

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, JANUARY 10, 2019

7:00 p.m.

in

Senior Center

806 Massachusetts Avenue

First Floor

Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Brendan Sullivan, Vice Chair

Janet Green, Member

Andrea A. Hickey, Member

Jim Monteverde, Associate Member

Alison Hammer, Associate Member

Sisia Daglian, Assistant Commissioner



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PROCEEDINGS

(7:00 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Jim Monteverde, Alison Hammer.)

CONSTANTINE ALEXANDER: The Chair will call this meeting of the Zoning Board of Appeals to order. And at the outset I'd like to read a statement.

JANET GREEN: We have our election, too.

CONSTANTINE ALEXANDER: Yes, that's today. I'll do this first and get it out of the way.

After notifying the Chair, any person may make a video or audio recording of our open sessions or may transmit the meeting through any medium, subject to reasonable requirements that the Chair may impose as to the number, placement, and operation of equipment used so as to not to interfere with the conduct of the meeting. At the beginning of the meeting the Chair will inform other attendees at that meeting that a recording is being made.

And I'd like to report that at least one recording is being made. Our stenographer records the meeting to assist her when she prepares

the transcript of the meeting.

Is there anyone else here planning to record, tape record, video record this meeting?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

So just one so far anyway.

Okay. Before we get to the actual cases, our first order of business as it is always with the first meeting of the year is to elect the Chairman and Vice Chairman for the coming year.

Only regular members can vote on this per the rules of the procedure. So, Jim, you won't be voting on this, or Alison.

So I'll open the matter up to nominations. First let's take nominations for Chairman.

BRENDAN SULLIVAN: I would nominate Constantine Alexander to be Chair for the ensuing year.

JANET GREEN: I second that motion.

Are you in favor?

CONSTANTINE ALEXANDER: I'll make my usual speech.

If anyone else on the Board wants the job, I will withdraw my candidacy.

BRENDAN SULLIVAN: Duly noted.

CONSTANTINE ALEXANDER: Okay.

With that, nominations are closed.

All those in favor of electing me as Chairman, please say

"Aye."

(Aye.)

CONSTANTINE ALEXANDER: Three in favor and I abstain.

(Sullivan, Green, Hickey.)

CONSTANTINE ALEXANDER: Any nominees for Vice
Chairman?

I would nominate Mr. Sullivan to repay the favor.

BRENDAN SULLIVAN: Would anybody like
to --

JANET GREEN: I would second that.

ANDREA HICKEY: And I am in favor.

BRENDAN SULLIVAN: All right, duly noted.

CONSTANTINE ALEXANDER: Any other nominations?

(No Response.)

CONSTANTINE ALEXANDER: Okay. Nominations are closed.

All those in favor of electing Mr. Sullivan as Vice Chair say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Three in favor. I assume you're abstaining?

BRENDAN SULLIVAN: Yes.

(Alexander, Green, Hickey.)

CONSTANTINE ALEXANDER: Okay, so now we can move on to our regular business.

As is our custom, we're going to start with the continued cases. These are cases that started at an earlier date, and for one reason or another were not completed and have been continued until this evening. We have several.

* * * * *

(7:05 p.m.)

(Sitting Members Case No. BZA-017037-2018: Brendan Sullivan, Janet Green, Andrea A. Hickey, Jim Monteverde, Alison Hammer.)

CONSTANTINE ALEXANDER: The first of the continued cases I'm going to call is case No. 017037, 120 Magazine Street.

Is there anyone here wishing to be heard on that matter?

Mr. Rafferty.

I am not sitting on this case. Mr. Sullivan will Chair.

BRENDAN SULLIVAN: Mr. Rafferty.

ATTORNEY JAMES RAFFERTY: Thank you. Good evening, Mr. Chair. For the record, my name is James Rafferty. I'm an attorney with offices at 907 Massachusetts Avenue in Cambridge, and I'm appearing this evening on behalf of the Applicants, or I should more correctly state, the property owners, Lindsay MacIndoe and Wendy Holdings. Ms. MacIndoe and Ms. Holding are seated --

JANET GREEN: Jim, they can't quite hear you in the back.

ATTORNEY JAMES RAFFERTY: Oh, okay.

The property owners are Lindsay MacIndoe and Wendy

Holdings.

This is a, this is a case that seeks a Variance to allow for the reconstruction of a home, a single-family -- well, actually, a single-family home with an accessory apartment in the basement that unfortunately was demolished without authority. Without authorization. It is a very sorry exercise for everyone involved, particularly the homeowner. We have dealt extensively with this issue with the Historical Commission. Because as board members may be aware, the city's demolition delay ordinance deals with unauthorized demolition by imposing a two-year moratorium on further construction. And I think there's no question that what occurred here was an unauthorized demolition. I have to say that the contractor, S&H has really behaved in very admirable fashion. They stepped forward, acknowledged the error to be theirs, explained how it happened during the course of construction. The building became unstable. The project supervisor rather than seek direction from the Building Department or the Historical Commission, made a determination that given the unsafe nature of the building and what he thought was its potential imminent collapse, that he would, he would proceed to remove other portions of the

building.

It's had a catastrophic impact on the property owners. They bought this property almost two years ago. They were before this Board sometime ago with their architectural team, and the Board approved the Variance that allowed for some dormers and an addition to the rear of the property. Construction was proceeding and they thought they were well on their way to creating a new home for their family. They live around the corner with their two children. They've been long time active neighbors in Cambridgeport, and this home was frankly their dream home. Their dream regrettably turned into a nightmare, but we have concluded with the Historical Commission, the Historical Commission two months ago authorized a retroactive demolition of the house which then allowed the matter to proceed.

We're back before the Board because the house that came down had some non-conforming features to it. And as the Board knows, those elements of the home, their protected status, their grandfathered status went away when the home came down. I think it's potentially or arguable that this case could be dealt with through a Special Permit

process. I didn't file the application, but there is a special section in Section 6 that allows a Board to make a finding that a home can be restored if the finding is that there's no more adverse impact upon the surrounding properties with the new structure than with the existing structure. That is certainly the case with this application. This home will be rebuilt on the foundation, the new foundation that was built as part of the process. A building permit had issued here, the house had been jacked up, a new foundation had been laid, the house has been placed back on that foundation, and then the issues I described earlier unfortunately occurred.

So at the moment we were scheduled to be here last month, but we ran into a little discrepancy with the location and length of one of the dormers. The house has two dormers, one on the north and one on the south. At the Historical Commission the month before, one of -- the Chair of the Commission in making a motion to approve the construction to go forward suggested that this would be an appropriate time to remedy one particular element about the dormer. The dormer on the south side didn't meet the dormer guidelines in the sense that the ridge of the

dormer, the top of the dormer hit the ridge of the roof and was not below the ridge. That was a dormer that was issued by a Variance in 2000.

When the Applicants were here last year before the Commission -- before the Board, the Board took note and appreciated the fact that part of their plans included pulling that dormer back from the face of the building. I think it's safe to say that that 2001 Variance would not likely be granted in this day and age, but they did make an attempt to remedy it. In the transcript of the hearing which I read, board members complimented the owners for doing that.

So what Mr. Irving noted was since they had already done that, this would be an opportune time to have the ridge meet with the roof guidelines and not meet the ridge. The language in that motion was a little cumbersome and wasn't made clear so we returned to the Board, and the Board has sent a communication, the Historical Commission sent a communication that I trust the Board has a copy of, acknowledging that the elevations, including the two north and south dormers that appear in the plans that we've submitted here, were approved. So the dormers and all of the elevations in the house are consistent with what the Historical

Commission saw and approved.

Representatives of S&H are here. They were very, as I said, candid and truthful and helpful in the Historical Commission process. I told them I didn't know if the Board here would want to hear more about that. The reality is this is where we are. The significant regulatory hurdle I think has been achieved; namely, the lifting of the moratorium by virtue of the Historical Commission. The attitude expressed by the Historical Commission was, Well, we're just going to try to do what we can to get this back on track and get you the home you wanted, the home that you had a building permit for, and a home that represents what had been there for nearly 100 years. So depending on the Board's interest, we could offer testimony on the specifics of how all of this came about or we could simply make the case that we think in this case the hardship is readily apparent.

If you've been by the site, you'll see that the core of the house is all but gone. It was -- it's costly. It's time consuming. It's extremely stressful on the property owners. No one could suggest that this was some type of a tactic or a roost to gain a benefit in the permitting process.

They had all the authority they needed to proceed.

So we're back here tonight asking the Board to grant a Variance to simply allow us to reapply for a building permit, essentially get close to the same building permit with some minor modifications with these dormers, and allow the construction to proceed.

And we're happy to -- we have both Mr. Fiore and his -- no, we have Mr. Foley. And Mr. Foley is part of Foley -- you get top billing, right? It's Foley, Fiore. Right? And Mr. Coombs are here. And similarly they could offer any explanation of the design. But it is a, it is a building or a structure that the Board saw not that long ago and we're essentially looking to simply reaffirm the finding in that case and allow them to proceed.

BRENDAN SULLIVAN: Back in June of '17 you were granted a Variance. And is there anything in the new application which varies from the relief that was granted in that? And the reason I say that is because of the new application, there is a Special Permit request for parking. So I'm wondering, is that the only new aspect?

ATTORNEY JAMES RAFFERTY: No. And I'll stand to be

corrected by the design professionals. But there are three components to this design that are different from the design that the Board saw. Two of them involve the dormers that I described. The south dormer now meeting -- falling below the ridge line. The north dormer did not fall below the ridge line. And when we were last at the Historical Commission, since we were lowering one dormer below the ridge line, it was -- the Applicant offered to do the same, to have symmetry in those dormers. So those two changes are different.

There is a third change. When the Variance was granted in June of 2017, in 2017 there was -- the front facade had a porch. The second floor cantilevered over and there was an open porch. After the Board granted the Variance but before the building permit was issued, the Applicants and their architects met with ISD and the Commissioner in particular to discuss what would have been and what was at the time an as-of-right modification to enclose that. The GFA was already there and it didn't create a setback issue. So the building permit authorized that facade change. And that is different from what the Board saw. So that change does appear in these elevations today.

ANDREA HICKEY: That's on the west elevation?

ATTORNEY JAMES RAFFERTY: That's the front elevation.

The front of the house had an open -- when the Board saw the -- we probably have it in a photograph. The front of the house.

ANDREA HICKEY: I see it.

ATTORNEY JAMES RAFFERTY: Yeah.

So that was, that was enclosed. As I said, that wasn't done unilaterally. Prior to the issuance of the building permit, the Applicant obtained approval to enclose that with the determination that it wasn't at variation with the relief or the conditions associated in the 2017 Variance.

The Special Permit issue came about because of the requirement around parking. Once the structure went away I think the Commissioner felt that there was a potential that the parking that was grandfathered, the requirement for two parking spaces for two dwelling units similarly vanished.

BRENDAN SULLIVAN: Went away with it.

ATTORNEY JAMES RAFFERTY: Exactly. And so to avoid any potential problem in that area. But the parking layout and the

proposed driveway is just as it was before. But once again it's an element of the grandfathering that was lost when the building came down.

BRENDAN SULLIVAN: Once you go down a road it can be a long, torturous road.

ATTORNEY JAMES RAFFERTY: I think these two women can attest firsthand to the torturous road they have been on.

BRENDAN SULLIVAN: Does any member of the Board need any history regarding how we got here today? Any more history than how we got here today?

JIM MONTEVERDE: No, I'm good.

JANET GREEN: No.

BRENDAN SULLIVAN: No? Okay.

I'll put you on mute for a minute. Is there anything that anybody else would like to speak at the table?

(No Response.)

BRENDAN SULLIVAN: No?

I'll open it up to public comment.

Is there anybody here who would like to speak on this matter?

(No Response.)

BRENDAN SULLIVAN: There is nobody in attendance.

There are a number of letters in the file. I would say the vast majority of them are in support. There are a couple of letters that are asking the Board not to approve, but I think that if those letters and the authors of those letters were to understand the circumstances, that their letters might be different.

ATTORNEY JAMES RAFFERTY: If I may, Mr. Chair.

There's one letter in particular, and the author called me today, Ms. O'Hare, who expressed a view, a concern about how this happened. But there's a -- she filed a subsequent letter in which she states her full support for this. And she has an interesting postscript on her letter which I complimented her on today. It said, "And no one asked me to write this letter." So I thought that was unique. And I know we were grateful because Ms. O'Hare does have a letter -- and if you read her letter initially. When I first saw it, I thought it was a letter in opposition. She kind of criticizes how could this come about? But she's a lawyer and she's precise with her language. The first letter didn't oppose it. The second

letter explicitly supports the Variance. And I spoke with her today, and she authorized me and asked me to make that representation to the Board.

BRENDAN SULLIVAN: Okay, good.

There's also correspondence from the Cambridge Historical. It's dated January 8th to the property owners.

(Reading) On January 3, 2019, Cambridge Historical Commission voted to affirm its decision of December 6, 2018, and approved the design of the modified south dormer as shown in the elevation by Foley Fiore Architects presented on January 3rd titled "120 Magazine Street" and dated December 21st. I attach the approved elevations with this letter. Sincerely, Charles Sullivan, Executive Director.

With those elevations this letter will be incorporated into the file by reference.

Is there anything else?

(No Response.)

BRENDAN SULLIVAN: I will close public comment.

ATTORNEY JAMES RAFFERTY: No, thank you.

BRENDAN SULLIVAN: Comments by the Board?

Questions?

JANET GREEN: No.

JIM MONTEVERDE: No.

BRENDAN SULLIVAN: Vote? Let me make a motion then on the Variance.

To grant the relief requested, the Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner. Actually, would involve a substantial hardship to the property owners. Because as the record shows, a substantial amount of the renovation of the structure had begun and a third party, not directly employed by the homeowners, exceeded the limits of the relief granted in BZA case No. 012376-2017. And additionally, imperiled the project in a cease and desist status with the Inspectional Services and the Historical Commission which now requires further relief from this Board and relief from the demolition moratorium and further review from the Historical Commission. A denial of the requested relief would have unreasonable consequences financially and personally on the owners and

their family.

The Board finds that the hardship is owing to the fact that the structure, which was built in 1844, predates the current Zoning Ordinance for this locus. It is encumbered by same current zoning. And considering the size of the lot, the location of the structure, the age, and the outdated condition of the structure, any modification would require some relief from this Board to allow the updating to accommodate the needs of a contemporary family.

The Board finds that desirable relief may be granted for the following reasons:

The Board finds that desired relief may be granted because it will allow for the updated restoration -- updating and restoration of some notable historical and desirable elements of the house. And as such, a benefit to the neighborhood and the streetscape and amenities of the city.

Relief may be granted without nullifying or substantially derogating from the intent and purpose of the Ordinance, which is to protect and enhance the most rational use of land and structures and structures cited thereon and encourage housing to be adequate, safe, for

persons and families of all income levels and to conserve the value of land and buildings.

The Board finds that the granting of this relief -- that the relief requested is a fair and reasonable relief from the requirements of the Ordinance.

The Board will grant this relief Variance on the condition that the work proceed in accordance with the plans and specifications contained in the application.

Is there anything else to add?

JIM MONTEVERDE: No.

BRENDAN SULLIVAN: All those in favor of granting the Variance?

(Aye.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Green, Hickey, Monteverde, Hammer.)

ATTORNEY JAMES RAFFERTY: Mr. Chair, I just note that the original plans were revised. So I don't know if you want to make a reference to the date. They were filed on Monday with the new dormers.

BRENDAN SULLIVAN: I will sign the new ones.

ATTORNEY JAMES RAFFERTY: Okay.

BRENDAN SULLIVAN: As the plans as initialled by the
Chair.

Now on the Special Permit, the Board finds that the granting of the Special Permit -- the Board finds that can grant the Special Permit, can be met. That the two parking spaces to be provided are a reinstatement of the previous parking 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 because the condition is pre-existing and no change will take place.

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. Again, as a pre-existing condition and no affect is evident.

The Board finds that there would not be any nuisance or hazard created to the detriment of the health, safety, or welfare of the

occupant of the proposed use or to the citizens of the city because it is existing conditions.

And the proposed use of the parking would not impair the integrity of the district or adjoining districts, otherwise derogate from the intent and purpose of the Ordinance to provide off-street parking.

All those in favor of granting the Special Permit?

(Aye.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Green, Hickey, Monteverde, Hammer.)

BRENDAN SULLIVAN: Okay.

ATTORNEY JAMES RAFFERTY: Thank you very much.

ANDREA HICKEY: Good luck, ladies.

* * * * *

(7:30 p.m.)

(Sitting Members Case No. BZA-017026-2018: Constantine Alexander,

Brendan Sullivan, Janet Green, Jim Monteverde, Alison Hammer.)

CONSTANTINE ALEXANDER: The Chair will now call case No. 017026, 36 Follen Street.

Please come forward.

This is the most recent Follen Street case before us. Floor is yours, Mr. Page.

ATTORNEY SHIPPEN PAGE: Good evening. Thank you, Mr. Chairman. For the record, my name is Shippen Page. I'm an attorney with the law office at 174 Lakeview Avenue in Cambridge, and I'm here representing Mark Lanza who is the trustee of the 36 Follen Street realty trust. I also have here the owners of the property Jonathan and Laura sitting in the front row. And they will perhaps speak.

I wanted to just set a framework for tonight. I wanted to --

CONSTANTINE ALEXANDER: Excuse me, Mr. Page, before you do that --

ATTORNEY SHIPPEN PAGE: Please.

CONSTANTINE ALEXANDER: I want to make some comments at the outset.

ATTORNEY SHIPPEN PAGE: Just to frame this case a little better.

Thank you.

CONSTANTINE ALEXANDER: First of all, I want to congratulate you and your new architect on this submission. This is the third time we've heard this case and it's the first time I can understand what the case is about in terms of the relief being sought and the like. So kudos to you. We'll see how the case goes. It made life a lot easier.

ATTORNEY SHIPPEN PAGE: Thank you.

CONSTANTINE ALEXANDER: Second of all, I think we need to one more time go through the relief that's being sought. There were nine, I think I counted nine items in the original advertisement, and I notice that you only basically addressed four or five of them in the written materials you submitted in support.

ATTORNEY SHIPPEN PAGE: Correct.

CONSTANTINE ALEXANDER: Maybe because you're going to deal with others orally. Maybe they're subsumed in what you've done. Fine, but I want to get them on the record.

ATTORNEY SHIPPEN PAGE: Thank you.

CONSTANTINE ALEXANDER: But you should know that one of the issues that you've raised, has been raised, is whether increasing the height of the structure by 18 inches requires a Variance or a Special Permit.

Ranjit, who is sitting here tonight, has determined that it's a Special Permit. Not a Variance.

ATTORNEY SHIPPEN PAGE: I see.

CONSTANTINE ALEXANDER: So when you make your remarks, you can assume, you should do so on the basis that you need a Special Permit, not a Variance, for the height increase.

ATTORNEY SHIPPEN PAGE: Thank you.

CONSTANTINE ALEXANDER: And one last thing before we go back to the specifics. I think I recall, and I may be recalling incorrectly, in your written materials you suggested that you need to get ultimate approval from the Cambridge Historical Commission. There is a letter, I know, talking about the height in here. But do you need formal relief from the Cambridge Historical Commission?

ATTORNEY SHIPPEN PAGE: Only with respect to the dormer and the shift in the dormer because the north dormer has now been removed from the plans. Jonathan Austin, the architect to my right, has spoken with Charlie Sullivan and Mr. Sullivan's indicated that he doesn't foresee that this is going to be a problem with Cambridge Historical Commission's approval with this plan, but he will not guarantee it. And he suggested it for us to seek your contingent approval on the Cambridge Historical Commission then ratifying what the Board here may --

CONSTANTINE ALEXANDER: Well, maybe we'll do it in a different way. In doing that creates at least a theoretical risk for you and your client.

ATTORNEY SHIPPEN PAGE: It does.

CONSTANTINE ALEXANDER: Because if we approve tonight, if we approve, it will be based on the plans that you've submitted.

ATTORNEY SHIPPEN PAGE: That's correct.

CONSTANTINE ALEXANDER: If Historical says, no, no, no, you have to make some changes to these plans, you have to come back

here. A whole new case.

ATTORNEY SHIPPEN PAGE: We understand that.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY SHIPPEN PAGE: And Mr. Austin has discussed that with Mr. Sullivan.

CONSTANTINE ALEXANDER: Okay. As long as you -- I've read you your rights.

ATTORNEY SHIPPEN PAGE: But I appreciate your caution. Thank you so much.

CONSTANTINE ALEXANDER: Let's identify at the outset, go over the nine items that you identified that you needed zoning relief in your initial advertisement and see which are still on the table and what, and are they Special Permit or Variance?

ATTORNEY SHIPPEN PAGE: Well, I can say that the ones that are most salient here are the increase in the FAR.

CONSTANTINE ALEXANDER: Right.

ATTORNEY SHIPPEN PAGE: The 189 square feet.

CONSTANTINE ALEXANDER: That's a Variance.

ATTORNEY SHIPPEN PAGE: That's a Variance.

Raising the house is now a Special Permit.

Changing the windows on the right side in the rear and side yard setback is a Special Permit.

We are enclosing the porch for a bathroom is as of right.

The shed has been removed. The trash shed has been removed.

CONSTANTINE ALEXANDER: That's gone.

ATTORNEY SHIPPEN PAGE: The front steps are as of right. They're simply not adding to the FAR. And if I'm missing something, I --

CONSTANTINE ALEXANDER: The trash collector?

ATTORNEY SHIPPEN PAGE: The trash shed has been removed from the plans.

CONSTANTINE ALEXANDER: Removed?

ATTORNEY SHIPPEN PAGE: Yeah.

And the skylights I think would be subsumed under the windows and so forth under the Special Permit to the extent that they are

in the side yard setback.

CONSTANTINE ALEXANDER: Yeah, that's a special -- but you are speaking a Special Permit for the skylights?

ATTORNEY SHIPPEN PAGE: That's correct.

CONSTANTINE ALEXANDER: Okay. I didn't make a note on which are which.

ATTORNEY SHIPPEN PAGE: Does that clarify? So the initial application had many things that were as of right, and so I simply in my letter to you dated January 7th sought to basically identify the three things that we really were after; the FAR, raising the building, and changing the windows.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY SHIPPEN PAGE: Just to make it simple.

CONSTANTINE ALEXANDER: I wanted to make sure that was the case. I understood that to be the case. Now finally you can talk.

ATTORNEY SHIPPEN PAGE: Well, there's one other item. The companion case that was on for December 13th. And I would expect that depending on the outcome of this, that we would reserve our rights

and have it dismissed without prejudice. But I wanted to at least identify that that's -- there is a companion case.

CONSTANTINE ALEXANDER: Yeah, well, I know that.

ATTORNEY SHIPPEN PAGE: Yeah.

CONSTANTINE ALEXANDER: I assume that case would be -- well --

ATTORNEY SHIPPEN PAGE: Would go away.

CONSTANTINE ALEXANDER: Will go away.

ATTORNEY SHIPPEN PAGE: I wanted to administratively make sure that the record was clean with respect to that.

CONSTANTINE ALEXANDER: I think the way to do it, maybe you don't want to do that. Let's assume we grant you the relief you're seeking tonight, you would then withdraw the other case.

MARK LANZA: Request a withdrawal without prejudice.

CONSTANTINE ALEXANDER: What's that?

MARK LANZA: Request a withdrawal without prejudice.

JANET GREEN: Request to withdraw without prejudice.

CONSTANTINE ALEXANDER: I know that. I'm trying to

think whether you can do that.

MARK LANZA: We can with the Board's approval after the hearing's been noticed. And the reason we've asked that is there's a lot of overlap.

CONSTANTINE ALEXANDER: Oh, I understand. I understand why you would do it. I'm just wondering whether we can do that.

MARK LANZA: You can.

CONSTANTINE ALEXANDER: Thank you. Would you like to Chair?

MARK LANZA: No, thank you. You just got re-elected.

BRENDAN SULLIVAN: We asked for volunteers a while ago.

MARK LANZA: That's right.

ATTORNEY SHIPPEN PAGE: Mr. Chair, we're going to try to keep this simple if we can.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY SHIPPEN PAGE: But thank you so much for that. That's good.

So I'd like to just present some of the context that we're here.

We came in September. We came again on November 29th. And we were asked by the Chair to sit down with the abutters and see if we could work out what resolution we could arrive at. And we had a discussion.

The abutters to the west of us and the immediately to the north were not terribly agreeable to any of the plans that we submitted. We removed the north dormer and we substituted in its place a proposed dormer to the south and the east and the skylights, and that was not acceptable to them.

They are I think concerned about raising the height of the building. As Mr. Austin's going to present in his presentation, there are shadow studies that were hopefully going to persuade the Board that in fact the impact on the house to the north is quite, quite small. And that we are looking at this as a very modest project in light of the history of the building, the use to which the family hopes to put -- it's a young family with a young child.

And the fact that the building is an 1847 building that really had all the work done to it prior to the turn of the last century. So that I have a letter here from Mr. Sullivan to Ranjit Singanayagam, the Commissioner of Inspectional --

CONSTANTINE ALEXANDER: January 9th letter?

ATTORNEY SHIPPEN PAGE: January 9th letter.

CONSTANTINE ALEXANDER: We have it in our files.

ATTORNEY SHIPPEN PAGE: Oh, you have it? Good. I would want to make sure it's in the record. But one of the salient provisions of that is the elevation of Follen Street was raised about 12 inches from the time that this house started to be constructed to the I think the turn of the last century. So there is a serious drainage problem there that's exacerbated by the fact that it's a natural water course coming down off of Waterhouse Street. So that the extent that the basement is faced with some flooding issues and the sill is at grade level just creates a problem for the house. And I'm gonna be anticipating Mr. Austin's presentation by saying that we've done some topographical studies of this house compared to the houses on either side, and this house is materially lower to the elevation of the first floor threshold. And we would just show you some graphics on that. So that's where I want to go. I will --

CONSTANTINE ALEXANDER: Before you go there, just a question.

ATTORNEY SHIPPEN PAGE: Yeah.

CONSTANTINE ALEXANDER: Is this the old Lincoln Inn, this building?

ATTORNEY SHIPPEN PAGE: No, no, no. The old Lincoln Inn's to the left of that.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY SHIPPEN ALLEN: And it was moved, moved there in 1923. And I think to the extent that the Lincoln Inn is no longer there is probably a great relief to the neighborhood.

CONSTANTINE ALEXANDER: I can tell you that's the case. I had a friend who lived on Follen Street who moved away because of the noise.

ATTORNEY SHIPPEN PAGE: Because of the Lincoln Inn. I won't disparage the Harvard Law School.

So if I can, if I can turn the presentation, sir, over to Jonathan Austin of Austin Associates, they're the architects for the plan.

Jonathan.

JONATHAN AUSTIN: Good evening, I'm Jonathan Austin of

Austin Architects. And my colleague David Roach here is to my right.

CONSTANTINE ALEXANDER: Can everyone hear?

Everyone who wants to hear can they hear?

JONATHAN AUSTIN: So I've always wondered about this house. It's a real treasure on this street. And so it was thrilling to get to know about it. And I think the context of the house is really important to understand the context of the proposed changes. 36 Follen Street was originally built in 1847 and first appears on this really fine map called the Walling Map of 1854 as a simple, rectangular building on a narrow lot. It's therefore one of the oldest original buildings in the vicinity. Though it's been much modified over the time. And if you haven't read Charlie Sullivan's description of this, it's -- he describes exactly the context in which this building has evolved, its various additions, and also the dates of the buildings that were built around it. But it's interesting to be working on one of the oldest buildings in this vicinity.

Today, 36 Follen is surrounded by later buildings, much of which are taller and significantly more dense. So you can see 36 in the center, 34 is to -- above it. 44 and 46 and No. 50 down below.

Today, though the lot is larger than in the Walling Map, it is at 4300 square feet smaller than the 6,000 square feet minimum lot size in this district. And because the building sits off center on the site within the setbacks, 36 Follen is a non-conforming structure per the Cambridge Zoning Ordinance, thus requiring relief for the changes we're bringing to the Board today even though they're all within the existing building's footprint.

The house has an interesting evolution. So as you saw on the Walling Map -- and this is described further in Charlie's letter. It started as a simple rectangular building perpendicular to Follen Street in 1847. And then in 1890 and 1892 additions were made that started first with this wing that is parallel to Follen Street. And then almost like mushrooms, a whole series of additions.

The dormers, projections off the side and to the front and the porches were added. But all of this construction occurred before the turn of the 20th century, i.e. well before the zoning code was implemented in Cambridge.

So here are some views around the building today. And

Cambridge Historical Commission repeatedly used the word idiosyncratic when describing this, which I think perfectly describes what is a rather lovely quirky building. As I said at the very beginning, one that is a real treasure.

The first thing you'll notice is that the house sits practically on the ground. In fact, CHC noted that the grade of the building -- of the street has risen at least 12 inches since the house was built probably when the sewers were installed in the 1890s. So subsequent houses were naturally built on a higher level relative to 36 Follen. Whereas this house was effectively pushed down by the changes around it. And as you can see today, the building is deteriorating in these locations, and it certainly doesn't conform to current building codes with respect to surrounding grade as shown in these slides.

This is a corner view here. And it's for this reason that part of the proposed plan is to raise the building a distance at about the size of my notebook here, 18 inches.

CONSTANTINE ALEXANDER: And if we were to grant you the relief, you would still be within the 35-foot height restriction?

JONATHAN AUSTIN: Well, well within.

CONSTANTINE ALEXANDER: So you're not looking to change -- or any zoning relief in terms that would require a Variance?

JONATHAN AUSTIN: Simply wishing to push it up.

CONSTANTINE ALEXANDER: Pushing it up.

JONATHAN AUSTIN: Push it up.

And for obvious reasons we want to correct this condition of materials close to the ground. We want to minimize the extent of excavation in order and radon and all sorts of things in order to get adequate head height. So this seems like a perfectly sort of standard practice to be able to raise the building to this elevated height of 18 inches in order to get these sorts of materials off the ground. And, again, it's -- Mr. Sullivan states in his letter, this is a standard practice.

This is the rear view which has these somewhat fascinating but I would say difficult to navigate and maintain bump outs and bays, the ones that are in the center. They remind me of projections on old medieval buildings where privots (sic) were put out on the exterior. Rest assured the plumbing in this building is elsewhere. It's right in the center.

But they're rather strange. And as you can see, the valley of the roof coming down there there's obvious challenges with respect to snow and all of the different roof intersections.

Here's another view of the bays. And, yes, they are supported on two-by-four braces. So this is pretty primitive construction on the site there.

Inside the building it really has had pretty minimal renovation. The basement has brick and dry stone walls which are not in particularly good condition as you would expect for a building of this age, and has a very low headroom, six feet, seven to the bottom of the joists. This is the west side facing the garden at the rear. And this is the, this is the side facing Follen Street where the headroom here is also six feet, seven inches. It's a mud slab. I mean fairly typical again for --

CONSTANTINE ALEXANDER: It should be part of Sturbridge rather Cambridge.

JONATHAN AUSTIN: Well, yes. Or Charles Dickens walking in from the left here.

So, the third floor ceilings are similarly low, and though they

have indeed functioned as bedrooms and whether it's because people were not quite so tall in those days, the person in this photograph is about five feet, eight inches tall. But those are pretty low ceiling heights along the third floor.

And in fact, one of the sort of not very loveable idiosyncrasies of this building is that they're in fact two third floors separated in the center by the old roof. So as you can see on the plan, there are actually two staircases here. And if you go up one of the staircases and you open this closet here and look inside, there's the old wood shingled roof that separates the two sides of the house. So that poses a real problem when coming to plan space for a contemporary family.

So that just gives you a survey of the challenges associated with this existing building.

Here is the -- what we're proposing here. And this is -- relates to the Variance. And so the increase that we're proposing here is relatively modest. It's about 189 square feet. And to put that into perspective, the area that we're seated in here with these tables and chairs and the space around it is about 189 square feet. What it results

in --

CONSTANTINE ALEXANDER: The building is how much -- currently, what's the square footage of the building?

ATTORNEY SHIPPEN PAGE: 2597.

CONSTANTINE ALEXANDER: 2500 isn't it?

ATTORNEY SHIPPEN PAGE: 2500.

CONSTANTINE ALEXANDER: And you're talking about less than a ten percent increase -- no, you have to be ten percent when you do the --

ATTORNEY SHIPPEN PAGE: 0.04. To go 0.58 to 0.62.

JONATHAN AUSTIN: In terms of FAR it's a 0.04 increase in FAR.

And those -- the FAR actually falls into -- sorry, two categories:

One, it relates to the removal of the two dissimilar bays on the west side of the building and replacement with one unified bay pulled back from the northwest corner. So if you look at the top, left-hand corner here in the existing condition, which is the top left, what we're doing is moving

the new one unified bay down south further away from the corner. The combined increase in overall area on the first and second floors in these two areas -- on these two floors is 25 square feet. So that's the sort of rear adjustments is relatively small.

On the third floor, what we're proposing to do in order to increase the utility of the third floor, we're proposing to lower the floor slightly. So we're going to increase the head height that way. And that of course increases the area of the upper level, plus we're proposing to add two dormers. One of these on the west side on the left side on the third floor was approved by CHC and extends an existing dormer, albeit with different roof lines, to break up the mass on the third floor. And the other on the east side, that's sort of in the crux, in the valley of the building has not yet been reviewed formally by Cambridge Historical Commission. But we're proposing it now because we have eliminated the north dormer which was part of the original application, and that's the blue triangle to the north. So as a result of discussions with the abutter on that side, that dormer was eliminated and we're proposing instead as a dormer on the other side. And also attendant to that, was a whole series of internal

changes, quite substantial, in order to enable that to happen so that we could -- we could actually get the staircase to work, to get it up to the level here, to eliminate the west -- the north dormer. So I think we've been very sensitive in that respect.

So, I now go to the next -- this is just as an illustration here. This is the axonometric of the house. What we're proposing here is the dormer on the upper left-hand corner here and then a dormer on the inside the valley here above the staircase that gets to the upper level.

CONSTANTINE ALEXANDER: Is that what I call kitty-cornered dormers?

JONATHAN AUSTIN: Kissing dormers is another way of describing it, yes.

CONSTANTINE ALEXANDER: Kissing dormers. Okay.

JONATHAN AUSTIN: So anyway, that's the proposed change with regard to dormers.

Our proposed plan also has two conditions that require a Special Permit. The first is raising the building 18 inches so that as I've described earlier we can get the building adequately above the ground so

it sits comfortably above the surrounding grade. I want to emphasize here that the onus that Jonathan and Laura do wish to preserve and replicate the historic details of the house, and of course as do Cambridge Historic Commission.

And this photograph shows that 36 Follen is indeed lower than its neighbors. We had a surveyor come and shoot some elevations on this. And 44 to 46 Follen on the left-hand side is 1.2 feet higher than 36 Follen and 34 Follen on the right-hand side is 2.1 feet higher. And of course as described in Charlie Sullivan's letter, these buildings were built subsequently presumably after the road conditions were changed.

This narrow street view is a little bit distorted. So if you -- as you look at this with an elevation that is drawn with adjoining buildings taken from the Cambridge GIS model, you'll see that 36 and 34 Follen Street to the right-hand side are comparably scaled, but both are significantly overshadowed by the larger buildings to the south side. So we also looked at the impact of shadows here. Here is 36 Follen existing on the worst condition of the year about three weeks ago, the winter solstice at noon. And as you can see, everybody is in shadow here as a

result of the large buildings that are to the south. And so when the building is raised, the condition really doesn't change very much due to that overshadowing. If we go to the other end of the year, again, at noon during the summer solstice, you see how the sun there casts a relatively small shadow in the adjoining space between 36 and 34. And with the raised of 18 inches, you see the impact there.

The second condition that we require a Special Permit for requesting is modifications to windows within the pre-existing setback. And on the north elevation the proposed design doesn't really change any of the existing windows. We're just simply raising the roof -- sorry, in a sense the windows are changed because we're just simply putting them in a different elevation. This elevation sees the greatest change from our original submission. The dormer that you'll see up on the left-hand side is removed and is replaced by a roof light within its place. So it's -- the shadow that would be result from that is taken away.

So this concludes description. I'm happy to answer any questions, but I think Shippen --

ATTORNEY SHIPPEN PAGE: I think that covers it.

JONATHAN AUSTIN: -- we want to conclude our presentation.

ATTORNEY SHIPPEN PAGE: Thank you, Mr. Chairman. I certainly would welcome any questions from the members of the Board for Mr. Austin and then I'd like to go into the legal analysis.

CONSTANTINE ALEXANDER: Just so -- dormer guidelines, dormer guidelines seem somewhat inappropriate for this building of this age, but tell me how and what you're proposing now conforms and does not conform to the dormer guidelines, these new dormers that you're -- the new dormer that you're adding.

JONATHAN AUSTIN: Essentially at the rear of the building on the west side we are in-filling a space on the dormer. Extending further the additional dormer size is I think 13 feet.

CONSTANTINE ALEXANDER: So it's less than 15?

JONATHAN AUSTIN: Yeah, so it's less than 15.

And we had a dormer on the north side that was 11 feet that was approved by the Historical Commission. The kissing dormers that have a width of I think of three foot, six. So being combined there are

seven feet. So smaller in size there.

Does that answer your question?

CONSTANTINE ALEXANDER: Yeah, I'm satisfied.

JIM MONTEVERDE: And from your 3-D view where that kissing dormer, as you call it, where that new roof line meets the ridge line?

JONATHAN AUSTIN: Yes.

JIM MONTEVERDE: Where is that relative to the existing ridge line?

JONATHAN AUSTIN: Shall I go back to that?

JIM MONTEVERDE: Yeah, that would be great.

JONATHAN AUSTIN: This one just here. So it doesn't extend above the ridge line. In fact, I think the Historical Commission was quite insistent that any dormers that were added here should go up to the ridge line consistent with the existing ones. So it doesn't poke beyond.

CONSTANTINE ALEXANDER: The non-kissing dormers, the two on either side of the kissing dormer, they're existing dormers?

JONATHAN AUSTIN: They are, correct, yes.

JIM MONTEVERDE: Okay, thank you.

CONSTANTINE ALEXANDER: Mr. Page? I don't think anybody else from the Board has any comments. So go ahead.

ATTORNEY SHIPPEN PAGE: Thank you, Mr. Chairman.

So in applying for a Variance, we would need to demonstrate to the Board that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship, financial or otherwise, to the petitioner or the Appellant. And the grounds for the hardship are threefold:

One is the location of the house on the lot. And the fact that the lot is in fact too small for this. And also the fact that this currently, the Petitioner's deprived of any reasonable use of the third floor. As you saw from the photograph, you can barely stand except the very center of the third floor, and that's characteristic of all three bedrooms.

I have also done an analysis of the other properties on Follen Street which I'd like to introduce to the Board as an exhibit. If you look at Follen Street as a whole, most if not all of the properties are substantially

in excess of 8,000 square feet. There are I think three condominiums and two townhouses there. The only properties that are well under that are 44, 46, and No. 36. And so if one looks at the characteristics of the neighborhood, you can see that these are anomalous lots. I don't know how they were created in the A1 District, but I think they were sort of --

CONSTANTINE ALEXANDER: That's not clear to me that's grounds for a Variance. The fact that it's an anomalous lot, can it be used for -- to be used as a residence to be sure not to the extent the other properties are. But it's not like you -- I think you want to address why you need to make these modifications that anyone who lived in this property can --

ATTORNEY SHIPPEN PAGE: Yes, exactly.

CONSTANTINE ALEXANDER: -- needs to have these modifications like these to make a liveable --

ATTORNEY SHIPPEN PAGE: Correct. And that really is the basis of it. The third floor is unusable as it presently stands. And that if the predecessor, if someone says well, you bought it and you knew what you were getting, I just don't think that basically --

CONSTANTINE ALEXANDER: That's not the basis for denying zoning relief.

ATTORNEY SHIPPEN PAGE: Yeah. I would say that is the hardship.

And then it's the hardship is owing to the circumstances relating to the soil conditions. We've talked a little bit about the drainage and so forth and raising the house up. The topography. The topography of the house.

Desirable relief may be granted without --

CONSTANTINE ALEXANDER: Go back a little.

ATTORNEY SHIPPEN PAGE: Yes, sir.

CONSTANTINE ALEXANDER: You're not seeking a Variance for the raising of the --

ATTORNEY SHIPPEN PAGE: No, no, that's a Special Permit.

CONSTANTINE ALEXANDER: I know.

ATTORNEY SHIPPEN PAGE: I don't want to inflate those.

CONSTANTINE ALEXANDER: Adequately address the second of the three conditions that you need to get to -- to satisfy to get the Variance. And that's special conditions affecting, you know -- I could read it.

ATTORNEY SHIPPEN PAGE: Here, it's the shape or topography of the land or structures.

CONSTANTINE ALEXANDER: Right.

ATTORNEY SHIPPEN PAGE: And especially affecting such land or structure but not affecting generally the zoning district in which it's located.

This house, as Mr. Austin has pointed out, is really quite idiosyncratic. It is unique to this area. It is the oldest house in this area. It was built as in a series of constructions prior to 1900. The Petitioner has a plan to rectify these hardships without unduly burdening the land or the district and derogating from the intent of the Ordinance. And we have gone back and forth with the abutters. And as you can see from the care in which Mr. Austin has presented, that they've been really sensitive to the historical characteristics of the house, and we have worked extensively

with Mr. Sullivan and the Cambridge Historical Commission to make sure that this is consistent with the character of the house, the character of the neighborhood, and it's going to be lived in by an owner/occupant who has been living in Cambridge for the last 15 years who is eager to stay and raise his family here. So I think that would constitute adequate grounds to justify a hardship condition there.

CONSTANTINE ALEXANDER: And, therefore, you should be entitled to a Variance?

ATTORNEY SHIPPEN PAGE: That is correct. I'm leery about using the term "entitled to a Variance." We seek a Variance under the conditions.

CONSTANTINE ALEXANDER: Why don't we turn -- unless members of the Board have questions on the Variance, part of the case --

JIM MONTEVERDE: No.

CONSTANTINE ALEXANDER: Why don't we turn to the Special Permit relief that you're seeking and why you meet the standard of our ordinance to get the Special Permit.

ATTORNEY SHIPPEN PAGE: Sure.

CONSTANTINE ALEXANDER: Start with the skylights.

ATTORNEY SHIPPEN PAGE: The skylights. So the condition for the Special Permit --

CONSTANTINE ALEXANDER: And the windows.

ATTORNEY SHIPPEN PAGE: -- as we heard from the previous case, it appears that the requirements of the ordinance cannot or will not be met. We, we can't seek this as of right because in fact the windows are in the side, right side yard setback.

Traffic generated or patterns of access or egress would cause congestion, hazard, or substantial change in neighborhood character.

This is a single-family house. It's pre-existing. We don't plan to change the use or the character of it, except to bring it up to modern standards.

The continued operation of the development of adjacent uses would be adversely affected. There's no change in the use. It's going to be a single-family house.

CONSTANTINE ALEXANDER: Stop. Slow down a little bit.

ATTORNEY SHIPPEN PAGE: Sure.

CONSTANTINE ALEXANDER: And I think you've got to be a

little more specific. There is a complaint by, or at least there was in our files, by an abutter the light and shadow that's going to be caused by the 18 inches going up.

ATTORNEY SHIPPEN PAGE: Correct.

CONSTANTINE ALEXANDER: Want to address why that's not so, that's not --

ATTORNEY SHIPPEN PAGE: I do, Mr. Chairman.

Mr. Austin's study shows that the difference between the heights of 50 Follen Street, which is a 96-unit apartment condo complex, 44-46 which I believe is close to 38 feet above grade, our house. And then the buildings to the east are a church and the townhouse complexes. And so the light differential coming from the elevation of 18 inches is insignificant.

CONSTANTINE ALEXANDER: And your shadow studies support that?

ATTORNEY SHIPPEN PAGE: And the shadow studies that Mr. Austin presented support that fact. And so we have -- yes, there is going to be an impact on this, and the Board can make a determination as to whether or not the benefit from granting the Special Permit can be

balanced against the impact on the abutter to the extent at which it's unreasonable. I think the Board can weigh that based on the evidence that we've presented, and for all term conclusions. But I would submit that the impact on the abutting neighbor is very, very small as shown by the shadow studies.

CONSTANTINE ALEXANDER: Okay. Going back to the checklist.

ATTORNEY SHIPPEN PAGE: The checklist.

CONSTANTINE ALEXANDER: The nuisance or hazard.

ATTORNEY SHIPPEN PAGE: The nuisance or hazard be created to the detriment of the health, safety, and/or welfare of the occupant of the proposed use of which there would be little. None. And the citizens of the city.

I don't believe the citizens of the city will be impacted. In fact, I think the citizens will be benefitted by the improvement of the housing stock to the betterment of the house on the lot to the improvement of the streetscape. I think that there would be an overall serious benefit to the neighborhood by allowing this work to go forward. I don't believe there's

any nuisance or hazard of any kind. For other reasons the proposed use would impair the integrity of the district or adjoining district or otherwise derogate from the intent or purpose of the Ordinance. What we've done through the care of this project is to basically be consistent with the Ordinance which the object of which is to obviously improve the character of the city, the quality of the building stock of the city, and the ability of the occupants of the building to enjoy a reasonable standard of living consistent with modern standards.

CONSTANTINE ALEXANDER: Well, you're in a residential district, and doing what you're proposing is not going to impair the integrity of a residential district.

ATTORNEY SHIPPEN PAGE: That's correct. That's correct.

It's pointed out to me in Article 8.22 a Special Permit of the case for construction authorized may be granted only if the permit granting authority specified below finds that such change, extension, or alteration will not be substantially more detrimental to the neighborhood than the existing non-conforming structure or use. And I would say it's not only not

more substantially detrimental, it would be a distinct improvement to this property and to the neighborhood. And I think --

CONSTANTINE ALEXANDER: Some of the neighbors may have a different view on that.

ATTORNEY SHIPPEN PAGE: I certainly understand there is going to be an opportunity for public comment, Mr. Chairman.

But I think that concludes my presentation, and I'm grateful to you for your attention.

Thank you.

CONSTANTINE ALEXANDER: Any questions or comments from members of the Board at this point?

JANET GREEN: No.

JIM MONTEVERDE: Just one. Can I ask one question?

CONSTANTINE ALEXANDER: Oh, go ahead.

JIM MONTEVERDE: Did I understand you correctly that you raised the building 18 inches, and to get a more usable third floor space you're lowering the third floor elevation?

JONATHAN AUSTIN: Yes. We're taking

it --

JIM MONTEVERDE: Correct?

JONATHAN AUSTIN: Yes, that's correct.

JIM MONTEVERDE: Okay, great. Thank you.

ATTORNEY SHIPPEN PAGE: Thank you, Mr. Chairman.

CONSTANTINE ALEXANDER: Okay. I'll now open the matter up to public testimony.

Is there anyone here wishing to be heard on this matter? Sir.

ATTORNEY ADAM COSTA: Great. Thank you, Mr. Chairman. For the record, my name is Adam Costa. I'm with the firm of Mead, Talerman, and Costa with offices in Newburyport and Millis. I was before you I guess it was about six weeks ago on behalf of Doug Yoffe who is here with me tonight. Also David and Hungwah Eliot who were also. David is here in the front row as well.

Just for your recollection, you'll remember that Mr. Yoffe owns the property that you see there on the screen at both 34 Follen and 44-46 Follen on the other side of the subject property. And the Eliots own the property that runs the entire length of the rear boundary. So they

surround this property essentially on three sides, all except for the frontage on Follen Street.

CONSTANTINE ALEXANDER: Yes.

ATTORNEY ADAM COSTA: So I appreciate the presentation made. I'd like to refer back, I'm hopeful that you still have it in your packages, the letter we had submitted previously.

CONSTANTINE ALEXANDER: We have.

ATTORNEY ADAM COSTA: Thank you.

A couple of sort of brief caveats. The first is, obviously that letter referred to an earlier iteration of the plans. I understand that you have new plans before you. Those plans were submitted very late on Monday. Unfortunately your Inspectional Services Department couldn't upload them, so they weren't available on-line. Mr. Yoffe did stop by and reviewed a quick copy of them. I saw them about 30 minutes ago. So I think based on the presentation that was made tonight and the description of the new plans that most, not all, but most of the letters that we had submitted previously still applies. And so I'm going to sort of walk through my comments in keeping with the structure of the letter so you can follow

along if you choose, so that it makes some sense. And I'll try to be brief and not be repetitive. You can obviously read it and hopefully you read it for yourselves.

So I think I understand that the relief that's being sought now is somewhat different than what was sought before. We've got three Special Permits, arguably two Special Permits: One for raising the house, a second for the windows, I guess which includes maybe the skylights. And then we're seeking or the Applicant is seeking a Variance for the increase in floor area ratio. So those are the relief that's being sought from the Board tonight.

So we addressed first beginning on the first page of our letter the standard for the issuance of a Special Permit. And you'll see here we recited what you just heard counsel recite, the standard of whether the change is substantially more detrimental to the neighborhood than the existing nonconformity.

So I'm going to refer to page 2 of my letter. And you'll see here that, you know, we raised first a concern with respect to the calculations. And I appreciate you've got experienced counsel before

you. You've got consultants on behalf of the Applicant who has represented to you the calculations that have been made, and has made a representation in its papers, and again tonight that the floor area ratio increase is 0.04. I take some issue with that not because of the actual calculation that results in the 0.04, but because of the numbers that are used to achieve that calculation. They don't seem to jive with the numbers that are on record with the city itself, and also with the standards that are contained within your Zoning Ordinance. So in the earlier iteration of the plans, and I know that the numbers have changed somewhat in the new iteration, but they were calculating the gross floor area, their sort of starting point for the purposes of their calculations. They had 2,644 square feet. And based upon that number in the increase, they came up with this four percent floor area ratio increase.

CONSTANTINE ALEXANDER: Not four percent, 0.04.

ATTORNEY ADAM COSTA: 0.04, right.

CONSTANTINE ALEXANDER: 0.04.

ATTORNEY ADAM COSTA: Correct.

CONSTANTINE ALEXANDER: 0.58 to 0.62 in a district

where you're not supposed to have more than 0.5. It's non-conforming before --

ATTORNEY ADAM COSTA: Non-conforming after.

CONSTANTINE ALEXANDER: -- slightly, put your own characterization on it.

ATTORNEY ADAM COSTA: Sure.

CONSTANTINE ALEXANDER: More non-conforming should we grant relief tonight.

ATTORNEY ADAM COSTA: Understood.

And I think I heard a reference made tonight to 187 square feet. I think that the explanation given was roughly the size of the area where all of you are sitting tonight.

The concern I have is with the baseline number and inclusion of the attic or a substantial portion of the attic in achieving that baseline number. So you've got a standard, and I quoted it here in my letter, you've got a standard in your Zoning Ordinance that: Only attic space that is five feet above the attic floor and in which touches the side walls and/or the underside of the roof rafters can rightly be included in the

calculation of liveable or gross floor area.

The concern that I've got here, you saw the photo yourself earlier on in the presentation of that gentleman, who I think he said was five-foot-eight standing, and he was, you know, a few feet from the center. Maybe a foot and a half, two feet from the center line of the ceiling and his head was up against the ceiling because of the steepness of the ceiling. So to come up with an area, they're counting I think 587 square feet, or at least they were in the earlier version of the plans, as their baseline attic gross floor area for purposes of their calculation. I think that it's being represented that the change is much more modest than it actually is. And I actually referred back in looking at the overall square footage that they cited of 2644. I referred back to your Assessor's records, in fact, your property database. And the square footage listed in your property database is 2,114. So we're talking about a difference of what's that? 510 or 530 square feet in the baseline number. And if your baseline number is that far off, obviously the calculation and the numbers that lead to this characterization of the project that's relatively modest is going to be skewed somewhat. So that's a real concern that we have.

CONSTANTINE ALEXANDER: I understand, and I think your analysis is good about how maybe the FAR increase is bigger than what's being represented.

ATTORNEY ADAM COSTA: Yes.

CONSTANTINE ALEXANDER: But what's the ultimate impact? I mean, we're talking about attic space that's now going to be made liveable when it wasn't before. I'm just -- I'm not sure why we should be concerned about that.

ATTORNEY ADAM COSTA: Sure.

So in the Special Permit context maybe the answer would be you're not concerned about that. That's substantially more detrimental standard. You might say if you're a neighbor, you live next-door, you live across. How is it more substantially detrimental? When you step outside your home, you don't know what the interior ceiling level is of the attic. But they don't require a Special Permit for floor area ratio. They require a Variance. Variances are to be more sparingly granted subject to that strict statutory standard. So I appreciate, again, the effort made by counsel to sort of walk through the variant standard. And, Mr. Chairman,

you pointed out what I was going to point out, which is the first explanation, the first justification given for the Variance is this whole issue of the height of the roadway as it compares to the structure. Well, that goes to raising the structure, and that's not something for which the Applicant needs a Variance.

CONSTANTINE ALEXANDER: Right.

ATTORNEY ADAM COSTA: They need a Variance for purposes of the floor area ratio and the change. So what is the, what is the hardship first of all? What is the soil, shape, or topographical condition that provides that nexus? It's not -- you can't just site to any old soil condition, topographical condition, and then say as a consequence of that we need a Variance. You need to make that link between the soil, shape, topographical condition and the actual Variance sought. So in this case the Variance sought is for the floor area ratio. I think the explanation that was given is that it says soil, shape, topographical condition of the lot or structure. And we said well, this is a structure that is quite old. This is a structure that needs to be updated to sort of accommodate modern day needs. But, again, that's not a

standard -- there's no case law support for that at all. In fact, there's not a single case in Massachusetts that applies that soil, shape, topographical condition to a structure, because, you know, the legislator in its infinite wisdom didn't really think through what is a soil condition of a structure or a topographical condition of a structure. There's no such thing.

So the case law all deals with properties, lots that have soil, shape, topographical conditions that justify a Variance. So I appreciate if the Variance was sought in this case to raise the height, I appreciate that that might be used as a basis for raising the height of the structure. We've got a property that unlike the surrounding properties is lower than the adjacent roadway. And that is -- that's a topographic condition. It's a unique topographical condition. But that's not what they're seeking the Variance for. They're seeking the Variance for floor area ratio. I appreciate why they want the Variance for floor area ratio. They wanted to provide for these modern day conveniences or amenities in updating the home. But, you know, I've cited a page worth of cases for you, one of which actually is a case that was decided in 2012, an appeal from this Board where the courts have said self-created hardship. This concept of

wanting to make the best use of a property, the most economic use of a property, that's not justification for a Variance respectfully.

CONSTANTINE ALEXANDER: Well, let me just slightly take issue with you on that. The justification is if you've got a very, very old house with uneven floors and an attic space that is not usable because it's too close to the ceiling. The point is is not to try to make some lavish residence out of this. It is to take space that cannot be used by anyone, for residential purposes, by anyone who owns the property and make it usable. And you got to put that in the context, it seems to me, how dramatic is the change in FAR from this? It's not that dramatic. It certainly has no impact outside of the structure. To me, FAR is all about density, density of use on the property. Again, to put another wing on the house that's going to make the lot a more burden than it is now. That's not the case here as I see it.

ATTORNEY ADAM COSTA: And I appreciate that analysis, Mr. Chairman. And I think that, again, in the Special Permit context where you have that greater discretion to determine, you know, what is the meaning of substantially more detrimental. You can sort of look at that

analysis and weigh how great of a deviation is this from the floor area ratio that exists today or the manner in which it's palliative. I don't think that in the Variance context that same analysis applies.

And, again, citing to some of the cases that I've got right here, my answer to you would be well, then why is it that the Applicant, why is it that the homeowner is required to use that third story? They're not required to use it. They have a home that is liveable today. They wish to use it. They wish to expand the interior size of their home. But, again, I've got, one, two, three, four cases that I've cited for you here that say, you know, the desire to gain that sort of an advantage in one's home is not a basis for a Variance. If there's a desire to have a larger home or to have a home that better accommodate a family's need. I heard you say it when we were here six weeks ago in an application that came before ours, when you said, you know, you can relocate. You can move to a different home that better suits your family's needs. That's not a justification for a Variance. Or respectfully I would say that this case is not all that different. At least different with respect to this issue of floor area ratio.

CONSTANTINE ALEXANDER: The only thing, and I don't want to argue or debate with you, but the only thing you haven't addressed, though, in this context, this is a unique structure to Cambridge. And if we're talking about making a structure, an historically significant structure more liveable than it is now, and there is a policy that supports that notion. Or at least there's an argument in support of that. This is not the typical house. But we can go on and on.

ATTORNEY ADAM COSTA: And, no, I appreciate that. I think it is maybe a bit more typical in Cambridge than it is in some other communities. You've got older homes here. You've got with great frequency these days more homes are being renovated within the confines of the Zoning Ordinance typically. There is often some form of zoning relief needed. And I think in the Special Permit context you've granted that relief with some frequency in determining that it's not a substantial detriment to the neighborhood. I think that this case is just a little bit different. I think that this is a sizable home already. This is not, again, this is not the other case. The first case you had before you six weeks ago where an Applicant came in front of you and said my home is

whatever, 1400, 1600 square feet. I want to make it 1800 square feet. I have three, four kids in one bedroom. That's not this case. This is a house that whether you use my calculation or their calculation, it's somewhere in the mid 2,000s in terms of square footage. Our calculation is that today it's a three-bedroom home with two bathrooms, and based on the previous version of the plans, and I don't know whether it's changed in the current version, I think we're looking at somewhere five, six, seven bedrooms with four-and-a-half bathrooms based upon what I see in the plans. So that's a, that's a concern in terms of what they're characterizing as a modest modification to the project.

On the issue of Special Permit, because obviously that's the other type of relief they need.

CONSTANTINE ALEXANDER: Right.

ATTORNEY ADAM COSTA: Again, the standard is substantially more detrimental to the neighborhood. Some time was spent by the Applicant then showing you photographs and diagrams with respect to the height of the structure, the increase of 18 inches. The example was given it's about the height of that notebook there. I

recognize 18 inches is not all that significant of an increase in height. It is significant when you're talking about a structure that is 1.1 feet from a boundary. You recall the building envelope that you saw in one of these plans where if this structure were to be built today, the setbacks it would have to meet. It doesn't meet those setbacks. In fact, the setback on that side of the property is one-seventh of what it would be required if it were to be constructed today. So that's problematic.

I appreciate the shadow studies, too. The shadow studies showed you the extremes. They showed you the winter solstice. They showed you the summer solstice. I have no doubt that on the best day of the year when there is the most light being shed on 34 Follen, there would still be the most light shed on 34 Follen if this structure is raised 18 inches. I have no doubt that on the worst day of the year when you have the least amount of sunlight being shed on 34 Follen, with this 18 inches, you will still have the least amount of sunlight shed on 34 Follen. My concern is with the in between. What about those days when you've got four hours or five hours or six hours of sunlight, is that gonna suddenly be five and a half hours or five hours or four and a half hours? Not to mention just the

very concept of increasing the height that close to a property boundary. It gives you that sort of a walled-in affect.

When you're look at Mr. Yoffe's property, his structure on his property is not located that far off the boundary either. So right now he's looking at his bedroom windows. He's looking across already at somewhat of a wall, and just I guess the nature of having moved into the neighborhood. But now that wall is going to be another 18 inches higher.

CONSTANTINE ALEXANDER: I appreciate your comments about the shadow studies and taking it to the extremes, but that's just the way it works with shadow studies. We can't take it everyday -- they can't or any petitioner can't take every day of the year. You take the extremes and you recognize that it's closest approximation we can get to the shadow impact. And they submit it, which you haven't submitted countervailing shadow studies, suggest that there's not going to be much of an impact on the neighboring property at the two extreme dates.

ATTORNEY ADAM COSTA: And, Mr. Chairman, respectfully I don't disagree that on the two extreme dates there may not be any impact. I have not submitted any countervailing information. I would

take issue with the concept that a shadow study can't be more extensive. I'm not suggesting for a single-family home it shouldn't have necessarily been more extensive. What am I saying is that to make the representation based upon the two extremes, that there will be no impact or no substantial impact on Mr. Yoffe's property, that's not what the two extremes represent. They represent the two extremes. That's my only point is that, you can't jump from the two extremes to a position where there is going to be little to no effect on Mr. Yoffe's property.

CONSTANTINE ALEXANDER: Yet all we have are the two extremes that's typical. If you had a problem with that, you should submit your own shadow studies at different points during the year to show there's quite a different impact than what they're showing, and we don't have that.

ATTORNEY ADAM COSTA: And I appreciate that. I think you also recognize that it's the Applicant's burden of proof before your Board. I think you also recognize abutters, I mean, these abutters have engaged me to attend these meetings three in total so far. That's not typical. That's not what every abutter has the financial ability to do. So

to suggest that abutters now have to get their own shadow studies to contradict information even to the two extremes that are presented by the Applicants. We don't have that information. I'm not saying we do. I'm just saying that please take it with a grain of salt and recognize that it represents the two extremes and not everyday of the year depending upon the height of the sun in the sky.

A couple of other quick points.

CONSTANTINE ALEXANDER: Sure.

ATTORNEY ADAM COSTA: The practicalities of development of this property.

CONSTANTINE ALEXANDER: I'm sorry I missed that.

ATTORNEY ADAM COSTA: The practicalities of developing this property. So, I referenced before the fact that this property is 1.1 feet off Mr. Yoffe's property boundary. So thinking about what is entailed, and I know I'm no developer, but I've worked with enough of them. I have a little bit of a sense of what's required to take a structure and to elevate that structure 18 inches. You're looking at site prep, you're looking at footings, and you're looking at placement of concrete forms and

waterproofing and backfilling and stabilizing. All those sorts of things need to be done within a 1.1 foot distance between the existing boundary, the existing foundation, and the property boundary. So that's a real concern, and I think a legitimate concern and should be for this Board in considering authorizing the elevating of a structure that is not close to an existing property boundary. I recognize that the Applicant has no control over where the building is. The building is where it is, but that does not necessarily mean that this Board has to grant relief to allow for something to be done that could have an adverse impact on adjacent property which is the standard you could apply. Detriment to the neighborhood. I think that is a checkmark on our part -- that that box gets checked on our side and suggesting that there's detriment there because of the proximity of at least to one of the three properties that immediately abut this site.

Just two other quick points. So I understand that the dormer, and we appreciate as a consequence of the discussions that we had outside the meeting room at the last meeting, that the dormer that was previously situated and facing 34 Follen Street has now been removed. That is no doubt an improvement to the plan. The dormer, of course, has

now been relocated to a different portion of the property. So in terms of the overall bulk and mass of this structure, it's still adding to the bulk and mass of the structure. Not in the same location. It's not as detrimental to Mr. Yoffe as it was previously but it's still impactful. I also think it's important to recognize that there is now an addition above the rear of the structure. They're enclosing areas that are not enclosed today. They're doing so within setbacks. So we're not suggesting they need relief for those. But it's all part of the big picture for this Board. This is a pre-existing, non-conforming structure. To modify those structures you require in any city or town in the Commonwealth a Special Permit or finding from the Board of Zoning Appeal, and that is for a Board to determine that will not be substantially more detrimental to the neighborhood. It's a recognition by the legislator and by the Boards that when you've got something that couldn't be there today, if you're going to make certain modifications to it, you got to look closely what the modifications are and how they're going to affect the neighborhood because those modifications are occurring on portions of a structure that couldn't necessarily exist in that form under today's version of the Zoning

Ordinance. And what they're doing here is they're adding additional bulk, additional mass, additional size overall to this structure at the rear of the property and that not only affects Mr. Yoffe, it affects the Eliots who are behind the property currently looking at, you know, an area that is green to them today, has been for many, many years and is now going to be filled with additional bulk.

And then the last point, and it's something, Mr. Chairman, that you touched upon and you asked the Applicant, you know, we reviewed closely the dormer guidelines. I have a cop of them here. We took a look at the dormers that they're proposing here. It appears to me that these dormers tend to mimic the examples of what not to do. We understand they're guidelines only, they don't have a force and effect as an Ordinance might have, but the guidelines exist for a reason. I understand they've got to go and they've got to get approval for their changes from the Historic Commission. And the Historic Commission will have an opportunity to address this as well. But I would ask you to take a look a close look at the dormers because I do think they're inconsistent with the guidelines, and I think that they add, again, additional bulk,

additional mass, additional size to this project.

So all in all is it improved from what was before you six weeks ago? In some minor ways. The dormer being the most significant of them. We're still talking about an 18 inch increase in the height of the property. We're still talking about an increase in the floor area ratio. I think it does make a difference whether it's, you know, 0.04 or it's 0.15. And I think that the numbers suggest that it is greater than what the Applicants' representing it to be based upon the numbers that exist in the city's own records. So that's a concern to us. We think it's too large of a project, too significant, too great of a project for this particular site, and we would ask the Board to consider that when it makes its decision.

And thank you for your time.

CONSTANTINE ALEXANDER: Thank you for the presentation.

Anyone else wishes to be heard on this matter? Person in the front row, yes.

DAVID ELIOT: Thank you. I'm David Eliot. My wife and I Hungwah Yu own and are longtime residents of 22 Follen immediately

behind this property, 36 Follen. So because this case has somehow become long and drawn out, we've hired Mr. Costa to ably represent us, so I'm going to keep my comments extremely brief.

CONSTANTINE ALEXANDER: Thank you.

DAVID ELIOT: I simply wanted to say that, you know, my wife and I are of the view that the City's Zoning Ordinance exists to provide an appropriate, fair, and well-known set of rules that all citizens are expected to follow and that purchasers of property can rely upon.

Now, of course, the Board exists to provide relief in cases where there are exceptional circumstances and hardship exists. In our view, in the case of this recent purchaser of this charming historic property, we think that the hardships and the exceptional circumstances are absent. And the detriment to us would be, frankly, for my wife and I, the in-filling and the open space and the privacy issues are moderate. They're significant to us, but they're not massive. But to Mr. Yoffe, having been in his properties, we see them as being very large. And then the issue of the historically incongruous dormers and the appearance of the structure which has now been depicted in what we've sign tonight, but

changing rather significantly. But that would be the detriment to the beauty of the street for us and we think for other citizens of the city.

Thank you.

CONSTANTINE ALEXANDER: Thank you. Thank you for taking the time to come down.

And I saw a hand up back there. Do you still want to speak, sir?

DEREK LORENZ: I photographed the building across from us which is 36. I took it from our porch roof. And you get the view there from the top of the buildings. I think that's unique from what we have seen. I'm Derek Lorenz (phonetic). My wife Marian Lorenz is sitting behind me. We live at 33 Follen Street which is exactly, exactly across from 36. We've been living here for 20 years since we came from Philadelphia. We love this neighborhood. I think it's the nicest, most accommodating area that we've ever lived in even though we lived in Penn's Landing in Philadelphia. And as I say, we are good friends of Kit and Jane Reed. As a matter of fact, we took Kit to the Harvard traveler's club, the last outing that he had of the National Geographic Society

Presentation, and he died within four days later. So our concerns are in a sense emotional and sentimental. We look at this house. We love looking at it. I sit in my living room and the sun comes right between the two houses and faces me in my favorite chair. And I said this is one of the most beautiful living room we've ever had. My concern is we would like as little change possible as is in line with accommodating the improvements which the house undoubtedly needs. I must say we heard a three-person family was coming to the neighborhood and we were certainly ready to welcome them. But we became askance at the massive assault and lawyers and consultants from all over the place. The Historical Society meetings with the consultants last meeting in November told us that they had meeting after meeting after meeting with the Historical Society. So they at least put up a good fight in preserving the historical images that we so much treasure. And our concern is that basically what was a one-bedroom house is going to become some very grandiose house which does more than just accommodate the three people in the family.

You, Mr. Chairman, said humorously and very perspicaciously

last December that their child needs more play room for the basement and what does he get? He gets two studies in the unfinished attic and a bathroom. And I must say that was an incredible summary, because I laughed out loud very disrespectfully but respectfully of your insight.

We would like to accommodate the people coming in here.

My wife has met Laura. She's written us very friendly letters and inviting us to cocktail parties, but we want to reserve ourselves until we see what is going to be the end of this confrontation. I'm almost out of what I want to say. We wish them well, but again, they are -- they come into a neighborhood and we expect them to conform to the neighborhood as everybody would expect. But we were told -- or in last meeting that 200 letters were sent out. 200 letters. Where did they get -- of people concerned about this building. Where did they get the addresses? Who paid for the franking of the letters? Who distributed them? I mean, do you know of any neighbors that come into another neighborhood and write 200 letters?

CONSTANTINE ALEXANDER: Yes.

JIM MONTEVERDE: Sure.

CONSTANTINE ALEXANDER: Yes, all the time.

DEREK LORENZ: Well, this has certainly been an eye opening experience, because I must say I've learned more in these two meetings than I have in many, many other things.

So I really just want to wish them well. I hope they can accommodate to this building. I hope they can make the interior changes that don't change our aspect of this beautiful old house. I mean, in the first session in December we heard the beautiful open porch which is quaint. It's going to be walled over. So was the wall over the front door. And the front walls were going to be pushed back. And the back walls were going to be pushed back. I don't know what happened to this lovely, beautiful flower garden that was Kit's pride and joy for year after year. But I just want to finish by saying it's been an enlightening experience and we certainly were surprised, as I say, at the extent of the pressure, lawyers and consultants and architects and on and on and on. Who, who is paying for all -- this is none of my business, but I have a feeling that there's an 800 pound gorilla in the house, and that's Harvard University. And I wonder what happened to the Historical Society? I mean, they

fought, they wanted changes, but in the end I understand tonight it's still going to go on. Well, I wish everybody a happy new year and I hope we can come to some kind of accommodation, because as I say, I've appreciated learning a lot more than I usually do in two sessions, and I wish you luck and I wish our neighbors if they come into a house, into our neighborhood to stay all the best and I hope we'll see them soon.

Thank you.

CONSTANTINE ALEXANDER: Thank you very much.

Okay. I'm going to ask -- we're going on and on. You're not -- please don't repeat things that have already been said, all right? Some new points. Yes, I get it.

Ma'am, are you -- just wait a second. I'll go to you first.

RAMAN SOLANKI: Hi, my name is Raman Solanki, R-A-M-A-N SOLANKI. And I am a resident of Follen Street, 50 Follen and I'm not paid to be here, sir.

I come in front of this Board as a 23-year-old Indian who has decided to make Follen Street his home for the coming decades. I greet the Board's to spirit of this new year. Change is the only constant. 36

Follen Street needs those changes. I also speak on behalf of my husband, Doctor Jeffrey Land. He couldn't be here because of his ill health. He has lived on Follen Street for more than 40 years. And has been a patron of the Cambridge Historical Commission in the last century. He's unequivocally in favor of this nine changes. And a letter for his response to strengthen the motion to approve the changes has already been submitted to the Board. I hope the Board makes a decision with keeping the future generations in mind. And a positive force in favor of helping forge the nine changes or the 0.4 percent change which that house so desperately crave.

Thank you.

CONSTANTINE ALEXANDER: Thank you. Ma'am, now.

GERRY BERNSTEIN: For the record, my name is Gerry Bernstein and I'm a resident, owner of 1560 Mass. Ave. In that six-unit townhouse that is actually -- but I face Mass. Ave., I enter my garage on Follen which is directly across from 36. It's hard for me to evaluate all of this without my professional hat of real estate and special niches in Massachusetts and New Hampshire. And I want to say, you know, Doug

and Patty, I love what you did to your house. It is a change without a doubt and a good one. And I think it benefits all of us.

And I also look at 36 and see the changes there in a very small area and that benefits us, too. So thank you for that.

Change is hard for city dwellers when you don't own what you see, and I empathize with that. At risk of repeating when you said not to repeat, change is inevitable.

I also really want to encourage the Board to accommodate and make usable for diversity of families moving into Cambridge, families with children. I think it's really important. That's a very small house, it's modest, and it needs to be usable. So, I'm of the position to endorse and recommend that the Board approve the request for 36 Follen.

Thank you.

CONSTANTINE ALEXANDER: Thank you. Anyone else wishes to -- sir. You don't have to speak if you don't want to.

DOUG YOFFE: I'm not eloquent as my attorney.

CONSTANTINE ALEXANDER: Name and address, sir.

DOUG YOFFE: My name is Doug Yoffe. I live at 34 Follen

Street. And they're raising the house 18 inches actually does substantially affect the light in my place along with the bump out in the back where I walk in my living room I see all the way through, and that's gonna be a blank wall. The reason they're raising it the 18 inches is a very expensive, it's a very expensive proposition to raise a house, especially with a house like this, 18 inches. And it's to add which is now not really living space on the top floor to gain more space. And I appreciate that. But they are already adding over a thousand square feet in an accessory apartment or a -- whatever it's called, in the basement which is nonexistent right now. No objection to that.

So that they're adding another bedroom, a kitchen, a bathroom, a living room, dining area. So they're increasing the square footage of this house tremendously. And it's that lifting of it which both is on my property. If you take a look at that fence, that's not the property line. It's 12 inches -- or it's 10 inches closer to the house. So in order to do all of this, you know, and I'm -- you know, I know they're going to have to do all the staging on my property and that's fine. But I just, this lifting the house, as I've talked to them before, becomes phenomenally

disruptive and they've already gaining all the space by digging down.

They're putting a retaining, retaining walls all around where the walk out is in the back. You could do exactly the same thing in the front. As it drops down on the side, it's way off grade. It's just a little bit in the front there and part of that was Kit had filled in with a lot of loam. Very simple. I could have a couple of guys will do it in a day. Or three days. We'll just put a retaining wall on there if that's their issue.

Thank you.

CONSTANTINE ALEXANDER: Thank you.

Anyone else?

MARIAN LORENZ: Well, I'm not verse in all the zoning rules.

CONSTANTINE ALEXANDER: Start by telling your name and address, please.

MARIAN LORENZ: Marian Lorenz and I live right opposite this house. And we are long time friends of the former residents of this house. And I guess I don't know all the zoning rules and all the Historical Association rules, but it feels to me like this is going to be a very extensive operation as it's described; months, years, we have no idea what we're

talking about. And Follen Street is already a very congested street, and we're gonna be just miserable for however long this takes. And what I guess I have trouble understanding is that a family with one child has to do all of this. I just don't -- I mean I can see that at some point adding something when you have three children might be nice, but it is a huge disruption to the neighborhood. Well, however you look at it. I can't believe that it's not. Because when they come to put one little thing on our house, it disrupts the parking, it disrupts getting up and down the street. I know that's not part of the zoning rules or Historical, so I'm talking about something else. But I feel like Kit and Jane Reed would be turning over in their grave to be seeing this. And that's an emotional response, but that's the way I feel. It is a house that -- I mean, I think you can repair a house without going to all of this total disruption is the feeling. What I've read sounds very extensive and simply just -- that's why abutters are here. We're not exactly abutters because we live across the street, but we love the light that comes through there and it's precious little. But what we have we love. It's going to be very, very affected by this so that I guess that's what an open meeting is about to say your

opinion, so that's my opinion.

CONSTANTINE ALEXANDER: Thank you.

Anyone else?

(No Response.)

CONSTANTINE ALEXANDER: We've come to the end of the road in terms of public comment. I want to address one thing. A number of people have referenced the fact because of the closeness of this house in question to one of the abutters, that there's going to be problems in doing the raising of the house in terms of or disruption on the street. Every time we grant zoning relief or every time a building is done without zoning relief, properly done without zoning relief, there is disruption. That comes with the territory. And the city, not through the Inspectional Services Department, but through building -- what department regulates how contractors act and impact on neighbors?

RANJIT SINGANAYAGAM: Public Works.

CONSTANTINE ALEXANDER: Public Works. Contact Public Works, they will take action. And if the contractor shows up at 5:30 in the morning to hammer nails, they will take action. There's time

rules, all kinds of rules as to minimize the disruption. But you can't eliminate it, and we cannot, I don't believe, turn down relief on the grounds of disruption. The city does its best that it can. And, again, we're a living city. Buildings have to get -- don't have to, will be modified and comes with the territory with that. I just want to get that on the record.

I think we're all done. We do have a lot of letters from abutters. The ones that were in opposition have already been here tonight. They've spoken either through counsel or individually. There are many other people. I am not proposing to read the letters given the number, all in support of the relief that's being sought.

But, again, zoning is not a Democratic process. Because everybody wants it doesn't mean we're going to give it. And if everybody is opposed, doesn't mean we're going to turn it down. You have to understand that's how zoning works.

I do want to read the letter from the Cambridge Historical Commission because we've referenced it or the parties have referenced it a number of times already, and you should be aware of what the letter says.

It's from Charlie Sullivan from the Cambridge Historical Commission. (Reading) I am writing at the request of the Proponent in these cases. These cases being the 36 Follen Street. To confirm that the house at 36 Follen Street does not appear to have undergone any expansion of its footprint since 1900. The house at 36 Follen was built in 1847 with a simple rectangular plan and with the gable end facing east -- gable end facing east. Two-story additions made in 1890 and 1892 expanded the house to its present footprint except for a vestibule added in 1900. Permits issued in 1934 and 1945 added partitions, altered windows, replaced a back porch. A garage was built in 1932 -- a garage built in 1932 was removed in 1966. The house at 36 Follen Street is by far the oldest house on the corner. The abutting house at 44 Follen was moved to its present location in 1923 and 34 Follen was built next-door in 1946. The rear abutter at 22 Follen was built in 1951. Follen Street originally had a pronounced grade down from Waterhouse Street to a water course that parallels the north leg of Follen and flowed west toward Concord Avenue. It is evident from an inspection of the basement of 36 Follen that the grade of the street has been raised at least

12 inches, probably when sewers were installed in the 1890s. The current minimal height of the building above grade does not reflect common building practice at any period and it is not consistent with protection of the structure from moisture, rot, and insects.

Let me make a couple of observations about this letter. One, this letter shows how Cambridge is a living city. Look at all the modifications that have happened since 1847.

The second -- this is not an endorsement of the project, it's just an explanation of the history of the structure. And, again, though being a hearing, I believe, before the Cambridge Historical Commission to seek approval for the plans should we approve relief tonight. And again as I pointed out, if Cambridge Historical requires changes from what you're seeing tonight, you folks are going to have to come back, if you want to, come back before us because we're going to have to hear another case with the new plans or modified plans. And that's, that was pointed out to the Petitioner at the outset and I just want to reaffirm it at this point.

Okay, I think I've said enough right now. I'm going to close

public testimony.

Do you have any final comments?

ATTORNEY SHIPPEN PAGE: No, no. Thank you, Mr. Chairman. I think that we stand by our presentation and we thank you for your consideration. We've noted the objections of the abutters and we feel as though that our proposal should stand on its own merits.

Thank you very much.

CONSTANTINE ALEXANDER: Thank you.

Okay, discussion at this point from members of the Board or we can go to a vote. It's whatever the Board's pleasure is.

JIM MONTEVERDE: Just to confirm.

CONSTANTINE ALEXANDER: Yes.

JIM MONTEVERDE: There are actually of the three things you mentioned; raising the house, the FAR, the windows. Which are the Special Permits and which are the Variance?

ATTORNEY SHIPPEN PAGE: The FAR is the Variance. The raising of the house and the windows are the Special Permit.

CONSTANTINE ALEXANDER: Yes, Special Permit.

Maybe we should have some commentary. I'll offer it because of the complexity of the case and the extreme interest in the community.

I am prepared to vote in favor of granting relief. I think this is a -- I can understand the concerns of the people who are abutters, but I don't think that they've demonstrated sufficient reasons for us to deny relief. I think relief is warranted. I think the statutory requirements for both a Variance and a Special Permit are going to be met by what is being proposed. So that's my view on this case.

Anyone else wants to speak or I'll start to make a motion.

ALISON HAMMER: I have a couple of quick questions. I was wondering regarding the shadow studies if you have any other views of it? I did find when you did present the shadow study to be a little bit incomplete in telling the story. Because you're just showing it from the front facade and you're really just focusing on one very particular view. Ordinarily when I see shadow studies, they're kind of topped down and shows the entire site, which gives more of an understanding of what the impact would be on the entire site on the neighbor to the rear, on the

backyard of the neighbor to the side.

JONATHAN AUSTIN: Well, that's interesting because I find it's -- shadow studies are an infinite number of variations -- sorry. With shadow studies you can run an infinite number of variations and I actually find the shadow studies that are done from a plan to be less relevant except for Burks. What we wanted to demonstrate here is that the shadow impact on the adjoining property, No. 34 is what was specifically was concerned here. So that was the reason for concentrating on that one.

ALISON HAMMER: Right, but you're only showing the shadow impact on one particular -- if you can bring up the shadow study, right, you only show --

JONATHAN AUSTIN: Yeah, there is on drawing No. A007 there are some other shadow studies that are drawn in plan.

ATTORNEY SHIPPEN PAGE: Mr. Chairman.

JONATHAN AUSTIN: You can see that here.

ALISON HAMMER: Great. I appreciate that. Thank you.

And these are the -- this is the existing or the proposed on

A007?

JONATHAN AUSTIN: It is the proposed.

ALISON HAMMER: Do you have the existing in this package
as well?

JONATHAN AUSTIN: We do not.

ATTORNEY SHIPPEN PAGE: Laura is telling me it's both.

JONATHAN AUSTIN: It's both. Okay.

ALISON HAMMER: I see summer and winter and it just says
sun shadow study, but it doesn't tell me....

JONATHAN AUSTIN: You're correct. You're correct.

ALISON HAMMER: So, again, you know, I'm not sure if
there is a big impact or if there isn't. It's just not, you know, clear to me
based on what was submitted.

JONATHAN AUSTIN: I understand. I think what's quite
clear is that the buildings that are to the left here pose also a great impact
on all of the properties from the south.

ALISON HAMMER: Of course. You know, and while I
understand and respect that, Cambridge is a very tight city. Sunlight is a

premium. And, you know, I just wanted to understand the change a little bit better.

My other question has to do with your change in the floor levels.

JONATHAN AUSTIN: Sure.

ALISON HAMMER: So my understanding is that right now you're lowering the attic floor.

JONATHAN AUSTIN: Correct.

ALISON HAMMER: To create the head height. So I think my question on that is why do you still -- if you're creating that additional head height by lowering the floor, why do you still feel that the dormers are necessary if you're addressing the head height issue? And maybe there is a reason. I'm just asking what is the reason for the dormers on top of the lowering of the floor height? And then is there a reason that you didn't consider moving the first floor up or excavating the ground and you want to raise the house instead? I just wanted to understand the reasoning behind those two items.

JONATHAN AUSTIN: Yeah, so the dormers are required

partly for head height, partly for the program that's being put up there there's a small bathroom on the upper level. I should clarify a couple of things that were mentioned earlier here. It's been mentioned that there are seven or eight bedrooms. And there are actually five bedrooms. And probably so the upper level bathroom on the third floor is to serve two bedrooms on the upper level. And so that's the reason why a dormer is required there. The dormer that is proposed on the south side, the one that hasn't been reviewed with the Historical Commission actually is something that would improve the head height as one goes up to the third floor level. There in fact do meet the minimum without the dormer.

ALISON HAMMER: And then regarding the first floor and the other alternatives for achieving a better drainage situation there, did you explore those, and is there a reason why, you know, you chose not to just raise the level of the first floor and not to excavate down to the ground or something like that?

JONATHAN AUSTIN: Well, I think, you know, it's very interesting. Our own office is the same age as this building and it's two feet, six inches above grade. I mean, buildings of this age are generally

built off the ground. And I think this very adequately shows that the standard of practice is to raise the building off the ground. So I think the idea of building a mote around it, raising this sort of, putting in a retaining wall and lowering the grade, is quite detrimental to the feel of not just this building but others around it. And I don't think that's a standard of practice that one would like to adopt for buildings of this quality and age. So that's the reason why we haven't pursued that.

ALISON HAMMER: Okay, thank you.

JONATHAN AUSTIN: Does that answer your question?

ALISON HAMMER: Yes.

JONATHAN AUSTIN: Thank you.

CONSTANTINE ALEXANDER: Okay.

DOUG YOFFE: Excuse me, can I just to address this question.

CONSTANTINE ALEXANDER: Sir, you've had an opportunity to talk.

DOUG YOFFE: I just have the pictures of the light.

CONSTANTINE ALEXANDER: You can hand the pictures

over, but no testimony.

DOUG YOFFE: I don't need to talk. You can just take a look and you'll see there's a lot of light coming in there.

CONSTANTINE ALEXANDER: Let me know when you're set, Alison, to proceed.

ALISON HAMMER: Yeah, I'm all set. Thank you.

BRENDAN SULLIVAN: I'm sympathetic to the raising of the house. Being in the business, I know the pitfalls of having the house situated where it is on the grade. Probably made a living of repairing rot and pest infestation and what have you. So I'm sensitive to that.

The kitchen dormers I think is a sensitive attempt to capture head height, and needed head height at that third floor level, otherwise the coming together of that roof at that point renders a lot of that space useless.

The back connection, which I never liked. I'm very familiar with this house, having done work for Jay and Kit over the years, never liked that and thought it was a travesty of whoever did it, not I. So it's a softening of that. The windows are the windows, and I think that's just a

normal rearranging of the interior deck chairs and what have you. I know the house well, and it was a quirky house, but it was built in another era. And the additions over time was at times an attempt to make the house a little bit more liveable, a little bit more adjustable at that period that it was done, but then taking together, it's a hodge-podge of spaces that really don't connect well, don't live well, and unfortunately in the market we have in Cambridge, where real estate is so highly valued for its ambience, for just being in Cambridge, it has a very, very high entry point. And if you are fortunate enough to be able to get into that entry point and you buy a piece of property, then in order to justify that in a sense, then certain improvements, certain enrichments I think are somewhat expected and also required in order to make that investment. And, yes, it's an investment for your own personal enjoyment, but it's also an investment and an amenity that extends beyond the boundaries of the house. And as you walk around the neighborhoods, I only live on Gardener Street, and you walk around the neighborhood and you get this good feeling about your neighborhood and what other people have done to it and have spent of their treasure and of their time to improve. And that adds to the

attractiveness and the value of Cambridge. And I think that what is before us, I think -- once it's all said and done, I'm not sure if a casual person walking by will notice all of this that we're talking about, this enormity of -- this enormity of knowledge of sense, but I don't really think it's going to be standoutish as some other McMansions are. So that's my view.

CONSTANTINE ALEXANDER: Okay. Thank you, Brendan.

JANET GREEN: I would just like to say that I felt as I was listening to the whole presentation, the part about lifting the house made the most sense to me. And when I see this house sitting right on the ground, it looks like trouble. I mean, we all have houses. We know that looks like trouble. And -- but also it's, it's inconsistent with the style of house. And I would agree with what Brendan said about the style and after everything would be said and done should we approve this, it will look like it's always been that way because that's the way it should be.

I also think that a lot of the additions over the years that were mentioned were sort of randomly placed without any consistent thought of design. And I think it was probably made the pieces of the house work

better for the people who were living in it at the time, and it met their ability to afford whatever they were going to do. I think we're in a different situation now, and what's actually happening is it's making the house more consistent with its architectural style. There are also many, many letters from people in the neighborhood supporting this project and supporting the addition of having a little more space so that you could actually have a family and kids living in the house. So I am inclined to favor this.

CONSTANTINE ALEXANDER: Thank you, Janet.

I'm going to start to frame some motions and then we'll take a vote.

Starting with the Variance, and this Variance, again, is to increase the FAR from what exists now and what it will be in excess of what our Zoning Ordinance requires.

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being is that -- and this hardship is not peculiar to the current occupants pants or proposed occupants of the structure but it runs with the property. This is an older house, that's been said over and over again, added on from time to time to

meet fashions of the time, and it gets to the point now where it is not, it is not as functional as it can be and should be with regard to contemporary living standards. This house needs some modification in short, and the ability not to do it would be a substantial hardship.

The hardship is owing to the fact, as I've alluded to and I guess by the presenters, is the shape, condition, of the land and structures. This property, again, needs work. And it's, it needs modification not only for these Petitioners but for any Petitioner who owns the property.

The land is, the structure is very close to the lot line, which raises some issues. That's being dealt with tonight. And it is quirky, my word, quirky in terms of its exterior architecture and interior architecture which in turn requires the zoning relief that's being sought.

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

With regard to this, we will have a signoff by Cambridge Historical. So that would go to -- and we don't have it tonight, and as I've

said many times tonight, any relief that we grant may be overturned or may be required to be revisited in Cambridge Historical has problems with what is being proposed.

That what will be done will be to preserve a very old house in a lovely neighborhood all to the benefit of the City of Cambridge.

That there is substantial neighborhood support, not unanimous by any means, but substantial neighborhood support for the project.

So based upon all of these findings, the Chair moves that we grant the Variance being sought on the condition that the work proceed in accordance with plans prepared by Austin Architects dated January 7, 2019, the first page of which has been initialled by the Chair.

All those in favor of granting the Variance please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. The Variance has been granted.

(Alexander, Sullivan, Green, Monteverde, Hammer.)

CONSTANTINE ALEXANDER: Turning now to the Special

Permit. The Special Permit just to be sure everybody's clear, relates to increasing the height of the structure. It relates to the relocation of the windows. And also with regard to the skylights that are being proposed, all of which require zoning relief that can be addressed by a Special Permit. We do not require a Variance.

And I would point out that our Ordinance makes it clear that with regard to Special Permits, there is a presumption that a person should get a Special Permit. I'm not sure my words are exactly accurate, but by the same token I can't locate these words right now. Trust me they're in here. Anyway.

First of all, that the requirements of the Ordinance cannot be met with regard to these items that I've identified without zoning relief from this Board, without the Special Permit that's being requested.

That traffic generated or patterns of access or egress will not cause congestion, hazard, or substantial change in established neighborhood character. I for one have not heard any argument that with regard to the Special Permits that we're talking about, that congestion or hazard will result. Substantial change in established neighborhood

character has been claimed, but I don't find it persuasive. It's just, they're modifications to be sure, but the structure at the end of the day will be generally consistent with established neighborhood character.

That the continued operation or development of adjacent uses as permitted in the Ordinance will not be adversely affected by what is being proposed. And this we have, we have the shadow studies.

There's been obviously discussion back and forth as to whether they're warranted, whether they take, not the appropriate periods, but that's all we have. We've got nothing but this and what is being proposed with regard to shadow studies at least in my experience be consistent with how shadow studies are prepared and presented to this Board. And those shadow studies do not show any adverse, to my mind, any adverse affect on neighboring properties.

And no nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant or the citizens of the city. And, again, there's been no evidence addressed claiming a nuisance or a hazard will result if we granted the relief to the detriment of the citizens of the city if we granted the relief being requested.

And then generally what is being proposed will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of the Ordinance.

And that's already been addressed I think with regard to the Variance we just voted on.

Further, the Chair moves that we make a finding that the Special Permit's being sought will not be substantially more detrimental to the neighborhood than the existing non-conforming use. This is as required by Section 8.22.2 of our Ordinance. And I think the key word here is substantially. I heard nothing that would convince me at least that what is being proposed will be substantially more detrimental to the neighborhood than the existing non-conforming use.

So on the basis of all of these findings, the Chair moves that we grant the relief the Special Permits being sought with regard to the increase in height, the location of skylights, and the relocation of windows on the condition again, that the work proceed in accordance with the plans I referred to with regard to the Variance.

All those in favor of granting the Special Permits on this basis

please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor, Special Permit's granted.

(Alexander, Sullivan, Green, Monteverde, Hammer.)

CONSTANTINE ALEXANDER: Good luck.

ATTORNEY SHIPPEN PAGE: Thank you very much, Mr. Chairman. Thank you, members of the Board.

(9:15 p.m.)

(Sitting Members Case No. BZA-016976-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Jim Monteverde, Alison Hammer.)

CONSTANTINE ALEXANDER: The Chair calls case No. 016976, 36 Follen Street. This had the original hearing date of September 27, 2018. And I trust in view of the relief we just granted on the other case --

ATTORNEY SHIPPEN PAGE: We're going to withdraw the case.

MARK LANZA: We request it be withdrawn without

prejudice.

CONSTANTINE ALEXANDER: I don't think we can do that.

MARK LANZA: It's 40A, Section 11 of 15. Take my word for
it.

CONSTANTINE ALEXANDER: We've got to take a vote.

All those in favor say "Aye."

(Aye.)

(Alexander, Sullivan, Green, Monteverde, Hammer.)

* * * * *

(9:20 p.m.)

(Sitting Members Case No. BZA-017030-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Jim Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call this meeting back to order. And 245-255 Bent Street.

Is there anyone here interested in this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. We are in receipt of a letter from Hope Legal Offices as counsel for the Petitioner. (Reading) Please accept this request to continue the above-referenced case to hearing date scheduled for May 14, 2019. This extended continuance will allow the petitioner the additional time to rethink and/or modify its proposal based on feedback from the Board and interested neighbors and abutters.

I only would point out before we take a vote on this, May 19th

is obviously far in the distance, and this was a case heard. So it's our practice, though it's not legally required, that we try to get the same five members who sat on the case initially to sit on the continued case. So my point is the original people who sat on the case were myself, Brendan, Jim, Janet and Andrea.

Can all of you make May 14th as far as you know?

JIM MONTEVERDE: As far as I know.

BRENDAN SULLIVAN: What is the date?

CONSTANTINE ALEXANDER: May 14th.

JANET GREEN: No. May 14th is a Tuesday.

CONSTANTINE ALEXANDER: It's what?

JANET GREEN: It's a Tuesday.

BRENDAN SULLIVAN: The 16th is okay, too.

JIM MONTEVERDE: The 16th.

JANET GREEN: As far as I know.

ANDREA HICKEY: Right now, yes.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that we continue this case as a case heard

until seven p.m. on May 16th subject to the following conditions:

One, that the petitioner sign a waiver of time for a decision.

And they've done -- the Petitioner's done that already with regard to the additional hearings. So that's been satisfied.

Two, that the posting sign or new one be obtained or the old one be modified to reflect the new date and the new time, both. And that the new this modified or new sign be maintained for the 14 days prior to the hearing as required by our Ordinance.

And last, and I think importantly, to the extent that the Petitioner is going to submit new plans for its signs or new dimensional forms, they must be in our files no later than five p.m. on the Monday before May 16th. Failure to do that we will not consider the case on May 16th.

Mr. Hope is experienced in zoning matters so he knows this, but just for the record those are the requirements.

So on the basis of these -- subject to these conditions, the Chair moves that we continue this case until seven p.m. on May 16th.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case
continued.

(Alexander, Sullivan, Green, Hickey, Monteverde.)

(9:20 p.m.)

(Sitting Members Case No. 017028-2018: Constantine Alexander,
Brendan Sullivan, Janet Green, Andrea A. Hickey, Jim Monteverde.)

CONSTANTINE ALEXANDER: 60 Porter Road has been
withdrawn.

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(9:20 p.m.)

(Sitting Members Case No. 017031-28 and 017046-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Jim Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call cases 017031 and 017046 which involve 57 J.F.K. Street. The Chair is in receipt or the Board is in receipt of a letter from counsel for the petitioner. From Chin C-H-I-N Law Firm, signed by Russell L. Chin, counsel. (Reading) The Applicant requests that its application be withdrawn. Kindly remove the applications from the list for hearings scheduled for this week. This week being right now.

All those in favor of accepting the request of withdrawal please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Case withdrawn. Both

cases withdrawn.

(Alexander, Sullivan, Green, Hickey, Monteverde.)

* * * * *

(9:25 p.m.)

(Sitting Members Case No. BZA-017047-2018: Constantine Alexander,

Brendan Sullivan, Janet Green, Andrea A. Hickey, Jim Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call case 017047, 165-167 Putnam Avenue.

Is there anyone here wishing to be heard on this matter?

DAVID WIEDASACK: Thank you. Forgive me, I left my lawyers at home and I didn't bring any consultants so you'll need to guide me as to how you'd like me to begin.

CONSTANTINE ALEXANDER: Well, you're seeking a Variance --

THE STENOGRAPHER: State your name first.

DAVID WIEDASACK: I'm David Wiedasack, 167 Putnam Avenue.

CONSTANTINE ALEXANDER: You're seeking a Variance to install exterior insulation which will intrude into a seven-foot two-inch setback requirement for exterior insulation. And that's what -- you got to find that as you may have heard for us to grant a Variance, we've got to make the findings on three conditions. But I don't think they're very controversial. So you want to just explain just a little bit for us what's

going on and why you need to put this insulation on the exterior which causes a zoning problem that we're dealing with tonight.

DAVID WIEDASECK: Sure, I'd be happy to. Can you hear me okay?

JANET GREEN: Anybody here for this case?

CONSTANTINE ALEXANDER: People can come forward if they can't hear or if they want to hear.

Go ahead.

DAVID WIEDASECK: So just a photograph for your recollection. The house was built in 1905, Victorian style wood framed house. We are currently re-siding the house because the existing wood clapboard siding has deteriorated to the point where it is rotting and falling off the building. There is water intrusion which is causing structural damage as well as interior damage during heavy storms, and we also -- the paint won't stick to the wood because of the amount of moisture that's building up behind it. So the siding has deteriorated to the point where it needs to be replaced. The building being of 1905 construction was not insulated to modern building standards in 1905. At some point in

the building's history, probably about eight or nine years ago, they did the blown-in insulation with Cellulose, but we've had consultant in who was able to look with a thermal camera to identify that there are large gaps in the Cellulose insulation. The Cellulose insulation that was blown in because it wasn't put in under any windows, above any windows, the hurricane bracing, they didn't -- they just left lots of voids. It's not very efficient. The house is very drafty. It's expensive to heat. And this directly affects the comfort of the residents and the owners.

And further, the Cellulose insulation has no vapor barrier. So in the summer that Cellulose serves as a really nice sponge bringing moisture into the house when you're trying to cool it which makes the air conditioning again much more expensive. In the winter it works in reverse and helps pull the moisture very effectively out of the house, making it rather dry and causing problems.

The only alternative to using rigid foam insulation to the exterior of the house would be to put insulation in the walls. Because the insulation was already blown in, they can't go and put foam insulation in without excavating all of that Cellulose. The only practical way of

excavating the Cellulose would be to demo all of the interior plaster walls, clean it all out, and redo all the plaster. That would be quite expensive and quite intrusive. So in order to improve the overall energy efficiency in the home, the liveability as well as the affordability for the residents, three of which are owner/occupants; one is a long time Cambridge school teacher, the other one just had his first child about a year ago and plans to stay in the home a very long time, and myself. I'm also hoping to start a family there with my wife. We would like to be able to improve the comfort of our home, lower our costs to heat and cool it, and we would also like it to be more energy efficient. This is Cambridge and reliving seems to be a tenant that Cambridge seems to hold dear. So along those lines we would like to install the rigid foam insulation under the replacement siding. As you have on file, but I will pass along just to save you the trouble of flipping through your notes, we would like to replace the siding with hardy fiber cement siding to obtain the original look and feel of the bailing with the clapboards as opposed to something like vinyl siding which might cheapen the look of it. The fiber cement board siding while maintaining the original clapboard look with all of the trims replaced with

PVC board, again, to maintain that kind of Victorian styling. Be easier to maintain. It will also be somewhat fire retardant, and be an overall aesthetic material improvements to the building. Because we can't insulate the inside of the building, by putting the one inch of foam insulation on the exterior, we gain an R-value of five and we also break the thermal bridge that the studs and other materials that build up the structure of the building have which conduct cold from the exterior into the interior and conduct heat in the summer. So it would be a very effective R-value of five by limiting that thermal bridge. It would be very cost effective since we have to re-side the building. This is our opportunity to do it. The -- that heats for the zoning in the City of Cambridge specifically allow for the installation of rigid foam insulation on houses. And after reading the rule, it looks like the rule was intended to support this in insulations up to four inches. The seven foot, two inch requirement is kind of added in at the end as an addendum, and it logically is kind of hard to understand why it was written in until you look at the minimum setback requirement for the City of Cambridge which is seven feet, six inches. They allowed for four inches of insulation to be added in the Zoning

Ordinance. So my guess is when it was drafted, someone said well, seven feet, six inches minus four is seven feet, two inches. The problem is is that this is an old house from 1905. It's in the preexisting non-conforming lot. Like many houses in Cambridge, lots of non-conforming, and that's the situation that we're in today.

CONSTANTINE ALEXANDER: Thank you. That's a good presentation.

Questions from members of the Board?

BRENDAN SULLIVAN: You put on inch and a half rigid?

DAVID WIEDASECK: Inch. One inch.

BRENDAN SULLIVAN: Okay, all around. Okay.

CONSTANTINE ALEXANDER: I'll open the matter up to public testimony.

Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

We're not in receipt of any letters either that I can see in our file. So ready for a vote?

JANET GREEN: Ready.

CONSTANTINE ALEXANDER: The Chair moves we make the following findings with regard to the relief being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being is that this building is insufficiently insulated now and causing problems with regard to occupying the structure. And this applies not just to the current occupants but anyone who would be living in this premises subject to this petition.

That the hardship is owing to the fact that the lot is a non -- the structure is located too close to the lot line, and it is a structure that goes back to before zoning, all of which means that there is a special hardship that runs with the property.

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

All that is happening here is to improve the inhabitability of these two structures. And what the steps are necessary as a functional

matter and have no opposition from neighbors.

So on the basis of all of these findings, the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with plans submitted by the Petitioner and initialled by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

(Alexander, Sullivan, Green, Hickey, Monteverde.)

DAVID WIEDASECK: Thank you.

(9:30 p.m.)

(Sitting Members Case No. BZA-017049-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Jim Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call case No. 017049, 955 Mass. Ave.

ATTORNEY ADAM BRAILLARD: Thank you, Mr. Chairman, members of the Board. My name is Adam Brailard. I work for a law firm

Prince, Lobell, Tye. We're at One International Place in Boston, Massachusetts. With me is Adam Wolfrey. Adam is with Centerline. They are the Applicants, site acquisition team. So Adam works directly with the property owner in connection with the modifications.

So we're here on behalf of the Applicant T-Mobile Northeast, LLC doing business as T-Mobile in connection with a Section 6409 eligible facility's request, and a Special Permit from the Board to modify an existing wireless communication facility on the building located at 955 Main Street. The extent of the changes of the facility are simply replacing three panel antennas with three like kind panel antennas. And then adding four coax cabling from those antennas in the existing cable trays that are on -- the flushed on the rooftop deck to the cabinetry which are up on the roof as well inside the penthouse.

So the net change in antennas is zero. The size of the new antennas is substantially similar to the existing antennas. The proposal would be to match the color of the existing antennas with these new antennas when they're installed, and that's the extent. There's going to be no change in the cabinetry. This is really simply to modify, to replace

three antennas with three like kind antennas.

CONSTANTINE ALEXANDER: The photo simulations that you've submitted would appear to my eye, you can't see -- tell the difference.

ATTORNEY ADAM BRAILLARD: Couldn't see the change either, yeah. The antenna size is going to be similar that's why.

CONSTANTINE ALEXANDER: So we found -- we approved these antennas before or the old ones.

ATTORNEY ADAM BRAILLARD: Correct.

CONSTANTINE ALEXANDER: And the impact on the neighborhood is not going to be any different than what we approved before.

ATTORNEY ADAM BRAILLARD: That's correct, yes.

CONSTANTINE ALEXANDER: Any questions from members of the Board at this point?

JANET GREEN: I don't have any.

ANDREA HICKEY: No.

CONSTANTINE ALEXANDER: Okay. I'll open the matter

up to public testimony.

Ma'am, do you want me to speak or you want me to read your letter? One of the other.

MARILEE MEYER: I will speak.

CONSTANTINE ALEXANDER: Okay.

MARILEE MEYER: I'm Marilee Meyer, Ten Dana Street.

And I understand that FCC and the antenna as being the greater good and the system and everything. What I want to speak to is the actual application itself, because there are inconsistencies, and there was a misidentification of zone. They've presented it as a C2 zone when it is a C2B zone. If this was anything other than an antenna, you would be talking let's say the difference between the height of 85 feet and 45 feet. So a zoning designation is important to keep consistent.

CONSTANTINE ALEXANDER: Yeah, but this designation, assuming you're correct, what impact does it have on this case?

MARILEE MEYER: Well, the building is -- I forget, but it's not noncompliant. It's grandfathered. Non --

JANET GREEN: Non-conforming.

MARILEE MEYER: Thank you. Non-conforming.

The way that the application presented it said that the three antennas would be replaced with three antennas. Okay, that's fine. That's simple. But then it said on the roof. And then in the next paragraph and the next something on the roof and the facade. And then it said the roof, facade, and chimney. So there was -- and then with the drawings of the kind of panels that they're going to be put on, there was no context. We did not know how and where and how these things were going to be put on.

CONSTANTINE ALEXANDER: Have you seen the photo simulations that show --

MARILEE MEYER: We have the computer generated panels that were presented in the case. And three or four times in the application it said that it was a nonresidential area. And it is the other way around. It is just barely grandfathered business area. It is surrounded by residents all up and down. And I think when the other -- there was another case where you were looking at antenna on this building, and the Board had a question on radiation and that kind of affect

to residents. And I think you had asked for some kind of, I think it was 2016 or something, that you asked for some information on how antennas give off, you know, whatever. So, you know, it's fine to upgrade systems, that's fine. I -- my point here is to -- for consistency of application. And more -- and accuracy of the -- that this is a residential area and it is not a business area. And just because it's on Mass. Ave. doesn't mean that it doesn't have breadth to the area. It's not linear. It's square. So I put that to you.

CONSTANTINE ALEXANDER: Thank you.

MARILEE MEYER: Thank you.

CONSTANTINE ALEXANDER: Anyone else wishes to be heard?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. We're not in any receipt of any letters.

By the way, did you go to the Planning Board? We have nothing in our files to the Planning Board.

ATTORNEY ADAM BRAILLARD: I spoke with --

CONSTANTINE ALEXANDER: Liza?

ATTORNEY ADAM BRAILLARD: No, the clerk. The name escapes me.

SISIA DAGLIAN: Maria?

ATTORNEY ADAM BRAILLARD: Maria. Today about it and she had not heard from the --

CONSTANTINE ALEXANDER: Did you appear before them?

ATTORNEY ADAM BRAILLARD: We did not appear before the Planning Board.

CONSTANTINE ALEXANDER: Did you request an appearance or did they request anything from you?

ATTORNEY ADAM BRAILLARD: They didn't request anything from us. In the prior application they had -- Liza had e-mailed me their findings. I didn't get anything from them today.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY ADAM BRAILLARD: Or at this time.

CONSTANTINE ALEXANDER: I'm going to close public

testimony.

Discussion or ready for a vote?

ANDREA HICKEY: Ready.

JIM MONTEVERDE: Ready.

CONSTANTINE ALEXANDER: Thank you.

Okay, you've been before us before so I'm going to short circuit some of this.

ATTORNEY ADAM BRAILLARD: Sure.

CONSTANTINE ALEXANDER: And we'll incorporate by reference usually what we do with these cases. I have to find my notes.

I would point out, and I do have my notes now, this is in a residentially zoned district. At least covering to your application.

ATTORNEY ADAM BRAILLARD: It is, yes.

CONSTANTINE ALEXANDER: So we have to make special findings with regard to that in addition to the usual findings.

ATTORNEY ADAM BRAILLARD: Yes.

CONSTANTINE ALEXANDER: The Chair moves that we make the following findings with regard to the relief being sought:

That nonresidential uses predominate in the vicinity of the proposed facility's location, and that the telecommunication facility is not inconsistent with the character that does prevail in surrounding neighborhood.

In this regard, as been pointed out, you're just replacing what's there already. And the neighborhood hasn't changed from the first time we granted the relief, so I think that finding has already been made by this Board.

That we have to make then a bunch of findings for Special Permits generally.

That relief -- that requirements of the Ordinance cannot be met without the relief you're seeking.

That traffic generated or patterns of access or egress resulting from what you're proposing will not cause congestion, hazard, or substantial change in established neighborhood character.

Again, the point is is that what is being proposed is just simply to replace three antennas with three new antennas, and therefore, we made this finding before that there was no congestion, hazard, or

substantial change resulting from these antennas on the building.

That the continued operation of development of adjacent uses will not be adversely affected by what is proposed.

That no nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant of the proposed use or of the citizens of the city. And that generally what is being proposed will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

With regard to all of the foregoing, again, I would note for the record that we've already granted relief with regard to this property. And so -- and the property in the neighborhood has not changed from what was there before. So I think the old findings stand.

Continuing, we also find -- I move that we find that the modification of its existing telecommunication facility at the site proposed by the petitioner does not substantially change the physical dimensions of the existing wireless tower or base station at such facility within the meaning of Section 6409(a) of The Middle Class Tax Relief and Job Creation Act of 2012 also known as The Spectrum Act.

So based on these findings, the Chair moves that the Petitioner be granted the Special Permit it is seeking subject to the following conditions:

One, that the work proceed in accordance with the plans submitted by the Petitioner and initialled by the Chair. And I've initialled the ones you've submitted to us.

Two, that upon the completion of the work, the physical appearance and visual impact of the proposed work will be consistent with the photo simulations submitted by the Petitioner and initialled by the Chair. And those have been initialled.

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

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

And, five, that the Petitioner is in compliance with and will continue to comply with in all respects, the conditions imposed by this Board with respect to previous Special Permits granted to the Petitioner with regard to the site in question.

And then we have our long thing about electromagnetic energy waves and the like. With your permission we're going to incorporate what we've done in the past on this decision.

ATTORNEY ADAM BRAILLARD: Yes.

(Inasmuch as the health effects of the transmission of electromagnetic energy waves is a matter of ongoing societal concern and scientific study, the Special Permit is also subject to the following conditions:

One, the petitioner shall file with the Inspectional Services Department each report it files with the federal authorities regarding electromagnetic energy waves emissions emanating from all of the petitioner's equipment on the site. Each such report shall be filed with the Inspectional Services Department no later than ten business days after the report has been filed with the federal authorities. Failure to timely file

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

Two, in the event that at any time federal authorities notify the petitioner that its equipment on the site, including but not limited to the equipment permitted by the Special Permit granted tonight, fails to comply with requirements of law or governmental regulation, whether with regard to the emissions of electromagnetic energy waves or otherwise, the petitioner within ten business days of receipt of notification of such failure shall file with the Inspectional Services Department a report disclosing in reasonable detail that such failure has occurred and the basis for such claimed failure, and sixty calendar days after receipt by the petitioner of such notification of failure, the Special Permit granted tonight shall ipso facto terminate.

Three, to the extent that a Special Permit has terminated pursuant to the foregoing paragraphs 1 and 2, the petitioner may apply to this Board for a new Special Permit, provided that the public notice concerning such application discloses in reasonable detail that the application has been filed because of a termination of Special permit

pursuant to paragraphs 1 and 2 above.)

CONSTANTINE ALEXANDER: So based upon all these findings, the Chair moves we grant the Special Permit.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special Permit granted.

(Alexander, Sullivan, Green, Hickey, Monteverde.)

ATTORNEY ADAM BRAILLARD: Thank you very much.

* * * * *

(9:50 p.m.)

(Sitting Members Case No. BZA-017050-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Jim Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call case No. 017050, 154 Cherry Street.

Is there anyone here wishing to be heard on this matter?

STEEN UPRITCHARD: My name is Steven Upritchard from 154 Cherry Street.

CONSTANTINE ALEXANDER: Anyway, the floor is yours. You've heard before, tell us briefly what it is you want to do and why you're entitled to do it. Or why we should grant you the relief you're seeking.

STEVEN UPRITCHARD: So we're removing a window and two skylights. And to replace that light we're putting in a new window which is the very edge of the window within the setback about five or six inches I believe. And so we're just trying to replace the light we're taking from removing one window and --

CONSTANTINE ALEXANDER: Have you talked to your neighbors who would be most impacted --

STEVEN UPRITCHARD: Yes, on both sides.

CONSTANTINE ALEXANDER: -- by your windows?

STEVEN UPRITCHARD: Yes.

CONSTANTINE ALEXANDER: And you represent that they have no objection?

STEVEN UPRITCHARD: No.

CONSTANTINE ALEXANDER: I don't think we have any letters from them, so that's the reason I ask. Okay.

As you can see, windows and setbacks are a case that we often hear about on this Board.

Anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: None.

Ready for a vote?

JIM MONTEVERDE: Yep.

CONSTANTINE ALEXANDER: I would hope so.

The Chair moves that we make the following findings with regard to the Special Permit being sought:

That requirements of the Ordinance cannot be met unless we grant you the Special Permit. Why there is this in the Ordinance I have no idea. Why else would you be here? Just because you've nothing else better to do on a Thursday night?

JIM MONTEVERDE: It's been a long night.

CONSTANTINE ALEXANDER: I know.

JIM MONTEVERDE: It's almost over. We're almost there.

Stay calm.

ANDREA HICKEY: Keep going. Keep going.

CONSTANTINE ALEXANDER: That traffic generated or patterns of access or egress resulting from what you're proposing will not cause congestion, hazard, or substantial change in established neighborhood character.

That the continued operation or development of adjacent uses will not be adversely affected by what is being proposed.

That no nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant or the citizens of the city.

And that generally what is being proposed will not impair the

integrity of the district or adjoining district or otherwise derogate from the intent and purpose of the Ordinance.

So on the basis of all of these findings, the Chair moves that we grant the Special Permit requested on the condition that the work proceed in accordance with the plans you've submitted and which have been initialled by the Chair.

And just so you understand, if you decide to make changes, we'll see you again. Okay?

All those in favor of granting the Special Permit please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

(Alexander, Sullivan, Green, Hickey, Monteverde.)

* * * * *

(9:55 p.m.)

(Sitting Members Case No. BZA-017048-2018: Constantine Alexander,

Brendan Sullivan, Janet Green, Andrea A. Hickey, Jim Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call case No. 017048, 22 Craigie Street.

Is there anyone here wishing to be heard on this matter?

MAGGIE BOOZ: Hello, I'm Maggie Booz, B-O-O-Z of Smart Architecture. I'm representing Nancy Heselton and Jeff Clements of 22 Craigie Street. And we've submitted a petition to -- for a Special Permit for openings in a setback.

So the building that Jeff and Nancy live in has an extended portion of their living room that at some point was enclosed by clapboard walls, and we're not really sure what its original history was, although I've looked extensively at the Historical Commission. I think it was a porch. And we're hoping to restore it to a porch. And so that means that that wall that's nine and a half feet from the property line, you know, violates the side yard setback and so we're seeking permission.

CONSTANTINE ALEXANDER: You're not going to change the dimensions --

MAGGIE BOOZ: No.

CONSTANTINE ALEXANDER: -- of the porch where it was once upon a time?

MAGGIE BOOZ: Correct. That's right.

And so I did bring an image just so that you could see a photo shop image that we did of -- this is the, this is the existing house and then we did a photo shop image just showing, you know, the effects of that, of opening of that building as a porch.

CONSTANTINE ALEXANDER: I think they're in the file.

MAGGIE BOOZ: For your curiosity.

JIM MONTEVERDE: Thank you.

MAGGIE BOOZ: Okay.

So we feel that the proposal is consistent with the neighborhood.

That it is actually making a more consistent feature to the house than exists there now. It's a little off-putting that windowless box.

And we feel that it doesn't violate patterns of egress or density in the neighborhood. It doesn't cause a detriment to adjacent properties or adjacent uses.

And that indeed it would benefit the neighborhood in that it would be a more welcoming and more architecturally appropriate character to that portion of the building.

CONSTANTINE ALEXANDER: Okay.

Questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: None.

I would open the matter up to public testimony. We have nobody to give public testimony except to this gentleman here who wants to apply to our Board even though he's seen what's happening tonight. We have no letters in our file. So I'm going to close public testimony. I think we're all ready for a vote.

JIM MONTEVERDE: Yes.

CONSTANTINE ALEXANDER: The Chair moves that we make the following findings with regard to the Special Permit being requested:

That the requirements of the Ordinance cannot be met unless we grant you the Special Permit.

That traffic generated or patterns of access or egress resulting from restoring the porch will not cause congestion, hazard, or substantial change in established neighborhood character.

That the continued operation or development of adjacent uses as permitted by the Ordinance will not be adversely affected by what is proposed.

And that no nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant of the proposed use or the citizens of the city.

And that generally what is being proposed will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

With regard to all of the foregoing, all that is being done is restoring this house to a prior condition and probably architecturally a more appropriate condition than is there right now. But that's my editorial. Don't put that as part of the record.

JEFF CLEMENTS: We agree.

CONSTANTINE ALEXANDER: So on the basis of all of

these findings, the Chair moves that we grant the Special Permit requested on the condition that the work proceed in accordance with five pages of plans prepared by Smart Architecture and which have been initialled by the Chair.

All those in favor please say "Aye:

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

(Alexander, Sullivan, Green, Hickey, Monteverde.)

* * * * *

(Whereupon, at 10:00 p.m., the

Zoning Board of Appeal Adjourned.)

* * * * *

ERRATA SHEET AND SIGNATURE INSTRUCTIONS

The original transcript and Errata Sheet has been delivered to
Inspectional Services Department.

INSTRUCTIONS

After reading this volume of the Zoning Board of Appeals
transcript, note any change or correction and the reason therefor on this
sheet. Sign and date this Errata Sheet.

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I have read the foregoing transcript of the Zoning Board of Appeals, and except for any corrections or changes noted above, I hereby subscribe to the transcript as an accurate record of the statement(s) made by me.

C E R T I F I C A T E**COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.**

I, Catherine Lawson Zelinski, a Certified Shorthand Reporter, the undersigned Notary Public, certify:

That the hearing herein before set forth is a true and accurate record of the proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of February, 2019.

Catherine L. Zelinski
Notary Public
Certified Shorthand Reporter
License No. 147703

My Commission Expires:
April 29, 2022

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