BRENDAN SULLIVAN: All right, thank you. Thank you for your comments. Okay. That is the sum and substance. I will now close the public comment.

RABBI HIRSCHY ZARCHI: If it's okay, I just wanted to take the last 60 seconds here with Elka. And I just wanted to state -- and I'll do it here publicly -- I did it to the neighbors in person -- we were somewhat very, very surprised and disappointed that the neighborhood who had an
issue with the parking never approached us.

We only learned about that issue in their opposition to this application.

I sent it to them -- I -- we knocked on their door the other day. I would like to state it again here publicly that first of all that we're sorry for any inconvenience that it may have caused, and we absolutely commit to ensuring that never happens again.

It's unfortunate that we didn't know that it was occurring from time to time. There was no reason for it to occur, we have an incredibly respectful and responsible community who by the way are concerned for the well-being and safety of their children as much as any neighbor is.

So I can assure you this is not -- you know, these families and parents, the safety of their children is -- no one is more concerned for it than they are.

So, you know, the notion that we -- someone should be concerned for the safety of the children when you have such loving and devoted parents who are completely committed to their children -- so the safety of the children I think is without a doubt top priority and nothing to be concerned about because it's being managed at the highest level.
Inconvenience about a car, which we learned only in this application process I apologize for it. And we publicly commit to ensuring that it never happens again. And we're able to make that commitment because thankfully we're blessed with ample parking. In fact, not only ample parking, more parking than what we may ever need -- both permanent parking spaces and also temporary for drop-off purposes.

So there really is no reason for there ever to be an issue again. And now that we're aware that there was one, we will take every step and every measure going forward that this issue is never a problem again.

BRENDAN SULLIVAN: Okay. Thank you.

RABBI HIRSCHY ZARCHI: And again, I want to thank the Committee very much for their time and for their consideration.

BRENDAN SULLIVAN: All right. Morris, you have concluded your presentation?

MORRIS SCHOPF: No. All I wanted to say was that our permit application is pretty complete, and it includes the requirements for 40A Section 10 in detail, which is included in the application.
BRENDAN SULLIVAN: Great. Okay. Thank you. All right. I will conclude the presentation part, take it back to the Board. Jim Monteverde, any comments, questions at this point?

JIM MONTEVERDE: No questions, thank you.

BRENDAN SULLIVAN: Jason?

JASON MARSHALL: Just takes a second to come off camera. I guess I hadn't sat on the original case, and I -- I'm struggling with the application. It seems like an amazing school, an amazing school community.

The administrators of the school, from what we've heard tonight also seem to be making great efforts to be good neighbors. And clearly there's a need for this institution somewhere, and need to expand.

At the same time, you know, institutional uses, while they can provide a tremendous public interest, also can be really disruptive in a residential neighborhood. That's something that we need to consider.

And I'm not sure -- again, I didn't sit on the original case, I'm not sure if the intensity of this use, if it had been proposed along with the original application for permission to change the use here, whether it would have
been granted. It seems like there may have been opposition at that time.

So I think I'll stop there for now. I wanted to hear from other Board members. But I am struggling with this one.

BRENDAN SULLIVAN: Okay. Andrea? Thoughts, comments?

ANDREA HICKEY: Yes. So I'd like to ask the applicants whether they'd consider a lower number of children attending the revised -- the space as revised from 66 down to something lower than that? I understand the idea that you'd want to apply for the maximum, and that you'd want to be able to have some overlap, as you said if you had a schoolwide event or something like that.

But if 66 children have 66 parents -- and I'm not saying that some parents don't have multiple kids -- that's an awful lot of people at maximum capacity coming and going. So I'd ask the applicants if there's any room to consider perhaps lowering that number?

ELKA ZARCHI: I think we could --

RABBI HIRSCHY ZARCHI: It's about 50, not 60 now.

ELKA ZARCHI: If we could -- so first of all I
just want to clarify that most of our families -- because I know all our potential enrollments for next year -- most of our families have at least two children in the school, and also the -- it's probably half the amount of families coming at 3:30 and half the amount coming staggered from 3:30 to 6:00. So our heaviest time would be at 3:30, but that's not even the entire school, that's only half of the school.

RABBI HIRSCHY ZARCHI: Right.

ELKA ZARCHI: So, you know, and so it's a staggered pickup. So the afternoon is not really an issue. And also, the morning next year we have some families coming at 8:00 and some families coming at 8:30. And a few actually have been coming at 8:45.

But also, it's not 66 families by any stretch of the imagination. The average family has two children like you see the -- you know, every family that spoke today has two children in our school. So the average -- it's -- I -- you shouldn't think of it as 66 families --

RABBI HIRSCHY ZARCHI: 30.

ELKA ZARCHI: It's probably closer to 30, 35 families.

ANDREA HICKEY: Could I ask you how many children
or families you serve now under the current configuration?

ELKA ZARCHI: I can look that up as we speak.

RABBI HIRSCHY ZARCHI: 20 --

ELKA ZARCHI: Well, we have --

RABBI HIRSCHY ZARCHI: 20, 30 and 18 downstairs.

That's 28, so 38, 40 --

RABBI HIRSCHY ZARCHI: It's about 45, 46.

ANDREA HICKEY: All right. The reason I ask is I'm trying to get a feel for sort of the increase in density and intensity in the neighborhood.

RABBI HIRSCHY ZARCHI: Sure.

ANDREA HICKEY: Between what's there now and what you're proposing.

RABBI HIRSCHY ZARCHI: Yeah. It's about 45, 46.

But you know, you know, I should say -- you know, I didn't hear any exhibits to, you know, to say anything to -- to suggest otherwise. Every single house on that block -- square block -- is actually owned by Harvard.

You have Mather House, which is a tower to -- you know, a 30 -- 44 floors that's on the corner of the school.

You have Peabody that has multiple towers.

You know, I'm -- and then you have that grocery
store that sells alcohol that's open until 11:00 and, you
know, 18-wheelers dropping off deliveries there around the
clock would allow us to -- you know, I don't know if, you
know because we're in the application so it's being directed
towards us?

I mean, anybody who knows anything about the
neighborhood or about the block understands that there's
probably you have probably several thousand students who
live at Dunster House, Mather House, Peabody Terrace.

And that dimension, you know, the shop with the
alcohol and the trucks and the deliveries and people
stopping by all the time in all kinds of vehicles, both
styles to purchase alcohol on the corner there at the corner
of Surrey and Banks...

The school -- and I say this not only as an
applicant but also as a family who lives on the block, the
kind of comments we get not daily but hourly by anybody who
walks is one of praise, warmth, and joy that, you know, the
serenity and the warmth that these children bring to the
neighborhood has been incredible.

And it's a way of dulling out all the other noise
that exists. The noise of the traffic is not -- are not
these wonderful young children who have very loving and
caring and watchful parents.

It may be other factors that this is the
neighborhood -- you know, it's Harvard Square, it's Harvard
campus, every building, all our neighbors are Harvard-owned
properties.

So you have students, you have undergrads. I
mean, they're all lovely in their own right, but obviously,
you know, it's obviously a very different culture, 18–22-
year-olds who live at Mather House and then Peabody Terrace
and the alcohol store, et cetera, et cetera.

ELKA ZARCHI: I just want to add that I did ask
quick scan on my -- on our enrollments. So right now, I
think we're averaging -- for right now, I think that our
number for families next year is about 40, because it's a
lot of returning families with added siblings.

ANDREA HICKEY: Thank you.

ELKA ZARCHI: So I don't think the number of
families is actually increasing.

ANDREA HICKEY: Thank you. Mr. Chair, that's all
I have at the moment.

BRENDAN SULLIVAN: Any questions?
RABBI HIRSCHY ZARCHI: Final comment that all the additional spaces are going to be going to existing families who want to bring basically a second child. So either their current child goes up a class and their toddler will be enrolled in a lower class -- so arguably the number of families won't increase an iota because of this one-classroom expansion.

BRENDAN SULLIVAN: Okay. Thank you. Matina, any questions, or comments at this time?

MATINA WILLIAMS: Sorry. No, I just -- you know, you say you have a -- you have one person that's going to be standing outside working traffic? Is that what I heard, that helps with drop-off?

ELKA ZARCHI: Not directing traffic, making sure that the rules that we put in place for drop-off as in, "Do not block, do not block neighbors' driveways, do not congest the sidewalks, do not -- you know, please cross at the crosswalk" yes. I or an Administrator will be outside every day.

MATINA WILLIAMS: There -- she's there now. But now, like, starting this week when we heard about this complaint, that job description was made very clear to make
sure that nobody is abusing nice neighbors.

MATINA WILLIAMS: Nice neighbors. Okay. Thank you.

BRENDAN SULLIVAN: When I reviewed this case -- obviously I sat in the original petition -- and yes, it was to be temporary while 243 Hampshire Street was being renovated. But also, to be honest with you, I did not think at the time that it did not improve the basement.

I think that it probably -- thinking for myself, probably would have been okay with them using the structure. I believe at that time I thought it was going to be an entire structure.

I am very partial and sympathetic to day care facilities as a parent who used a neighborhood childcare facility within walking distance of our house, as a grandparent who has picked up grandchildren actually up in Burlington. We used a day care facility at a temple. And it was a wonderful experience. And, again, the temple was in a residential area. And it was a wonderful experience for my grandchildren.

And also, I hear the bemoanings of my nieces and nephews who having young children are trying to find day
care facilities, and there's a long wait line list. And finding it very, very difficult to find places that they can have to service their children during the day and to protect them.

So I'm very partial to this. When I looked at this proposal -- and if we can pull up the basement plan, Staff? It was just up there; sorry I should have had you keep it there.

When I looked at this night and day the proposed basement plan, what I saw was the addition of two toilet rooms, which I think will be a great asset to the children and staff of the existing facility.

Yes, there is a -- call it a classroom or an open space there, but I also think that that will allow potentially maybe more students -- more people there -- and I also look at it as an area that allows some more space for the children, which in these uncertain times with COVID that space, distance from one another is a huge, huge plus and of great concern.

And rather than constricting, restricting space, I think that the addition of this space will add tremendously to the safety of the children by providing additional toilet
facilities and also some additional space. So I'm very much in favor of this.

There are going to be some comings and goings issues. I think there always is when anything is in the middle of a residential neighborhood. I think that Rabbi has heard and Elka has heard the concerns.

And I think -- again, for the past two years they have operated there very well. And I think that they will address, be cognizant and sensitive to any future issues.

So I am very much in favor of this for those reasons, and vote to support the special permit.

So going back to --

JASON MARSHALL: Mr. -- Mr. Chair --

BRENDAN SULLIVAN: Jason?

JASON MARSHALL: -- can I just -- can I just say, so your comments as somebody who had sat on the original case were very helpful to me. Thank you for that. Can I ask -- as I understand it, the use, the allowable use here runs through 2024, it's temporary, is that correct?

BRENDAN SULLIVAN: The current was -- the presentation at the time was for a -- to be for a few years while the petitioner's facilities was being renovated, yes.
But there was no time limit put on it. There was no date certain that it expired.

JASON MARSHALL: Okay. I thought I had a memory of a 2024 date in the record. To the extent there is that kind of a date, if we were to vote favorably on this, would the approval here also be subject to that time restriction?

BRENDAN SULLIVAN: Well, again, there was just presentation that it would be for a few years, not in perpetuity, whether or not the Board voted that time that -- I think if it was only going to be for -- and again, trying to -- for myself going back, sitting on the case at the time that it was yes, temporary, but we did not put any time limit on it.

So what does that say? That says that if there was a concern that it was going to be expired in three years, four years, or something like that, I think we would have put that on at the time. I think that because there was no date certain expiration that we allowed it to continue.

So the special permit that we're granting now, the existing one has no expiration date on it. The one that we're granting tonight could not have an -- will not have an
expiration date on it, unless the Board so deemed.

JASON MARSHALL: Well, I'm just -- I am seeing it.

it looks to me --

JIM MONTEVERDE: Excuse me.

JASON MARSHALL: -- like there is --

JIM MONTEVERDE: Yeah, there is.

JASON MARSHALL: -- a precedent.

JIM MONTEVERDE: I'm just -- I'm reading the paperwork from the City. And it basically stated, I'm looking for a date on here, from 2021 July, and it basically reads -- I just found the date -- it says, "Chair further moved -- [da-da-da-da-da] and the evidence before the Board on the condition that this special permit terminates August 31, 2024, at which time there will be no ability to use these temporary classrooms as proposed by the petitioner, except if further zoning relief is granted."

BRENDAN SULLIVAN: Jim, what --

JIM MONTEVERDE: Signed by the Vice Chair, you.

BRENDAN SULLIVAN: Send --

JIM MONTEVERDE: So I'm in the file, I'm in the file -- I'm in the electronic file.

JASON MARSHALL: It's on -- it's on -- it's on --
BRENDAN SULLIVAN: Oh, all right. I know.

JASON MARSHALL: PDF page 19 in the electronic.

JIM MONTEVERDE: Oh, sorry. Yeah, yeah, yeah. I didn't count the pages. Thank you.

BRENDAN SULLIVAN: All right. Thank you.

JIM MONTEVERDE: And it's the bottom paragraph.

BRENDAN SULLIVAN: Well, that escaped me, and I looked here in the file.

JASON MARSHALL: In any case, having now confirmed, and thank you, Jim, my understanding would be that any approval here would run concurrent with that timeline, and therefore this approval in the prior special permit could be considered holistically again if the applicant requested and the Board can consider it at the time.

So with that understanding, which is -- it's my understanding, I would be inclined to vote in favor.

BRENDAN SULLIVAN: To have this permit run concurrently with the original grant?

JASON MARSHALL: Correct. So you'd still have that -- what is it, August?

BRENDAN SULLIVAN: August 31, 2024?
JIM MONTEVERDE: Correct.

BRENDAN SULLIVAN: So that they could come back and get further relief at that time?

JASON MARSHALL: Yeah, correct.

BRENDAN SULLIVAN: Would that be the assessment of the Board?

JIM MONTEVERDE: Yeah.

BRENDAN SULLIVAN: Yeah? Should we have this relief, this special permit run concurrently with the original relief and expire on August 31, 2024?

ANDREA HICKEY: I --

JIM MONTEVERDE: Further that zoning relief is granted.

JASON MARSHALL: And this is a --

JIM MONTEVERDE: Yeah.

JASON MARSHALL: -- this is a request for a variance, so just to be clear on that. It is a different request for relief.

BRENDAN SULLIVAN: This is a request for a special permit.

JASON MARSHALL: Uh?

BRENDAN SULLIVAN: I'm sorry. Wait a minute. I
have two different files here.

    JASON MARSHALL: No, it's a variance.

    BRENDAN SULLIVAN: It's a variance, sorry. Right.

    "A BZA special permit was issued 2021 to operate a day care at 65 Banks Street. Due to the increase in demand for the petitioner's day care and educational services, we would like to finish and utilize the basement space of the existing structure to accommodate more families and children from the community."

    "Table of Dimensional Requirements, 10.30 variance, alteration or enlargement of a nonconforming structure not otherwise permitted in 8.22.1, 8.222 (sic). Also, a special permit to expand the day care use from the first and second floor into the basement."

    So they're asking for basically a use. The alteration or enlargement of a nonconforming structure, and that also the expansion of the day care use. So it's a variance and a special permit.

    MATINA WILLIAMS: So they are looking to expand the day care?

    BRENDAN SULLIVAN: So what is before us is to grant a variance, and then also to grant a special permit.
Is that how you read it too, Jason?

JASON MARSHALL: I don't see the special permit request in the application. And maybe I'm -- maybe I'm just missing it. I'm looking at page 1 of the record, and I see the box checked for "Variance."

BRENDAN SULLIVAN: Yeah, on the petition on the file, it says, "Variance." But then also, "Special permit" which will expand the day care use from the first or the second floor. And it cites Article 4 Section 4.33 Day Care Use, Section 4.56 Institutional Use Regulation, which requires a special permit.

So --

JASON MARSHALL: Are others seeing that too? I'm just -- I'm --

ANDREA HICKEY: Yeah.

JASON MARSHALL: -- and I'm looking at page 1 of the file electronically and I'm --

ANDREA HICKEY: Right. Hi, it's --

JASON MARSHALL: I don't see that cited.

BRENDAN SULLIVAN: Yeah, I think --

ANDREA HICKEY: -- it's Andrea Hickey speaking. I think they didn't check off, "Special permit" but it seems
pretty clear to me that the content of the application was
to sort of conjoin a variance and a special permit to kind
of piggyback on the special permit that exists at present
for that use.

I do see on our list of cases for tonight it's
listed as both, 'Variance" and "Special Permit." Curious as
to how it was actually advertised, because I think that's
important. Mr. Chair, can you speak to that?

BRENDAN SULLIVAN: The advertisement calls for a
variance.

ANDREA HICKEY: And not for the special permit?

BRENDAN SULLIVAN: And a special permit to expand
the day care use from the first and second floors into the
basement.

ANDREA HICKEY: All right. So that's how the
advertisement was sort of issued?

BRENDAN SULLIVAN: Correct.

JASON MARSHALL: Okay.

ANDREA HICKEY: Correct.

JASON MARSHALL: I'm good with that. Thank you,
Andrea, and Mr. Chair.

ANDREA HICKEY: All right. And if -- if I could
speak for a moment, I agree that there is a limitation in
terms of time for the special permit that was heard and
decided upon earlier.

I think if we are to grant the special permit in
this case, that we have to sort of be consistent with the
special permit that was previously decided, because the
applicants have not sort of made a request in this hearing
at least that that sort of date either be extended or
terminated.

I think before we decide this case, we may want to
give the petitioners the opportunity to perhaps amend their
filing and come back again before we decide if they do want
to sort of present a petition to remove that deadline. Just
an idea.

I'm prepared to decide on what we have before us
tonight, but I do feel constrained by the date that's
previously been decided.

So I'll yield to you, Mr. Chair.

BRENDAN SULLIVAN: Yeeha. I think, Andrea, you're
touching on the same point that I'm going around in my head
here that if we grant the variance, then that runs with the
land that -- however, there is a special permit hanging on
the property. But that is -- expires.

So how do we grant a variance? But then the special permit expires in 2024. That the variance, other than the Use Variance, does not expire?

ANDREA HICKEY: Right.

BRENDAN SULLIVAN: And so, I think the point that you're making is that perhaps this application, with the [2:45:28 indiscernible] of an attorney, may need to be amended and possibly tidied up so that we could grant maybe two forms of relief, but then also request that time limit be eliminated. Is that what you're asking for?

ANDREA HICKEY: That's what I'm saying should be an option for the applicants. I think it really is up to the applicants whether they want to proceed on what's before us tonight, or whether they want the opportunity to perhaps amend their filings to address the time limitation in the original special permit.

BRENDAN SULLIVAN: Okay. All right. Morris and Rabbi, do you understand what we're asking is that potentially go back, we continue this matter tonight, go back and go through the nuances of the requested relief and potentially amend it so that it basically tidies it up into
one form of relief, be that a variance and also request that potentially the time limit on the special permit be asked to go away?

JASON MARSHALL: Yeah. I mean, I appreciate -- first of all, thank you very much for that feedback and consideration. And I just want to be respectful to the Committee's time... You know, one option is that we pause and come back and eliminate the expiration date, if I understood it correct, and then petition in that manner.

Other another approach perhaps would be to greet, impose the limit of Change of Use with the original expiration dates and separate the variance from that, and then we could come back, you know, should we need -- should we want to come back and address that at a future point, we can have a discussion at that time.

But this way we close out -- we close out at least the matter of the -- because I mean considering the time schedule with September approaching and the new school year and all the work that's involved in getting it ready, I wouldn't want -- you know, I'm trying to do the responsible thing here.

And I'm thinking that if we can, you know, resolve
the question of the additional space and bathrooms in the basement today, that would -- that would be the -- that would allow, you know, reasonable time to get this work completed properly in time.

So -- and then we could always come back at a later date? Does that make any sense?

ANDREA HICKEY: I think you'll have to come back at a later date. I don't think it's optional. I think because there's an expiration on the underlying special permit, you're forced to come back.

My only question is, do you want to try to deal with that now as part of your variance application and get a new date and come back with all one case, or do you want to sort of kick the expiration of the special permit down the road a bit, knowing you'll have to come back?

ELKA ZARCHI: Yeah.

ANDREA HICKEY: Because once it expires, you have no right to continue that use.

RABBI HIRSCHY ZARCHI: Right. So -- so, you know, I appreciate that clarification. So that's -- so again, if I understood you correctly, we're happy to kick it down -- you know, for a later time and agree now to impose the
expiration limited on this additional -- on this additional space that we're applying -- we applied for today.

ELKA ZARCHI: With the understanding that we have to come back sooner than later to --

RABBI HIRSCHY ZARCHI: If --

ELKA ZARCHI: -- if we need it to discuss -- to discuss further relief.

ANDREA HICKEY: All right. Mr. Chair, I think that you have some latitude in this case to perhaps for efficiency so that we're not sitting on this exact same sort of case a year or two down the line, do you want to require that this come back, or are you prepared to hear it as is?

BRENDAN SULLIVAN: Well, one of the problems is if we grant the variance to allow them to use the property as a day care center and that the special permit is the expansion of that day care center into the basement, so there are -- there's one form of relief, but then also there's the other form of relief, which now has a time limit to it.

I think what the Rabbi is saying is that he's looking at the clock and seeing the calendar going by and needing to have the space ready for September, because that's when he needs to be up and operating.
I am prepared to give them the relief that they are requesting and if the special permit gets kicked down to 2024, then they'll have to come back and ask for either continuation of that or for it to go away.

ANDREA HICKEY: Thank you, Mr. Chair. I'm prepared to vote in favor of that as well, as long as in our findings we make it clear that there is an expiration date to be dealt with somewhere in the future. Thank you.

BRENDAN SULLIVAN: Okay. Jason, can you chime in on this?

JASON MARSHALL: I agree with that.

BRENDAN SULLIVAN: Okay. Jim Monteverde?

JIM MONTEVERDE: Agree.

BRENDAN SULLIVAN: And Andrea? I mean, I'm sorry, FAWCETT?

MATINA WILLIAMS: I agree with that.

BRENDAN SULLIVAN: Okay. And I may need some help from the Board here on this too. Let me make a motion, then, to grant the requested relief for 65 Banks Street as per the application's supporting statements and dimensional form contained therein. We are granting a variance under Section 5.31 8.223, which is an alteration or enlargement of...
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a nonconforming structure, and then Section 4.33b, for a day
care use.

The Board finds that a literal enforcement of the
provisions of the Ordinance would be substantial hardship to
the petitioner because it would preclude the petitioner from
continuing using the structure as a day care center, use
which was granted by special permit by this Board July 15,
2020.

That the existence of this use has been in the
continuance use since then. Has been an asset to the
community, has serviced the community, and that for this
particular use to not be allowed would cause substantial
hardship to the petitioner and also to the people that it
services.

The Board finds that the hardship is owing to the
fact that it is located in a Residential C-1 Zone. It is
encumbered by the existing ordinance, and that and other
institutional use ordinances, which predate the existence of
this particular structure, but encumbers its change of use.

The Board finds that desirable relief may be
granted without substantial detriment to the public good --
in fact the public will be well-served by having such
facility in the residential neighborhood servicing the
neighborhood.

The Board particularly notes the graduate school
dormitories in the close proximity and the number of people
who use this facility for day care services.

The Board finds 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.

The Board finds that the petitioner is seeking to
finish and utilize an existing basement space in order to
accommodate more families, children, provide additional
toilet facilities and additional room for the students in
which to enjoy the benefits of the day care services.

Relief is granted on the acceptance of the
petition and the supporting statements.

On the motion, then, to grant the variance as per
the motion, Jim Monteverde?

JIM MONTEVERDE: In favor.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: In favor.

BRENDAN SULLIVAN: Andrea Hickey?
ANDREA HICKEY: In favor.

BRENDAN SULLIVAN: Matina Williams?

MATINA WILLIAMS: In favor.

BRENDAN SULLIVAN: Brendan Sullivan in favor.

[All vote YES]

On the affirmative vote of five members of the Board, the variance as per the application is granted now for the special permit to expand the day care's use from the first floor into the basement area, which can be granted by the granting full term -- which can be allowed by the granting of the special permit.

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

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

The Board finds that the existing operation has been in operation since 2020? With --

RABBI HIRSCHY ZARCHI: 2021.

BRENDAN SULLIVAN: -- 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.

In fact, the Board finds that the addition of the space in the basement to provide additional toilet facilities and some additional classroom space would be an asset to the occupants and users of the facility.

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, which is to provide day care facilities not otherwise offered in the public schools, and also that it be an asset in close proximity to residences in the neighborhood.

And also find that the day care facility is governed by the laws and regulations of the Commonwealth of Massachusetts.

All those in favor of granting the special permit and with the condition that said permit expires in
conjunction with the existing special permit governs the property?

ANDREA HICKEY: Mr. Chair, if I could just add that we should tie in the underlying special permit Case Number BZA-121039, which has a condition that it terminates on August 31, 2024 and that the special permit before us tonight will also terminate in -- on the same date, August 31, 2024, unless the petitioners come before the Board to either extend that date or extinguish a date altogether.

BRENDAN SULLIVAN: Great. Thank you. So noted and incorporated by reference as part of the record.

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

JIM MONTEVERDE: In favor.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: In favor.

BRENDAN SULLIVAN: Andrea Hickey?

ANDREA HICKEY: Yes, in favor.

BRENDAN SULLIVAN: And Matina Williams?

MATINA WILLIAMS: Yes, in favor.

BRENDAN SULLIVAN: And Brendan Sullivan in favor, with the condition.
[All vote YES]  

Five affirmative votes, the special permit is granted. Thank you all.

RABBI HIRSCHY ZARCHI: Thank you very much.

ELKA ZARCHI: Thank you so much, everyone. We really, really appreciate your support for our community.

BRENDAN SULLIVAN: I'm sorry?

JEFF ROBERTS: They were just saying thank you, Brendan. And nice job, by the way, on that.

BRENDAN SULLIVAN: Thank you.
Sitting Members: Brendan Sullivan, Jim Monteverde, Andrea Hickey, Jason Marshall, and Matina Williams

BRENDAN SULLIVAN: Thank you. The Board will hear Case No. 170726 -- 10 Hazel Street.

[Pause]

10 Hazel Street?

DEBORAH FAWCETT: Oh, there I am up on the upper left.

BRENDAN SULLIVAN: Hi.

DEBORAH FAWCETT: Good evening. My name is Deborah Fawcett. I'm the attorney representing the owner of the property in question, Joan Wheelis. Joan's also participating in this Zoom hearing, as is Brigitte Steins, who's the architect for the project.

Joan has lived in Cambridge a long time, and has lived and worked in this particular neighborhood since 1989. She's owned 10 Hazel Street for since 2011, and she is currently renting at a tenant's. She lives two doors down around the corner at 218 Garden Street.
10 Hazel Street is a small, one-story house. It has 956 square feet of living space. It was built in 1961, but the Historic Commission has determined that it doesn't meet their criteria requiring a hearing.

I'm here before you now because at this point in her life, Joan wants a house that has some features at 218 Garden Street does not. Like many of us -- certainly myself -- Joan has problems with sore knees, and she wants an elevator in the house. She also doesn't want to struggle to shovel snow off her car anymore, because she parks on the street.

She is a psychotherapist and wants to have space in the house to continue that practice, which of course is a home occupation permitted as-of-right.

She wants to have ample space for overnight guests, and in particular to accommodate comfortably her son, who she anticipates may come to live with her and to and to help her out as time goes on.

Joan tells me that this part of Garden Street is sometimes called, "Great Swamp Way" because there's a lot of runoff coming downhill. And she's experienced basement flooding as a result and some related problems. And she
doesn't want to experience that anymore, either.

Maybe most importantly, Joan really appreciates the existential threat that climate change poses to all of us. And she wants to have a sustainable, energy efficient home that's as green as she can reasonably afford.

So the proposed design accomplishes all of these objectives. And there are many elements to make the house great, including triple-pane windows, green building materials and finishes, shading to prevent overheating.

It's designed to follow the sun, providing natural daylight to indoor rooms, roof and wall insulation that will exceed code requirements.

She also wants to put exterior insulation at the basement of the house, and it's going to be a combination of geothermal and solar energy with heat pumps that will be energy-efficient, but will not make a lot of noise to disturb neighbors.

Unfortunately, it's not feasible to convert -- to make this happen in 10 Hazel Street. It's just too small, ceilings are too low and so forth. So Joan and her architect examined the building carefully, and they just decided that that was not feasible.
This lot, like others in the immediate neighborhood, which were laid out in plan I think 1911 is preexisting, nonconforming. The lot size is 4756 square feet, which is somewhat less than the required minimum of 5000. And it's 41 feet wide, as opposed to 50, which is the requirement.

And it's because of these deficiencies in area and width of the lot that we're here asking for some minimal, we think, variances from the requirements.

The floor area ratio, the requirement is 0.5. We are -- the design includes 97 square feet more than the maximum would be allowed because of the lot being undersized. So the floor area ratio we would end up with is 0.52. Then there are two small intrusions into the side yards, the small canopy on the north or left side of the building if you're standing in the street, which would be three feet by three feet.

And on the other side on the right side or south side of the property, we would like to include a small kind of bump out, a bay-like projection on the second floor only of the bedroom. And that would project one foot nine inches into that side yard on the right side.
Both of those arguably fall within the provision of Section 5.24.2, which I will just quote, "projecting eves, chimneys, bay windows, balconies, open fire escapes, and light projections, which do not project more than three and a half feet --" which these would not, "-- and are part of a larger building no more than 35 feet high. This is going to be the maximum, 35, but not over. May extend into the minimum yard requirements."

When we met with Ranjit, or I spoke with him, he was -- he suggested that these projections might fall within that provision, which would exempt us from the requirement of -- I mean we wouldn't need a variance, because the intrusions would be okay. But we wanted to be cautious and conservative, and that's why we're asking for variances for those two projections as well.

Finally, we're hoping to get a variance to intrude into the both side yards four inches at the basement level to accommodate the application of exterior insulation, which there's a provision in the ordinance that would allow this if it were an existing building, but not for a new one. But it does serve the purpose quoted in Section 2241 of the ordinance to remove potential impediments to the
construction of exterior walls with additional insulation. So that's our proposal. I'm happy to answer any questions. I think that, as I say, the building was not deemed architecturally or historically significant enough to warrant protection by the Historical Commission.

This new building would contribute to the City's commitment to protecting the environment. It would be a much more energy-efficient and sustainable building.

A new system for collecting rainwater should diminish the downhill runoff. Hazel Street runs downhill from Fayerweather to Garden, and there would be substantially more open space than is required.

And Joan is an avid and skilled gardener, and I'm sure will do a beautiful job making this property lovely. And I think it would, far from being a detriment, I think it will substantially enhance and probably improve the value of the neighboring properties, as well as 10 Hazel Street.

It won't increase density of development or traffic. It will be more energy efficient, and as I said before, will not generate noise. It's in a scale of the front setback is completely consistent with the surrounding neighborhood.
As I said, many of these lots were laid out before the Zoning Ordinance was adopted, and there are a lot of houses in the neighborhood who don't have much of a side yard at all.

I think -- oh, I also wanted to let you know that Joan has spoken with and shared her plans with as many people as she could contact in the neighborhood, and I think there have been 15 letters of support that were submitted along with her application. And that includes the two properties on either side, the immediately abutting properties as well as some properties across the street.

BRENDAN SULLIVAN: All right. Good. Thanks.

Okay.

DEBORAH FAWCETT: Thank you.

BRENDAN SULLIVAN: Let me open it up to members of the Board. Jim Monteverde, any questions at this time?

JIM MONTEVERDE: No questions, thank you.

BRENDAN SULLIVAN: Jason Marshall, any questions?

JASON MARSHALL: No questions at this time, thank you.

BRENDAN SULLIVAN: Andrea?

ANDREA HICKEY: Yes. I am having a bit of a hard
time sort of following the plan to compare the current structure with what's proposed. Could I ask someone on the presenter's side to bring us to one of the slides that will clearly show sort of existing versus proposed?

DEBORAH FAWCETT: Actually, if you bring up slide 17, that shows the Dimensional Table.

ANDREA HICKEY: Right. I have that. So I'm looking for something like a plot plan.

DEBORAH FAWCETT: Oh, sure.

ANDREA HICKEY: I'm not an architect, so I'm trying to just visualize --

DEBORAH FAWCETT: Sorry.

ANDREA HICKEY: What is the footprint now, versus what is it -- what are you proposing in terms of the massing on the lot? So --

DEBORAH FAWCETT: This is the plot plan that shows the existing --

ANDREA HICKEY: Correct.

DEBORAH FAWCETT: -- conditions.

ANDREA HICKEY: Right. I understand that.

DEBORAH FAWCETT: Okay. And if you go down to Slide 5 would probably be helpful. This is the floor area
ratio analysis.

And I think if you -- over on the right side, Olivia, you can see a neighborhood comparison. The first-floor plan, which is in slide 10, shows the canopy that we're talking about.

And the -- and the purpose of that is to protect people -- patients, although Joan doesn't have many patients coming to her home office at this point, I think a lot of it is over the phone at this point, but for those who do come, the canopy would protect them from rain while they're waiting to come in. And it's --

JIM MONTEVERDE: Can I make -- sorry, this is Jim Monteverde. Can I make one suggestion that might answer the question that was asked?

DEBORAH FAWCETT: Yes.

JIM MONTEVERDE: If you would go to -- what sheet am I on, I'm on Sheet 16, I believe, it shows that there's a photograph of the existing condition. No, wrong sheet, sorry.

DEBORAH FAWCETT: No, that's not it.

JIM MONTEVERDE: I'm on the one that has the survey, and it has the photograph, front, and rear of the
current building.

DEBORAH FAWCETT: Oh.

ANDREA HICKEY: Jim, what page of the --

DEBORAH FAWCETT: On page --

ANDREA HICKEY: -- PDF, is that --

DEBORAH FAWCETT: Slide 3.

JIM MONTEVERDE: This one.

DEBORAH FAWCETT: This is -- again, these are existing conditions. But these are some photos of 10 Hazel Street now.

JIM MONTEVERDE: Agree. Yeah. So --

DEBORAH FAWCETT: Right?

JIM MONTEVERDE: -- that gives you a sense -- Andrea, that gives you a sense of what it's like, you know, from the street?

ANDREA HICKEY: Right. I --

JIM MONTEVERDE: Right?

ANDREA HICKEY: -- 100 percent have that. I'm looking --

JIM MONTEVERDE: Yeah.

ANDREA HICKEY: -- for something that -- I'm looking for something just that simple for what's proposed.
JIM MONTEVERDE: Right.

DEBORAH FAWCETT: Okay.

JIM MONTEVERDE: Well, if you --

BRIGITTE STEINS: May --

JIM MONTEVERDE: -- if you go to the next slide --

BRIGITTE STEINS: May I introduce myself? My name is Brigitte Steines, InkStone Architects. So I'm the architect here. And we produced the drawings, so maybe I can help out here.

So I think the best -- the best slide to go to to compare besides the images and seeing the open space is also the R2 drawing, which is I believe the third one on your --

ANDREA HICKEY: I think it's Slide 6.

BRIGITTE STEINES: Or Slide 6. Yeah, the slides are different. So this gives a very good overview of what is -- if you're looking for that?

ANDREA HICKEY: Yeah. I'm looking for sort of what exists versus what is proposed.

BRIGITTE STEINES: Right. So --

ANDREA HICKEY: How the structure lies on the lot.

BRIGITTE STEINES: Of course. So there are two ways to compare it. One is the footprint, and if you
compare it with the existing plot plan, then you can see that our footprint got bigger. If you look at the open space, there is still a whole lot of more open space than other buildings in the neighborhood.

The other way to compare it is the floor area. And then there is -- there the floor plan is probably more helpful --

DEBORAH FAWCETT: Slide 5.

BRIGITTE STEINES: -- than the plot plan. But maybe the R2 plan we are looking at right now is not easy to read, so maybe I can walk you through that, what the footprint means.

I don't know, Olivia, if you can make the -- we can see the full picture? At least in cannot, or can I see that, really? Maybe a little smaller. Thank you so much.

So if you move it -- this is the back. Let's start from the back side, since we see -- okay. So now that's the front side. So on the right side you're going to see Hazel Street with a driveway very similar to what it is right now.

The first block rectangle where it says, "roof terrace" is a one -- is a single-story structure. There is
a courtyard which is open. It's on grade of level. And then everything that is gray is more two and a half stories high.

Then if you can move the plan going more to the right, the roof terrace is not as high as the roof, so it's about two stories high, and in the back is the wood deck.

So this is the footprint area, and on the top of that where it says, "Window wells" these are window wells coming out of the basement -- one out of a bedroom, and one out of an office area. I don't know if that helped, that explanation. If you were looking for the footprint?

ANDREA HICKEY: Yeah. Sometimes we see plans that are on -- one plan will show the proposed and like a hashed line for the existing, just to make it easy for those of us who are not experts --

BRIGITTE STEINES: Yeah.

ANDREA HICKEY: -- at reading a plan --

JIM MONTEVERDE: Yeah. --

ANDREA HICKEY: -- to kind of visualize.

JIM MONTEVERDE: I think --

ANDREA HICKEY: I'm sorry, Jim.

JIM MONTEVERDE: Yeah, I'm sorry.
ANDREA HICKEY: Go ahead.

JIM MONTEVERDE: I think there is one on Sheet T1 the neighborhood plan.

BRIGITTE STEINES: Yes, the T1. It's very small.

JIM MONTEVERDE: Well, if you blow that up --

BRIGITTE STEINES: Sorry, can I interrupt you?

JIM MONTEVERDE: No, that's okay.

BRIGITTE STEINES: Yeah.

JIM MONTEVERDE: Blow that up when you get there.

BRIGITTE STEINES: On the very top, it's very small, but it's the high-level comparison. It's the T1 on the very beginning, the very first --

DEBORAH FAWCETT: I think it might be Slide 2, Olivia.

BRIGITTE STEINES: Or maybe it's two. But verify. Yes.

JIM MONTEVERDE: There we go. Yep.

BRIGITTE STEINES: This one. If you can zoom into that plot plan exactly there where you are?

JIM MONTEVERDE: Right.

BRIGITTE STEINES: Exactly.

JIM MONTEVERDE: So --
BRIGITTE STEINES: So --

JIM MONTEVERDE: If you see that ghosted in rectangle?

ANDREA HICKEY: Yes.

JIM MONTEVERDE: That, I believe, is the existing.

BRIGITTE STEINES: This is correct.

JIM MONTEVERDE: And the balance in -- brown? I'm color blind.

BRIGITTE STEINES: Correct.

JIM MONTEVERDE: But --

ANDREA HICKEY: Yes.

JIM MONTEVERDE: -- is the proposed. How's that?

ANDREA HICKEY: That's good. It was buried in there, unfortunately.

JIM MONTEVERDE: Yeah.

BRIGITTE STEINES: It was really small; I have to admit.

DEBORAH FAWCETT: Sorry.

ANDREA HICKEY: All right. My only other question -- again, not being an architect -- so you're presenting that the height of the building as proposed will not be higher than 35 feet, correct?
BRIGITTE STEINES: This is correct.

ANDREA HICKEY: And what is the lowest point from which you're measuring that 35 feet?

BRIGITTE STEINES: We are measuring from the existing grade. So what we did, Deborah and I, to be really sure that we are doing the right thing, we actually met in person with Ranjit, and also had a couple of phone conversations.

So we took the existing average grade, what we got from the certified surveyor, and measured from there the 35 feet up. And I think to see that best is going to the elevation and to the front elevation, which is Sheet A --

DEBORAH FAWCETT: Slides 13 --

BRIGITTE STEINES: Down, down --

DEBORAH FAWCETT: -- and 15 --

BRIGITTE STEINES: -- down, down. Yes.

DEBORAH FAWCETT: How about the --

BRIGITTE STEINES: This one looks good. Yes. So there you see a green line. And that says, "existing average grade." Can you see that?

ANDREA HICKEY: I do see that.

BRIGITTE STEINES: Yes.
ANDREA HICKEY: So I'll ask my colleague, Mr. Monteverde or anybody who might know the answer to this question, is the existing average grade the proper place from which to measure height, or wouldn't it be the lowest point, like, the lower part of a window well or the lower part of the --

BRIGITTE STEINES: This -- yeah.

DEBORAH FAWCETT: -- specifically --

BRIGITTE STEINES: Let me -- let me add that. So the way we were got that explained, we did include the window wells. So the window well depression is included. The driveway is considered as an exception.

So where we are looking at at the front elevation, this is measured from the average existing grade, while if we would go to the next elevation to the next sheet where we see the window wells, you will see there is a green line there as well.

But you see the numbers?

DEBORAH FAWCETT: Mm-hm.

BRIGITTE STEINES: 1,2,3,4, and the number 2 3 and 4 are measuring, and you can see the -- you can see the measurement in pink. And it's counted from the very bottom
of the window well up to the roof area.

ANDREA HICKEY: So the distance from the bottom of
the window well to the roof is --

BRIGITTE STEINES: 34.10 at that side of the roof.

ANDREA HICKEY: Understood. Thank you very much.

That's much clearer to me.

BRIGITTE STEINES: Okay.

ANDREA HICKEY: That's all I have.

BRIGITTE STEINES: It is very tricky, the height
calculations.

BRENDAN SULLIVAN: Andrea, it's -- that's the way
it's calculated by the department, anyhow. And it is the
same calculations, the same way you figure people coming in
for access and for window wells in basements.

And what triggers -- they may very well be at, say
34.9 or something now, they're adding window wells to allow
for fenestration and exit from a basement bedroom -- and
that window well basically increases the height, even though
the building hasn't changed at all. So --

ANDREA HICKEY: Right. That was why I asked the
question --

BRENDAN SULLIVAN: Yep.
ANDREA HICKEY: So I had a firm understanding as to whether --

BRENDAN SULLIVAN: Yeah.

ANDREA HICKEY: That window well situation was taken into consideration, and it looks like it's been addressed.

BRENDAN SULLIVAN: Yes.

ANDREA HICKEY: It looks like the Building Department is fine with it, and I have no questions. I just wanted to understand that.

BRENDAN SULLIVAN: Yes. It is -- that depth if you will, is calculated into the average grade around the house. So.

ANDREA HICKEY: I have nothing further. Thank you.

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

MATINA WILLIAMS: No.

BRENDAN SULLIVAN: Okay. 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're calling in by phone, you can raise your hand by pressing *9 and unmute or mute by pressing *6. And you'll have up to three minutes to comment.

UNIDENTIFIED SPEAKER: Edwardo Berlin?

EDUARDO BERLIN: Yes. I'm sorry, this is probably not the right moment in this meeting to ask this. I just wanted to confirm that 241 Grove Street is off the agenda, because I have it on the agenda online, but I also have an e-mail from the owner saying that it's not. Just wanted to confirm that. I'm sorry for the intrusion.

BRENDAN SULLIVAN: It is open?

OLIVIA RATAY: It was continued.

EDUARDO BERLIN: Can you hear me?

BRENDAN SULLIVAN: That was continued until June 30.

EDUARDO BERLIN: Thank you. That's all. Thanks so much.

BRENDAN SULLIVAN: Yep. There was nobody calling in. We are in receipt of correspondence. It's a form letter.

"Dear Board of Zoning Appeal, I am a neighbor of Joan Wheelis at 10 Hazel Street. I had an opportunity to
review Joan's plans to demolish the existing house on the property and to build a new house in its place, which Joan intends to make a home."

"I understand that because of the lot itself is somewhat smaller and narrower than the standard, the plans will require the Board of Zoning Appeal to grant variances to exceed the maximum floor area ratio by about 0.2 percent, 97 square feet, to install exterior installation that will extend four inches into the side yards to build three-foot wide canopy that will extend three feet into the left side yard and for the second-floor bedroom to project about one-foot-nine from the façade on the right side of the building.

"I have no objection to the Board granting these variances, and I support Joan's plans for her new home."

There are some 16,17 that I counted letters in support. And that is the sum and substance of any communication. I will close the public comment part. Deborah, any further comments at this time?

DEBORAH FAWCETT: No. I think it's all been said. I'm glad that you explained that it's -- the height is measured from the existing average grade, which definitely takes into account the window well.
BRENDAN SULLIVAN: Okay. Great. Okay, thank you. All right. I'll close the presentation part of the meeting, and by and the Board will discuss it among themselves. Jim Monteverde, your thoughts. We're being requested to grant a special variance.

JIM MONTEVERDE: I am fine with it. I'm comfortable.

BRENDAN SULLIVAN: Okay. Jason Marshall?

JASON MARSHALL: Thanks, Mr. Chair. I don't have any feedback at this time.

BRENDAN SULLIVAN: Okay. Andrea Hickey?

ANDREA HICKEY: No further questions. Thank you, Mr. Chair.

BRENDAN SULLIVAN: Matina Williams, any comments, or questions? Ready for a vote?

MATINA WILLIAMS: No comments or questions at this time.

BRENDAN SULLIVAN: All right. Let me make a motion, then, to grant the relief requested, as per the drawings, supporting statements and dimensional forms, drawings initialed by the Chair for the new construction, which exceeds the FAR and also there is some side yard
requirement setback violations.

The Board finds that a literal enforcement of the provisions of the ordinance would involve a substantial hardship to the petitioner, because it would preclude the petitioner from constructing a new building to replace an outdated, inefficient, very small, relatively small for the neighborhood, house on an existing lot.

The Board finds that the existing house predates the ordinance, is encumbered by it by the size of the lot, also the side yard requirements and also the FAR, so that any addition or modification or improvement to the house, which has to be an expansion of the house, would require some relief from this Board.

The Board finds that desirable relief may be granted without substantial detriment to the public good. The Board finds that the proposed new structure will have many economical and ecological benefits to the city, also to the occupant of the structure.

That the design will replace a very small, one-story house. And the Board finds that the Historical Department has found it of no historical architectural significance.
The Board finds 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 -- the intent and purpose of the ordinance is to allow the petitioners, homeowners, to bring their residences up to far more efficient standards with today's modern technology.

The Board also notices the -- that there would not be any increase in traffic. There would not be any increase in the use of the property. It could be allowed to be a two-family; this will be a single-family home, so that the use and intensity will remain the same and have no impact on adjoining properties.

The Board finds that -- there should be some more findings -- desirable relief may be granted without substantial detriment to the public good. In fact, the proposed design will enhance the neighborhood with an attractive design and far more efficient structure.

The Board finds that desirable relief may be granted without nullifying or substantially derogating from the intent and purpose of the ordinance, as previously stated, to allow homeowners to improve their home to far
more energy efficiency, and also to make it more livable and accommodating to modern standards.

On the motion, then, to grant the relief requested, Jim Monteverde?

JIM MONTEVERDE: I vote in favor.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: In favor.

BRENDAN SULLIVAN: Andrea Hickey?

ANDREA HICKEY: Yes, in favor.

BRENDAN SULLIVAN: Matina Williams?

MATINA WILLIAMS: Yes, in favor.

BRENDAN SULLIVAN: And Brendan Sullivan yes.

[All vote YES]

BRENDAN SULLIVAN: On the five affirmative votes, the variance is granted. Good luck.

COLLECTIVE: Thank you so much. Thank you. Thank you very much.
(9:22 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Andrea Hickey, Jason Marshall, and Matina Williams

BRENDAN SULLIVAN: Okay. The Board will now hear Case No. 167013 -- 49 Alpine Street.

[Pause]

Mr. Welsh? 49 Alpine Street?

MICHAEL WELSH: Sorry. I just had to unmute myself there. Mr. Chairman and members of the Board, my name is Michael Welsh.

I'm the attorney for Alex Yu and Siyu Huang, who have recently purchased 47-49 Alpine Street. And they're seeking to renovate the existing house to add space for themselves, their two children and the parents who will be living with them.

Alex and Siyu to are both working professionals in their 30s with full-time jobs, so their parents will be living with them to help take care of the kids and Alex and Siyu are also --

BRENDAN SULLIVAN: Let me -- Michael, let me just...
MICHAEL WELSH: Sure.

BRENDAN SULLIVAN: That I don't know if you reviewed the file, but there is substantial, and I would say valid opposition to the proposal. And I was just wondering if you your client has any outreach to the community. Are you aware of the amount of opposition?

I guess where I'm going is that I'm trying to avoid spending the next hour discussing this matter, and then possibly continue it, so that you can have further discussions with the neighbors and address their concerns and their opposition, because then it would be a case heard. And it may be timewise difficult to get all five members back together within the next two months, because of our schedules and all.

The other option would be if you can proceed, but one other option would be to continue this matter, and you could possibly come back next month, maybe the middle of the month, middle of July, having addressed the issues, having talked to the neighbors, and then come back to us with either you -- some agreement, or you may come back and say that you agree to disagree.
So I throw that out to you as an option.

MICHAEL WELSH: I appreciate that. And I did see the letters that were submitted. And so my clients did do some outreach. They have spoken with the neighbors. I've read and seen their concerns.

And this -- the design that's before you today is a revised proposal from the original one. The original proposal was more modern design with a full third story. And the primary concerns were the density, the bulk and the full third story, and the fact that it didn't align with the character of the neighborhood.

So the design was changed from that to have a pitched roof with dormers to make it more consistent with the neighborhood.

And the main -- I would say I don't want to speak for the neighbors, but one of the primary concerns is that the floor area -- the gross floor area wasn't reduced to the amount that they would have liked to have seen it. And the primary reason for that is because --

BRENDAN SULLIVAN: So all right. Well, let me just --

MICHAEL WELSH: Go ahead.
BRENDAN SULLIVAN: -- so that was -- the drawing that’s in front of us is dated 04-20-22. So that’s the latest. And that is a revision to --

MICHAEL WELSH: Yes, that's correct.

BRENDAN SULLIVAN: -- original plans?

MICHAEL WELSH: Yes, that's correct.

BRENDAN SULLIVAN: Okay. So I guess my question is you being appraised of the opposition, whether or not you want to proceed tonight or you want to avail yourself of a continuation to address the concerns that are -- some of the letters have come in as early as today, you know, yesterday, recently. So anyhow, shall we proceed, or would you like to continue the matter and come back next month?

MICHAEL WELSH: Could I have 30 seconds to just consult with my client?

BRENDAN SULLIVAN: Yeah, sure.

MICHAEL WELSH: Would that be okay?

BRENDAN SULLIVAN: Yep.

MICHAEL WELSH: Okay, thank you. I appreciate that.

I just consulted with my client. I -- so we'll
take a continuance. I know we're already running late tonight. So I appreciate the -- your concern with that, and we also appreciate the neighbors' concerns, so we'd like to work with them and see if we can do something.

BRENDAN SULLIVAN: Okay. So a continuation? July 28 as a -- will that work for you and your client?

MICHAEL WELSH: Yes, that will be fine. Yes.

BRENDAN SULLIVAN: All right. Let me -- on the -- let me make a motion, then, to continue this matter to July 28, 2022 at 6:00 p.m. on the condition that you sign a waiver to the statutory requirement for a hearing and a decision to be rendered thereof; that if you request a form Maria will not be here, Olivia will if you request a form from Olivia, she can send it to you, you can sign it and send it back. I would ask that that form be returned to somebody by a week from next Monday to the Department.

That you change the posting sign to reflect the new date of July 25, 2022 at 6:00 p.m., any new submittals that are not currently in the file be in the file by 5:00 p.m. on the Monday prior to July 28.

I think that that should cover it. And obviously you have access to any of the files and the letters. On the
motion to continue this matter to July 28, Jim Monteverde?

JIM MONTEVERDE: In favor.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: In favor.

BRENDAN SULLIVAN: Andrea Hickey on the continuance?

ANDREA HICKEY: Yes to the continuance and just to -- again -- clarify for the record that this would be continued as a case not heard.

BRENDAN SULLIVAN: Correct. Matina Williams?

MATINA WILLIAMS: Yes to the continuance.

BRENDAN SULLIVAN: Okay. And Brendan Sullivan yes.

[All vote YES]

Five affirmative votes, the matter is continued until July 28 at 6:00 p.m. Thank you.

MICHAEL WELSH: All right. Thank you very much.
(9:29 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Andrea Hickey, Jason Marshall, and Matina Williams

BRENDAN SULLIVAN: Okay. The Board will hear Case No. 170145 -- 10 Van Norden Street. 10 Van Norden?

SHANNA BOUGHTON: Good evening. Shanna Boughton on behalf of the petitioner, John Denehy.

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

SHANNA BOUGHTON: Yes. Good evening. Shanna Boughton on behalf of the petitioner, John Denehy.

BRENDAN SULLIVAN: Okay. Let me give a little bit of a background, and you can correct me if I misspeak or --

the history behind this for the Board is that there was a fire at 10 Van Norden, and that the petitioner, whether it be John Denehy or the contractor came down and applied for a building permit to repair the fire damage. Is that right, Shannon (sic)?

SHANNA BOUGHTON: Yes.

BRENDAN SULLIVAN: Okay. Could the Board -- I'm
sorry, could Staff pull up with the existing building before
the fire looked like?

JIM MONTEVERDE: There's a view of it on the
survey sheet, Mr. Chair.

SHANNA BOUGHTON: Yeah. There should be one in
the file.

JIM MONTEVERDE: Kind of a grainy, little one but
--

BRENDAN SULLIVAN: Yeah. Okay. So that was the
building prior to the fire. And apparently the fire was in
the top left corner of the third floor, was it? Or the
second floor or something?

SHANNA BOUGHTON: Second floor.

BRENDAN SULLIVAN: Okay. Then so there was a fire
there and it came down to the building permit to repair the
fire damages. And then the repairs looked like -- let me
see, the -- and that's what the repairs came out to be.

So what you're asking for tonight is that there
was -- I'll paraphrase it, I guess, is that there was far
more work done than what was permitted by the permit? Is
that fair to say, Shannon?

SHANNA BOUGHTON: Yes. I think it's -- you know,
particularly with regard to the roofline while the top pitch is not higher, the -- as you could see, there's like -- I don't know if you call them, "dormers" now that are on the side of each?

BRENDAN SULLIVAN: Well, yeah.

SHANNA BOUGHTON: So it's changed the pitch of the roof.

BRENDAN SULLIVAN: Yeah, the original has --

SHANNA BOUGHTON: And increased --

BRENDAN SULLIVAN: -- changed --

SHANNA BOUGHTON: -- on each side of the home in that area. So --

BRENDAN SULLIVAN: And the left side goes all the way down the entire length of the building?

SHANNA BOUGHTON: Correct.

BRENDAN SULLIVAN: All right. And the right side basically replaces a small dormer that was present there?

SHANNA BOUGHTON: Yes.

BRENDAN SULLIVAN: And ties into an existing feature of the house? I don't know if you have a side view or not?

SHANNA BOUGHTON: Correct, on the right side.
BRENDAN SULLIVAN: Okay, right there.

SHANNA BOUGHTON: There, yes. Because this is the current status, what it looks like.

BRENDAN SULLIVAN: So basically, what you're asking is for us to legalize I guess what was expanded. And I guess the question is ask is how did this happen? Or maybe it's immaterial at this point?

SHANNA BOUGHTON: Well, you know, I will say what happened in regard -- it's no excuse, obviously, it should have been done beforehand, before the City drew it to my client's attention -- you will see in the file there is a letter from our architect, Christopher Bailow. And in there, he didn't believe that a special permit was required because the floor area ratio stayed the same.

So Mr. Denehy was relying on that in not seeking a special permit. And --

JIM MONTEVERDE: I'm not sure that that's correct.

SHANNA BOUGHTON: I understand that.

JIM MONTEVERDE: I mean, I understand the statement, but there just -- it can't be. When you were under that original roof pitch, and if you're measuring any space that's five-foot tall, and now you've raised that roof so
that you have the entire floor area, you've definitely
gained square footage.

SHANNA BOUGHTON: Understanding.

JIM MONTEVERDE: That has to affect your FAR.

SHANNA BOUGHTON: Right.

JIM MONTEVERDE: Sorry to interrupt you.

BRENDAN SULLIVAN: And again, for somebody who's
in the business, you have a permit to do a certain amount of
work, and then you just disregard that and then just keep on
going without going back to the Building Department and say
-- well, first of all good common sense is that you're
expanding beyond what you asked for for the building permit.
It's just bad behavior. That is one issue.

The other issue is on the dimensional form. If we
can pull up the dimensional form?

Again, the existing conditions, we want to know
what the existing conditions were before the fire.

Basically, what you're basically including in this is what
it is now. The existing conditions, taking into
consideration the expansion. That's felonious. We cannot
have that.

It has to be what the existing condition of the
1 house was prior to the fire, before getting the building
2 permit to repair it. So we need to know what that number
3 is, and then the 2266 is probably what it is now.
4 And that then changes all of those numbers
5 probably down below.
6
7 SHANNA BOUGHTON: Understood.
8
9 BRENDAN SULLIVAN: So I don't see how the
10 application can go forward because there's a defect in the
11 application, which is the dimensional form.
12
13 SHANNA BOUGHTON: So if we can request, then, a
14 continuance, then to the next hearing, and I will relay to
15 Mr. Denehy that he needs to obtain a new architect, then, so
16 that these are all corrected.
17
18 BRENDAN SULLIVAN: Right. And it should be run by
19 the Building Department too and the Commissioner to make
20 sure that all the calculations are correct.
21
22 SHANNA BOUGHTON: Are accurate.
23
24 BRENDAN SULLIVAN: Let me open it up to members of
25 the Board. Jim Monteverde, are you in agreement that the
26 matter needs to be continued?
27
28 JIM MONTEVERDE: Absolutely.
29
30 BRENDAN SULLIVAN: And Jason Marshall?
JASON MARSHALL: Emphatically yes.

BRENDBAN SULLIVAN: Andrea?

ANDREA HICKEY: Yes. This cannot go forward as it.

BRENDBAN SULLIVAN: Okay. Matina?

MATINA WILLIAMS: Yes. This is -- needs a continuance.

BRENDBAN SULLIVAN: And Brendan Sullivan yes that accepting the request for a continuance. Let me make a motion, then, to continue this matter to the earliest date we can do it is -- when, August -- August 18, 2022.

Let me make a motion, then, to continue this matter to August 18, 2022, as a case not heard on the condition that the petitioner and petitioner's counsel sign a waiver to the statutory requirement for a hearing and a decision to be rendered thereof.

Such waiver shall be obtained by the Building Department, Special Services. Shall be signed either by the petitioner or counsel. That it be returned by 5:00 p.m. on the week from Monday.

That the posting sign -- and I would ask that the posting sign be changed from behind the window, which is in
the well -- and that it be put -- mounted on the fence or potentially just inside the fence, potentially on a piece of plywood and you can put a piece of plastic over it, but that it not be putting it in the window is -- does not meet the requirements of the ordinance.

That the posting sign be changed to reflect the new date of August 18, 2022, and the new time of 6:00 p.m.

That any new submissions will have to be, that they be in the file by 5:00 p.m. on the Monday prior to the August 18 hearing.

And I think that covers it.

On the motion, then, to continue this matter, Jim Monteverde?

JIM MONTEVERDE: In favor.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: In favor.

BRENDAN SULLIVAN: Andrea Hickey?

ANDREA HICKEY: Yes, in favor.

BRENDAN SULLIVAN: Matina Williams?

MATINA WILLIAMS: Yes, in favor.

BRENDAN SULLIVAN: In favor.

[All vote YES]
BRENDAN SULLIVAN: On the five affirmative votes of the members of the Board this matter is continued until August 18. See you then.

SHANNA BOUGHTON: Thank you.

BRENDAN SULLIVAN: And that concludes tonight's agenda. Thank you all. Excellent work.

JIM MONTEVERDE: All right.

MATINA WILLIAMS: Thank you.

COLLECTIVE: Thank you.

MATINA WILLIAMS: Goodnight, everyone.

ANDREA HICKEY: Good work, Mr. Chair. Thank you.

MATINA WILLIAMS: Good work, Mr. Chair.

JIM MONTEVERDE: Bye-bye.

MATINA WILLIAMS: Bye.

BRENDAN SULLIVAN: Bye now, Matina. Stay well.

[9:40 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 23rd day of June, 2022.

[Signature]

Notary Public

My commission expires:

July 28, 2028
A
A-1 68:17
A002 49:1
A004 40:12
41:22
A022 49:2
A200 42:1
A22 52:22
abilities 41:4
ability 84:1
113:6 129:14
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able 15:1 59:21
73:17 95:20
117:4 119:13
above-caption... 22:19
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accomplishes 30:5
account 167:22
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acknowledgment... 33:10
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78:20 85:16
93:14 94:2
97:4 100:9
105:4 110:3
115:12 123:12
126:21 145:3
163:9 172:15
added 41:19
49:12 54:9
61:1 93:17
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