

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, DECEMBER 5, 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

Andrea A. Hickey

Jim Monteverde

Maria Pacheco, Zoning Secretary

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1 second is by a citizen of the city, who has left his tape
2 recorder right there.

3 Is there anyone else recording this meeting?
4 Video or audio? Okay, with that out of the way, I will call
5 the first case, Case Number 017201 -- 46 Parker Street. I
6 guess someone's here. Are you ready to do that?

7 MATT SIMITIS: I am ready to go.

8 CONSTANTINE ALEXANDER: Obviously.

9 MATT SIMITIS: My name is Matt Simitis, and am the
10 architect for the owners at 46 Parker Street. What we're
11 hoping, what we're requesting is to add living area in
12 excess of FAR regulations, through the addition of two new
13 dormers, as is noted in the application.

14 And I believe in the packet -- I have positioned
15 it a little bit away so everyone can see it -- an elevation
16 at the side of the house that we're talking about. I do
17 have other elevations as well, where the two dormers are in
18 the main section of the roof.

19 I did move the drawings over here, so both the
20 audience and the committee can see it. This -- I should say
21 this is actually a phase two of a project that in 2016 was
22 granted -- an approval through the BZA, and the dormers were

1 apart. These dormers that we're now requesting were part of
2 that approval, but were not completed at the time of the
3 rest of the housework that was done, interior and exterior.
4 Timing and budget led to it being phased.

5 The timeline for the approval expired, and so,
6 we're now repetitioning as new for these two --

7 CONSTANTINE ALEXANDER: So we approved them
8 earlier?

9 MATT SIMITIS: They were approved earlier as part
10 of this FAR increase. We had an FAR increase at that time,
11 and that square footage -- exact -- no change is involved --
12 was they were included in that approval, and the work was
13 just not completed. So they're now coming back, hoping to
14 renovate the interior of their attic space.

15 It had previously been an apartment. The single-
16 family home had been split up into apartments over the
17 years, and when they purchased it, they converted it back to
18 a single-family, with the hope that there would be two
19 bedrooms here. So we're not petitioning to get these
20 dormers back, and they're hoping to complete them.

21 There is other work that does not -- as far as I
22 understand it, does not fall into the BZA's need to review

1 it in terms of rebuilding an existing roof deck here. So
2 there's a new railing, and will look slightly different than
3 the old, which is a board railing. This will be more of a
4 cable rail -- stainless steel cable rail.

5 But in terms of the BZA and the zoning review, it
6 is the FAR increase that we're here for today. It's 52.9
7 square feet increase for these -- just basically the added
8 height that the dormers provide.

9 CONSTANTINE ALEXANDER: And do your dormers comply
10 with the dormer guidelines?

11 MATT SIMITIS: Yes, as I understand it, yes. They
12 are set back from the wall below, over 1 foot six.

13 CONSTANTINE ALEXANDER: How long are they?

14 MATT SIMITIS: Each of these is 7 foot 1. The
15 total length of the wall below is 29 feet, and they are set
16 in from the end walls as well.

17 CONSTANTINE ALEXANDER: Right.

18 MATT SIMITIS: So I do -- yes, they do comply. If
19 you'd like to see the other elevations, there's no relevant
20 work to them.

21 CONSTANTINE ALEXANDER: Thank you. Questions from
22 members of the Board? No? I'll open the matter up to

1 public testimony. Is there anyone here wishing to be heard
2 in this case? Apparently not. We are in receipt of some
3 correspondence, which I'll read into the record. There's
4 one letter -- yeah, a letter from Mark J. Grubbs, G-r-u-b-b-
5 s, who resides at 47 Parker Street.

6 "I'm writing in support of a proposed renovation
7 to 46 Parker Street. It is with pleasure that a family has
8 moved to our neighborhood for the long-term intending to
9 raise a family in Cambridge.

10 "I did the same in 1978, and I'm grateful for the
11 opportunity. But as was the case for my family, Melissa and
12 Eric need a little bit more space to accommodate their
13 growing children. I asked and received permission to add
14 shed dormers to my house at 47 Parker Street, diagonally
15 across the street from 45 and 46 Parker Street.

16 "I set them back from the roof line to preserve
17 the original character of the house, and I think most people
18 don't even notice they are there. The utility of the house
19 was greatly enhanced.

20 "I believe that Melissa and Eric intend something
21 similar, and will get the same result. I am hopeful the BZA
22 will find no opposition to their plans, and will approve

1 this application."

2 That's it with public testimony. I'll -- any
3 other comments you want to make?

4 MATT SIMITIS: I would just add that I've spoken
5 with two other neighbors, both inquiring just what was being
6 done. They did say that they were generally supportive --
7 obviously, that's not formally entered, but we've had good
8 negotiations and conversations, I should say, actually.

9 CONSTANTINE ALEXANDER: And no one's voiced
10 opposition?

11 MATT SIMITIS: No continues.

12 CONSTANTINE ALEXANDER: Discussion, or ready for a
13 vote?

14 COLLECTIVE: Ready for a vote.

15 CONSTANTINE ALEXANDER: The Chair moves that we
16 make the following findings with regard to the variance
17 being sought: That a literal enforcement of the provisions
18 of the ordinance would involve a substantial hardship to the
19 petitioner, such hardship being as that there is space in
20 the residential quarters that it's use will be facilitated
21 by the addition of the dormers, which will provide
22 additional living space on the third floor, or on the top

1 floor.

2 The hardship is owing to the fact that this is
3 already a nonconforming structure, and therefore any
4 modification requires zoning relief.

5 And that what is proposed will not be -- the
6 relief that they may grant will not cause a substantial
7 detriment to the public good, or nullifying or substantially
8 derogate from the intent or purpose of this ordinance.

9 On the basis of all of these findings, the Chair
10 moves that we grant the variance sought on the condition
11 that the work proceeds in accordance with plans prepared by
12 Simitis Architects -- Curl Simitis, Architect, dated October
13 18, 2019, and the first page of which has been initialed by
14 the Chair. All those in favor, please say, "Aye."

15 THE BOARD: Aye.

16 [All vote YES]

17 CONSTANTINE ALEXANDER: Five in favor.

18 COLLECTIVE: Thank you very much.

19

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1 * * * * *

2 (7:14 p.m.)

3 Sitting Members: Constantine Alexander, Brendan
4 Sullivan, Janet Green, Andrea A. Hickey, Jim
5 Monteverde

6 CONSTANTINE ALEXANDER: The Chair will now call
7 Case Number 017202 -- 156 Rindge Avenue. Anyone here
8 wishing to be heard on this matter?

9 THE REPORTER: Spell your name and give your
10 address for the record, please.

11 SEAN HOPE: Good evening Mr. Chair and members of
12 the Board. For the record, Attorney Sean Hope, Hope Legal
13 Law Offices of Cambridge. I'm here on behalf of the
14 petitioner. We have Mrs. Khadija Barre -- spell your name
15 for the record.

16 KHADIJA BARRE: K-h-a-d-i-j-a, last name is Barre,
17 B-a-r-r-e.

18 SEAN HOPE: Yes. So this is a variance request
19 for the use as a day care use of the property. There's also
20 a special permit requirement to reduce the parking.

21 So the Board may be familiar, the property is at
22 156 Rindge Ave, which is a one-story building that was built

1 for residential uses. Although it's had a myriad of
2 commercial uses, it's in a residential district that doesn't
3 allow for any of those uses. Previously, most recently it
4 was Noca provisions, and that wasn't successful. And so now
5 this is a proposal for day care use

6 Mrs. Barre has operated for 13 years a home day
7 care, right around the corner on Cedar Street. Over 75
8 percent of her clients are people who live in the
9 neighborhood. So the majority of her children and their
10 parents walk to her current location.

11 The idea is she has about 10 children now, and the
12 idea is she has grown and looking for expansion. So this
13 opportunity came up. She and her family pulled together to
14 be able to solidify a location.

15 But continually, and you'll probably hear from
16 some of the people hear in the letters of support, the idea
17 is to continue the day care use that she had at her home,
18 but in a better facility for the children. The majority of
19 her customers do walk to work, hut this location does have
20 the benefit of parking.

21 As I mentioned, for the special permit parking,
22 the requirement is three parking spaces per room. And if

1 you look at the floor plans, it's broken into three separate
2 rooms. So we have seven spaces; we do believe the seven
3 spaces are ample, but by operation of the code, we have only
4 two spaces.

5 We did talk about queuing. There are other areas
6 in other day cares where there's sometimes issues in the
7 neighborhood about pickup and drop-offs.

8 So one, I questioned her -- what percentage of her
9 children actually are from the direct neighborhood, the
10 majority are close to 75 percent, but also, she had
11 mentioned that her experience is that the drop-offs have
12 staggered. So not all the parents are coming to drop off at
13 the same time. So there is this congestion currently.

14 We didn't talk about programmatically how she
15 might handle the number of children and the drop-offs. And
16 the idea is she's going to orient the parents to use the
17 rear parking, so that if there was an idea to park in front,
18 or to put hazard lights on and letting you know, there's
19 going to be a directive for all parents that use the rear
20 parking. Some of them might not be aware of that, if you're
21 just driving for the first time.

22 But operationally, she believes that the seven

1 parking spaces is sufficient.

2 Previously, Noca Provisions took over only half of
3 the space. So the parking, even though it wasn't used by
4 another use, it wasn't clear that it was all for one use.
5 She's taken over the entire space. There's going to be one
6 entrance at the corner. So it's going to be 156.

7 So she's going to be the full occupant. She's
8 going to have exclusive use of the parking, and she really
9 believes that it's going to allow the business to thrive.

10 I would also say it's a challenging location,
11 because if you don't have the benefit of neighborhood
12 customers, it's a challenging location to get to. There's
13 traffic in the morning, it's not on a main drag. So I can
14 see that there's been a myriad of different commercial uses,
15 all of which have had some trouble surviving. She is one
16 who's successful.

17 In terms of the hardship, I think it's -- again,
18 it's the building itself. It's on the ground floor with
19 very large windows. It's not like they're going to put the
20 residential use, which are allowed in that district.

21 So because it's not built or designed for
22 residential purposes, any commercial use would require

1 variance relief, and so, we would leave that to be an
2 appropriate use for the site.

3 CONSTANTINE ALEXANDER: Thank you. Questions from
4 members of the Board?

5 ANDREA HICKEY: I had a question. So will the
6 parking be used for drop off or for employees?

7 KHADIJA BARRE: For both, but more for the drop
8 off.

9 CONSTANTINE ALEXANDER: How many employees do you
10 have?

11 KHADIJA BARRE: How many employees would I have?

12 CONSTANTINE ALEXANDER: Yeah.

13 KHADIJA BARRE: Seven.

14 CONSTANTINE ALEXANDER: Seven?

15 KHADIJA BARRE: Yeah.

16 BOARD MEMBER: How many are operating at one time
17 in that space?

18 KHADIJA BARRE: Of kids?

19 BOARD MEMBER: No.

20 KHADIJA BARRE: Oh, for the staff? Between seven
21 and six, it depends the numbers of kids that I would have.
22 Some months may well have it full sometimes -- so it depends

1 if there is --

2 ANDREA HICKEY: So are you offering parking to
3 your employees? And who would have first priority in terms
4 of parking your employees or parents for drop-off?

5 KHADIJA BARRE: Definitely my employees will have
6 the first, but also my clients with drop-off. But again,
7 it's seven spaces, so -- and I don't live far. So I can
8 have my employees park in my driveway. That won't become an
9 issue.

10 ANDREA HICKEY: Okay. So you don't have a
11 specific plan that a certain number of spaces would be
12 reserved for drop-off, and a certain number for employees?

13 KHADIJA BARRE: Um--.

14 ANDREA HICKEY: If you don't, that's okay. If --

15 KHADIJA BARRE: I think I will say for my only
16 employees, two parking spaces and five for my drop-off and
17 my own car. I will do that.

18 ANDREA HICKEY: Thank you.

19 KHADIJA BARRE: You're welcome.

20 CONSTANTINE ALEXANDER: Anyone else have any
21 comments? I'm all set. I'll open the matter up to public
22 testimony. Is there anyone here wishing to be heard on this

1 matter? Sir?

2 THE REPORTER: Spell your name and give your
3 address, please?

4 AREN STONE: Aren Stone, A-r-e-n, last name S-t-o-
5 n-e, 9 Sargent Street. So I'm a neighbor. I'm here in two
6 capacities; as a professional colleague and as a neighbor.
7 I live on Sargent Street, which is just a block away.

8 And my -- I think the use of that building as a
9 child care center is perfect for the neighborhood. Khadija
10 already has a majority of her families who are completely
11 devoted to her, you know, walk or ride bikes to her location
12 now. And she's just half a block away.

13 So I think that the expectation is that it will
14 remain the same. There's a huge need, especially for infant
15 and toddler care, in Cambridge, and Khadija's center is
16 going to provide that.

17 Professionally, I'm a child development
18 specialist, and I work for a program that's funded by the
19 City of Cambridge. And we go into child care settings,
20 including family child care and do support work.

21 And I've been to Khadija's, and she I think is
22 very well equipped and educated to run a center

1 successfully, and will have a lot of support -- both
2 professionally and personally. So both as a neighbor and as
3 a professional, I really support this.

4 CONSTANTINE ALEXANDER: Good. Thank you for
5 taking the time to come down. Anyone wishes to be heard?

6 THE REPORTER: Spell your name and give your
7 address, please?

8 BETSY GROVES: Yes, my name is Betsy Groves, B-e-
9 t-s-y, G-r-o-v-e-s, and I live at 59 Rice Street, Cambridge.
10 And I'm here to speak on behalf of the proposed day care
11 center there. I am representing a three-generation family
12 who the youngest member Selma, age 13 months, goes to
13 Khadija's day care center. And we are one of the walkers.
14 We walk about half a block around the corner to Khadija's
15 day care.

16 And when my husband and I moved to Rice Street now
17 40 years ago, which is hard to believe, and I think that we
18 have seen a number of changes on Rice Street -- many changes
19 -- some -- many good, some not.

20 But I think that when I think about the various --
21 first of all, the various occupancies of 156 Rindge Avenue
22 over the years, which has ranged from I think it was a

1 bakery when we first moved there, and then there was a
2 screen repair and window repair, and barbershop.

3 And there were periods of it being empty for great
4 spaces of time. And then most recently, of course, Noca.
5 To me, the idea of situating a day care there is a fabulous
6 one.

7 And I think particularly because -- and I believe
8 this was mentioned by a previous speaker -- because one of
9 the things I also notice about our area is this amazing
10 growth of young families with young children.

11 So my daughter, who lives across the street, and
12 husband being of those families, and the idea of a child
13 care center situated in the community certainly at the end
14 of our street I think is wonderful for the community.

15 And I think it's also been mentioned earlier,
16 referenced the real shortage of child care spots for infants
17 and young children. So I think this would be a strong
18 addition to our neighborhood.

19 I can also speak from the perspective of being a
20 consumer. I do drop offs -- we share -- as a family, we
21 share drop offs and pickups.

22 And so I think that my personal sense is that it's

1 wonderful spot, it's a wonderful opportunity for other
2 parents with young children to experience the quality of
3 child care that Khadija has offered. So I just think it's a
4 win-win for the community.

5 And I don't -- I'm going to reiterate briefly; I
6 think that the number of walkers -- I've never seen a car
7 drop-off at the house before. So I think that helps
8 mitigate in some ways the worries. And that's a terrible
9 corner.

10 CONSTANTINE ALEXANDER: Yes, it is. I was going
11 to ask a question about that. Are you concerned at all? Do
12 you want to comment at all on safety issues regarding that
13 corner?

14 BETSY GROVES: Well, I think it is a -- it's not a
15 good corner. However, having the stop signs, the three-way
16 stop signs has really helped pedestrian traffic.

17 I also know that the Peabody School has crossing
18 guards there in the morning. So when I think about the
19 walking traffic, I think it's as safe as it can be. It's an
20 urban area.

21 CONSTANTINE ALEXANDER: Well, I have -- we do have
22 a letter in our files -- we have many letters, all of which

1 with one exception, are in support. But the person -- and
2 I'll read the letter when we get to it --

3 BETSY GROVES: Okay.

4 CONSTANTINE ALEXANDER: -- cites traffic safety
5 issues and concerns about the safety of the children. That
6 -- I'd ask you to speak to that if you would.

7 BETSY GROVES: I understand that. And I think I
8 would certainly agree that it's a crowded area. And walkers
9 have to be cautious, and car drivers have to be cautious.
10 But again, I feel that the addition of those stop signs and
11 the presence of crossing guards has done as much as is
12 possible for an area like that.

13 CONSTANTINE ALEXANDER: Personally, I have
14 occasion often to drive -- Middlesex, is that the street?

15 BETSY GROVES: Yeah, yeah.

16 CONSTANTINE ALEXANDER: And I've noticed big
17 difference because of --

18 BETSY GROVES: Huge.

19 CONSTANTINE ALEXANDER: -- the stop signs.

20 BETSY GROVES: Yeah.

21 CONSTANTINE ALEXANDER: So I would endorse that.

22 BETSY GROVES: Yeah, so I feel like it's -- you

1 know, given the reality of the fact that we live in a
2 densely populated city, that it's as ascetic as it can be.
3 And, you know, I don't -- I think the parents will figure
4 that out -- parents who go there, and --

5 CONSTANTINE ALEXANDER: Let me ask a quick
6 question of the petitioner, actually.

7 BETSY GROVES: Yeah.

8 CONSTANTINE ALEXANDER: Most day care centers --
9 my observation -- time and time during the day -- take the
10 kids out for long walks.

11 KHADIJA BARRE: Mm-hm.

12 CONSTANTINE ALEXANDER: And will you be planning
13 to do that? And if so, how will you preserve the safety of
14 these children, given the traffic concerns?

15 KHADIJA BARRE: There's a park by -- there's two
16 parks that we are planning to use, which I use also now.
17 One is right behind the Peabody School, the Hanson Street.
18 So I wouldn't be crossing the street, I would be going to
19 Middlesex, going backwards to the traffic. And then go that
20 way to the park.

21 And there's another park on Cedar. So I wouldn't
22 be going there, because that's the conjection (sic) that

1 wouldn't feel comfortable. So we will like mostly be using
2 that one on Middlesex, so that way -- you know, not --

3 CONSTANTINE ALEXANDER: And you'll take steps to
4 protect against a young child deciding to dash across the
5 street? And usually they all hold a rope, is my
6 observation.

7 KHADIJA BARRE: They will hold ropes, yeah.

8 CONSTANTINE ALEXANDER: And that's -- you'll have
9 people -- your staff -- walking with the children, so that
10 someone gets a little bit rambunctious, you'll be able to
11 make sure the child doesn't run into the street?

12 KHADIJA BARRE: Definitely. I mean -- yeah.

13 JANET GREEN: That's what you do.

14 KHADIJA BARRE: That's every day what I do, and
15 I'm a mother of four, so of course. The safety is number 1.

16 BETSY GROVES: And I think there are -- correct me
17 if I'm wrong, but I think there are also regulations in
18 terms of day care centers about what you do when you're
19 outside.

20 KHADIJA BARRE: Right.

21 BETSY GROVES: It's fairly --

22 KHADIJA BARRE: -- there are definite regulations.

1 BETSY GROVES: There is, yeah, there is.

2 CONSTANTINE ALEXANDER: Okay. Anything more you
3 want to add?

4 BETSY GROVES: No.

5 CONSTANTINE ALEXANDER: Thank you for coming down,
6 taking the time to come down. Anyone wishes to be heard?
7 Sir?

8 THE REPORTER: Spell your name and give your
9 address, please.

10 FRED FANTINI: Thank you, my name is Fred Fantini.
11 F as in Fred - a-n-t-i-n-i. I just -- I'll make this quick.
12 I just want to -- I've known the Barre family for over 15
13 years. They've sent their children through the Cambridge
14 public schools,

15 I've got to know them well, and I'm just here to
16 tell you that they are a quality family, they are committed
17 to Cambridge, they're committed to the neighborhood, and we
18 do need quality day cares in the area, and they'll do a
19 great job. And I'm here just to ask that we support the
20 petition.

21 CONSTANTINE ALEXANDER: Thank you, thank you for
22 coming down. Anyone wishes to be heard? Sir?

1 SAM LASSER: Hi.

2 CONSTANTINE ALEXANDER: Name and address for the
3 stenographer.

4 SAM LASSER: My name is Sam Lasser. Address is 24
5 Norris Street, Apartment 6.

6 THE REPORTER: Could you spell your last name,
7 please?

8 SAM LASSER: Sure, Lasser. L-a-s-s-e-r. So I'm
9 here representing another of the young families that Betsy
10 mentioned in the neighborhood. And we send our son, who is
11 also 13 months, to Khadija's day care. A couple of quick
12 points.

13 First of all, we -- my wife and I both feel like
14 we've benefitted a lot from sending our son there, and we
15 feel that we've learned a lot about being parents and taking
16 care of young children.

17 And so, we support the expansion to this new
18 center, because we think it'll be a good opportunity for
19 other people to -- you know, to benefit in the same way that
20 we have.

21 Another thing I would say is that we feel very
22 lucky to live so close to the day care where we send our

1 son.

2 And for us, being associated with a day care in
3 the neighborhood has enriched our experience of living in
4 the neighborhood. We've met -- you know, we've met many
5 neighbors, and have become friends with some of them as a
6 result of being part of the day care community. So we hope
7 that more families like us will be able to benefit in some
8 way.

9 Lastly, I think any of the traffic concerns that
10 have been mentioned would also apply to the current
11 location, because the two locations are so close to each
12 other -- and just my personal feeling is that I have always
13 felt comfortable leaving our son at day care, and have felt
14 like he's always in good hands and in a safe environment
15 there.

16 CONSTANTINE ALEXANDER: Thank you.

17 SAM LASSER: Thank you very much.

18 CONSTANTINE ALEXANDER: Thank you very much.

19 Anyone wishes to be heard? Apparently not. Okay. I'm
20 going to close public testimony. Sean, any other comments?

21 SEAN HOPE: No, I would only just say speaking to
22 the safety concerns, I would only say that because of --

1 CONSTANTINE ALEXANDER: Excuse me, I should have
2 read the letter of opposition, I'd forgotten to say it.
3 Just hold your comments.

4 SEAN HOPE: Sure. We do have a letter -- as I've
5 said before, several times -- from a Miriam Lopatin, L-o-p-
6 a-t-i-n. "I'm writing this e-mail to express my opposition
7 to this petition. In regards to opening a day care center
8 at 156 Rindge Avenue. My name is Miriam Lopatin, and I
9 reside at 1 Yerxa" -- I think I pronounced it right -- Y-e-
10 r-x-a, "Road in Cambridge.

11 "The reasons for my opposition are due to the
12 following: The intersection right in front of the 156
13 Rindge Avenue -- the proposed day care site, streets
14 Rindge/Cedar/Cedar, those are -- Middlesex, those are the
15 streets in the area -- is dangerous already. Especially as
16 it has no traffic lights.

17 "Since this intersection is dangerous, in my
18 opinion will expose young children to potential accidents
19 and polluting air when leaving/coming for walks or playing
20 outside near it, be extremely congested traffic on Rindge
21 Avenue, particularly during the morning rush hour, resulting
22 in a 30 to 45-minute stop/go traffic between Rindge

1 Pemberton to Rindge Russell Field, and also between 3:00 to
2 3:30 p.m., and again around 6:00 p.m.

3 "The reason for the traffic congestion is due to
4 the following facts: Rindge Avenue is an important artery
5 to reaching Route 2. There are already several schools and
6 day cares on Rindge Avenue, or streets accessible through
7 it, and she -- I'm not going to read them -- lists several
8 day care centers.

9 "Next, parking on the streets close to the
10 proposed day care will only become worse at rush hours,
11 making it difficult for the residents of the neighborhood.
12 Therefore, I am in strong opposition in granting the zoning
13 appeal to the Barre Family Day Care or any other day care
14 for 156 Rindge Avenue.

15 "I hope, and I thank you in advance, for
16 considering the interests and the well-being of the children
17 who may attend a day care at this location, of my neighbors
18 and mine."

19 CONSTANTINE ALEXANDER: So now, you want to also
20 maybe comment on that letter as well?

21 SEAN HOPE: Yeah. So I think, one, to state the
22 obvious, Cambridge in general in terms of traffic, in terms

1 of density, in terms of people, is experiencing growth in
2 the region.

3 I do agree that this is a busy thoroughfare, but I
4 think some of those comments would be more pertinent for
5 someone who doesn't live in the area, doesn't know the
6 traffic and is looking to view a new business.

7 I think part of the benefit of this particular
8 applicant in this particular use is that she is very
9 familiar with the traffic patterns; also familiar with how
10 to handle the children that she is seeking to take care of.

11 I think, as the Chair mentioned, you know, outdoor
12 play is important. And I think the idea is there is a safe
13 route that doesn't require crossing the street to be able to
14 access the play areas.

15 I would also say that, you know, the idea that
16 this -- well, the street, this location is not suitable for
17 a day care center, you have a thriving school -- the Peabody
18 School -- that has been there and is doing well. The
19 children are younger, but this is a street that has
20 education, it has children, activities.

21 And I do believe that the crossing guards,
22 although they are not at this corner, if you are having

1 traffic coming down towards Route 2 and there wasn't traffic
2 calming measures along the way, you may get -- and I believe
3 there was -- speeding down Rindge Ave to get to Route 2,
4 because everyone was trying to rush to get to work.

5 So I do believe the activity of the crossing
6 guards in front of the Peabody School will have a calming
7 effect on traffic that's going through there.

8 CONSTANTINE ALEXANDER: Let me just push back on
9 that a little bit.

10 SEAN HOPE: Sure.

11 CONSTANTINE ALEXANDER: I think part of the
12 problem -- as I said, I'm familiar with the area, sort of.

13 SEAN HOPE: Mm-hm.

14 CONSTANTINE ALEXANDER: Yes, Rindge is busy going
15 up and down, and Peabody is on Rindge, and they survive.
16 But you have Middlesex. You're on a corner. And a lot of
17 people use Middlesex. And I think that is the more
18 significant traffic risk, people coming around and making a
19 turn, and hitting a kid.

20 SEAN HOPE: Yeah. I do take that point. And I
21 think it's -- you know, you can also recognize Peabody
22 School as a school, but this is maybe a little different

1 until people get to know this is a day care, but I would say
2 that the idea is daily there is not a requirement that
3 children will be crossing the street to get to central
4 services.

5 The parking is across the street, and they had to
6 do that anytime to be able to access outdoor activities. I
7 would say maybe the Board might require some additional
8 things for health and safety to be able to remedy that.

9 What I don't think, this one, it would be raised
10 to the level of not having any day care use in that building
11 whatsoever.

12 But I do think the fact that the outdoor
13 activities, the park, the playground, are on the same side
14 of the street, they will not have to cross the street, I
15 think mitigates a lot of those concerns.

16 And so, I agree with you it's a challenging
17 street, especially in the morning when people are driving
18 there. But I do think over time, the benefit to the
19 neighborhood far outweighs I think the safety concerns.

20 And I do think Mrs. Barre's experience
21 specifically working with children in this neighborhood I
22 think should overcome any concerns that the Board might have

1 about the safety of children.

2 SEAN HOPE: Okay.

3 KHADIJA BARRE: Can I add something?

4 CONSTANTINE ALEXANDER: Oh, sure.

5 KHADIJA BARRE: There's also -- there's another
6 school on Middlesex. It's right on Middlesex.

7 CONSTANTINE ALEXANDER: Well, there's -- behind
8 the church?

9 KHADIJA BARRE: Yeah, so.

10 CONSTANTINE ALEXANDER: Okay. But that's not on
11 Rindge? It's down the street a bit?

12 KHADIJA BARRE: Right, but that -- people who go
13 there and the buses -- also, that's the route as well. So
14 there's kids everywhere in that whole area -- Rindge,
15 Middlesex, Rice, that whole area. It's busy, I'm not going
16 to deny that, but I can -- I just wanted to mention that.

17 BRENDAN SULLIVAN: The real problem -- Rindge
18 Avenue itself, or the street, is not necessarily the
19 problem. The main problem in that area is people coming up
20 Middlesex --

21 CONSTANTINE ALEXANDER: Yes.

22 BRENDAN SULLIVAN: -- going around, and then

1 trying to go down Cedar to get onto Mass Avenue. People
2 coming up Cedar Street, seeing this 4-way intersection, then
3 trying to loop around and then go down Middlesex to avoid
4 the light at the end of Sherman Street and so on and so
5 forth.

6 So it's this little maneuvering at that particular
7 point is where the problems are, and cars trying to jockey
8 one in front of the other -- yada, yada, so on and so forth.

9 One of the items in the participatory budget
10 proposal is flashing lights at intersections. And whether
11 or not that gets voted in or not, it should be a prime
12 candidate for a location.

13 Of course, I don't have to live across a flashing
14 light, but on the same token, I think as a safety measure,
15 stop signs: Fine. Flashing lights, people tend to pay a
16 little bit more attention to them, especially this time of
17 night at dusk.

18 So that -- it appears that jockeying around from
19 Cedar over to Middlesex, Middlesex to Cedar that causes this
20 angst.

21 CONSTANTINE ALEXANDER: But that was the comment I
22 was trying to make as well; it's not Rindge, it's --

1 BRENDAN SULLIVAN: That's correct.

2 CONSTANTINE ALEXANDER: It's crossing Rindge.

3 BRENDAN SULLIVAN: That's correct, that's correct.
4 That's exactly what it is. But anyhow, you haven't asked
5 for public comment, I mean Board comment, but I think that
6 it's a win-win. A highly regarded lady, who has a wonderful
7 business and will expand on it. It will be much nicer space
8 for the children, and it also keeps the lights on in that
9 corner.

10 Because otherwise, I think we are beset with a lot
11 of stop/go, stop/go, stop/go at that corner, because other
12 than what you're proposing -- which is a win-win for the
13 neighborhood, and will be probably long-term, I would hope.
14 Good luck.

15 CONSTANTINE ALEXANDER: And the other thing too,
16 which Sean touched on earlier, is that this building is only
17 for commercial use. It's not going to be a -- you're not
18 going to convert -- unless you tear the whole thing down and
19 build something on the corner, this is a good use for that
20 property.

21 BRENDAN SULLIVAN: It fulfills a need.

22 CONSTANTINE ALEXANDER: Yea, fulfills a need.

1 Sure. Anyway, we'll -- anyone else wishes to comment, or
2 are we ready for a vote?

3 COLLECTIVE: No, ready.

4 CONSTANTINE ALEXANDER: Okay. And by the way,
5 we're going to take a vote on the variance first, and then
6 we'll go back to the special permit. So -- okay, the Chair
7 moves that we make the following findings with regard to the
8 variance being sought: That a literal enforcement of the
9 provisions of the ordinance would involve a substantial
10 hardship, such hardship being that this is a very -- a
11 longtime commercial building, that is not suitable for a
12 conversion to residential purposes, as is the area zoned.

13 So in fact, this kind of -- this use also provides
14 a need for community, or the adjoining community in terms of
15 services for young children and parents of young children,
16 that the hardship is owing to the fact that, as I already
17 indicated, this is a building that's suited only for
18 commercial purposes, at least in my opinion, and about a
19 substantial investment.

20 And even then, it's not clear that this would be a
21 desirable residential location, given its -- we've all said
22 -- on this busy corner.

1 And that relief may be granted without substantial
2 detriment to the public good, or nullifying or substantially
3 derogating from the intent or purpose of the ordinance.

4 In fact, as we've had ample testimony, and certain
5 written commentary, the petitioner is a -- is someone who's
6 respected in the community, provides a valuable service, and
7 so, this will improve the quality of life in this area of
8 Cambridge, if we allow the day care center as proposed.

9 So on the basis of all of these, the Chair moves
10 that we grant the variance to allow the day care center to
11 operate at 156 Rindge Avenue. All those in favor, please
12 say, "Aye."

13 THE BOARD: Aye.

14 [All vote YES]

15 CONSTANTINE ALEXANDER: Five in favor, your
16 variance granted. So now let's talk to the special permit.

17 SEAN HOPE: So the special permit is due to the
18 requirement that there are three parking spaces, so a total
19 of nine, and your seven --

20 CONSTANTINE ALEXANDER: And you're going to have
21 seven in the lot?

22 SEAN HOPE: Seven on the lot, so, we're investing

1 in reduction. Part of the criteria is that traffic
2 generated or patterns in access or egress will not cause a
3 substantial change in neighborhood character.

4 JANET GREEN: They're trying to hear you a little
5 bit better in the back.

6 SEAN HOPE: That traffic or congestion would not
7 cause a substantial change in neighborhood character in
8 terms of congestion. This has been a myriad of commercial
9 uses, including a restaurant, barbershop. So I think the
10 idea that customers frequenting this site is not going to be
11 a substantial change.

12 And I believe that we have had testimony that the
13 majority of the patrons and parents will be walking there,
14 and also, the Board member did suggest possibly designating
15 a certain number of spaces for employees and customers.

16 I would ask the Board, though, to allow the
17 petitioner the flexibility to be able to manage that,
18 depending how the parking arrangements need to be met.
19 I would say, and we did discuss being sensitive to the idea
20 if parents can't park, it's not great for her business.

21 And so, I think that giving her the volume,
22 allowing the petitioner to figure out what's the best way to

1 regulate that.

2 CONSTANTINE ALEXANDER: But the parents are not
3 likely to park in the traditional sense. They're going to
4 -- it's a drop-off.

5 SEAN HOPE: That's right.

6 CONSTANTINE ALEXANDER: It's not like they're
7 going to come in and park for two and three hours and --

8 SEAN HOPE: That's right.

9 CONSTANTINE ALEXANDER: -- do their thing.

10 SEAN HOPE: It's going to be. --

11 CONSTANTINE ALEXANDER: Can you encourage your
12 employees not to park in the lot, so we get more room for
13 the drop-off of parents?

14 KHADIJA BARRE: Definitely, yeah. Definitely.

15 CONSTANTINE ALEXANDER: And the good thing is, as
16 has been pointed out, is I know that building.

17 SEAN HOPE: Yeah.

18 CONSTANTINE ALEXANDER: And there's -- you can
19 access from the parking lot off Middlesex Avenue right into
20 the building. They don't have to walk onto Rindge Avenue
21 and then walk in the front door.

22 JANET GREEN: Right.

1 CONSTANTINE ALEXANDER: And I think that's a good
2 characteristic for this building and for this project.

3 Anyone else? Go ahead.

4 JIM MONTEVERDE: Just, I just encourage you to
5 look at the -- ask your architect or planner, to look at
6 that lot, that parking lot, just looking at the drawing, I
7 can't quite figure out the scale of it, but it looks like
8 there's a way to use it.

9 Maybe -- perhaps a bit more -- just look at the --
10 relook at the plan, because it looks like we could
11 potentially get a couple more spaces in. Just check the
12 scale. It looks like there's some inefficiency in that, and
13 there's another way to use it. You may be able to get some
14 more spaces than what you already have.

15 BRENDAN SULLIVAN: You're correct. They can bunch
16 the cars up.

17 JIM MONTEVERDE: Yeah, or tandem for the
18 employees. I think there are a couple ways to organize it
19 that might work for you, to actually get more spaces.

20 CONSTANTINE ALEXANDER: It's interesting. I mean,
21 we've had a number of other day care cases. And every time
22 we're told that the staff all ride bicycles, and so, there's

1 no need for parking. I haven't heard that in your case.

2 KHADIJA BARRE: Say that again?

3 CONSTANTINE ALEXANDER: Does your staff all drive
4 to --

5 KHADIJA BARRE: My staff, they walk. No, now I
6 only have -- because it's the capacity, because it's --

7 CONSTANTINE ALEXANDER: Right. It's a new home.

8 KHADIJA BARRE: Yeah. It's just two of us. So my
9 assistant, she walks. She lives in the neighborhood. So

10 CONSTANTINE ALEXANDER: My guess is you're going
11 to have -- with the day care center, a lot of employees
12 biking.

13 KHADIJA BARRE: Biking. I have some --

14 CONSTANTINE ALEXANDER: Or walking. Not driving
15 SUVs into your parking lot.

16 KHADIJA BARRE: Not.

17 CONSTANTINE ALEXANDER: Any other comments for
18 members of the Board? I think we're ready for a vote. The
19 Chair moves with respect to the special permit for reduced
20 parking that we make the following findings: That the
21 requirement for the ordinance cannot be met unless we grant
22 the special permit; do not have a sufficient number of

1 parking spaces on site, sufficient in terms of what our
2 zoning requires.

3 That traffic generated or patterns in access or
4 egress resulting from the parking -- reduced parking -- will
5 not cause congestion, hazard, or substantial change in
6 established neighborhood character -- again, the intent is
7 that -- and the belief is that there will be not a lot of
8 use of the parking spaces by employees, and the rest of the
9 use of the parking lot will be as a drop-off place, and so,
10 it's not going to cause neighborhood congestion in terms of
11 too much parking on the streets.

12 That the continued operation or development of
13 adjacent uses, as permitted in the ordinance, will not be
14 adversely affected by what is being proposed.

15 We could -- what is it, that speaks for itself.
16 There isn't much in the way of commercial development in the
17 area, and there's a church across the street, but I don't
18 think the operation of the church will be affected by your
19 day care center and the parking issue.

20 No nuisance -- I hope not -- no nuisance or hazard
21 will be created to the detriment of the health, safety
22 and/or welfare of the occupant of the proposed use -- that's

1 you -- or the citizens of the city.

2 And that generally, what is being proposed with
3 regard to parking will not impair the integrity of the
4 district or adjoining district, or otherwise derogate the
5 intent and purpose of this ordinance.

6 So on the basis of all of these findings, the
7 Chair moves that we grant the requested special permit to
8 reduce the parking on this lot from the required nine to
9 seven parking spaces.

10 All those in favor, please say, "Aye."

11 THE BOARD: Aye.

12 [All vote YES]

13 CONSTANTINE ALEXANDER: Five in favor, special
14 permit granted. Good luck.

15 KHADIJA BARRE: Thank you.

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(7:49 p.m.)

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

CONSTANTINE ALEXANDER: The Chair will now call
Case Number 017203 -- 36 JFK Street. Anyone here wishing to
be heard? We've seen you before.

MARY TAYLOR: You've seen me before. My name is
Mary Taylor, M-a-r-y T-a-y-l-o-r. I'm the owner of Salt and
Olive, which is now located at 36 JFK Street. Thank you,
Rich. Mr. Chair and Committee members, first and foremost,
thank you for hearing our petition.

CONSTANTINE ALEXANDER: We have no choice.

MARY TAYLOR: You have no choice, but thank you
anyway. So after five years where you saw me before at our
previous location at 1160 Mass Ave, just past --

JANET GREEN: Is that five years ago?

MARY TAYLOR: Five years ago.

JANET GREEN: Wow.

MARY TAYLOR: Yeah, it's crazy, yeah.

JANET GREEN: It is.

1 MARY TAYLOR: Yeah. And then five years ago I was
2 six foot five inches, and then here we are. So after about
3 five years at our previous location, we had an opportunity
4 after a couple rent increases to move to 36 JFK Street,
5 which is located within the garage.

6 We moved into the retail and café space that was
7 previously occupied by Starbucks, and before that The Coffee
8 Connection.

9 So the space has a very rich tradition in offering
10 coffee and food for both onsite concession as well as take
11 away.

12 Upon moving into the space, we continued with a
13 very light coffee service and small bites. Since then, we
14 have upgraded the coffee equipment to a full espresso
15 program. We have installed sandwich-making equipment, et
16 cetera, et cetera and we've gone through, you know, all of
17 our permitting processes.

18 So what this process is about is seeking a special
19 permit in order for us to serve take away hot sandwiches,
20 panini, sandwiches and some salads, et cetera.

21 So to me, it seems like it's continuing what the
22 use was before, and we are only doing take away because we

1 also have a beer and wine license, which prohibits us from
2 having any seating in the space. So it has to be 100
3 percent take away, which the garage has seating rights in
4 the lobby.

5 CONSTANTINE ALEXANDER: Thank you. Any questions
6 for members of the Board at this point? I'll open the
7 matter up to public testimony. Is there anyone here --

8 JIM MONTEVERDE: Quick question. So if it's
9 really about just the -- the drawings are really not
10 pertinent?

11 MARY TAYLOR: Well, it was just --

12 JIM MONTEVERDE: It really just -- it's new
13 equipment, it's --

14 MARY TAYLOR: It's just, yeah, we were asked to
15 provide what was the previous space of what we moved in, and
16 then what it looks like now with just updated equipment.

17 JIM MONTEVERDE: Okay, understood. Thank you.

18 CONSTANTINE ALEXANDER: I'll open the matter up to
19 public testimony. Anyone here wishing to be heard?
20 Apparently not. We do have one -- we have communication
21 from the Harvard Square Advisory Committee.

22 "The Harvard Square Advisory Committee were e-

1 mailed a special permit, fast-order food establishment
2 application for 36 JFK Street, and declined to meet
3 regarding this application.

4 "Responding Committee Members stated that this
5 applicant has been in Harvard Square and has met with the
6 Committee in the past, and that this location has been used
7 for this type of use for many, many years," which supports
8 what you were saying -- that you said already.

9 So other than that, no comments from concerned
10 citizens. Close public testimony? Any questions or are we
11 ready for a vote?

12 COLLECTIVE: Ready.

13 JANET GREEN: I hope your customers follow you.

14 MARY TAYLOR: As do I.

15 JANET GREEN: As do you.

16 CONSTANTINE ALEXANDER: We're going to make a
17 whole bunch of findings, so bear with me. First of all, we
18 have to make the general findings with regard to any special
19 permit that we grant. And as you heard, we covered that for
20 example, the parking lot issue on Rindge Avenue, and then we
21 ticked them off.

22 First of all, it appears that the requirements of

1 the ordinance cannot be met unless we've mentioned a special
2 permit you're requesting. Why they have this in here is
3 beyond me. Why would you not have it? But anyway.

4 Traffic generated or patterns in access or egress
5 resulting from your new activities will not cause
6 congestion, hazard, or substantial change in established
7 neighborhood character. As you have testified, these
8 premises are within the so-called garage.

9 There are other food uses in there, and they're
10 just not going to have an impact. Hopefully, it will be
11 beneficial, in fact, with regard to the area.

12 That the continued operation or development of
13 adjacent uses, as permitted in the ordinance, will not be
14 adversely affected by what is being proposed. In this
15 regard, the Chair would note that we've received no
16 commentary or expressed opposition to what you're proposing.

17 So I assume your neighbors who are not in favor of
18 what you're doing are not opposed.

19 No nuisance or hazard will be created to the
20 detriment of the health, safety and/or welfare of the
21 occupant of the proposed use, or the citizens of the city.
22 And that assumes that nobody will get food poisoning from

1 what you propose.

2 And that what is being proposed will not impair
3 the integrity of the district or adjoining district, or
4 otherwise derogate the intent and purpose of this ordinance.

5 And then further, because it's a fast-order food
6 establishment application, we have to make some further
7 specific claims. One, that the operation of your
8 establishment will not create traffic problems, reduce
9 available parking, threaten the public safety in the streets
10 and sidewalks, or encourage or produce double parking on the
11 adjacent public streets.

12 Again, we're talking about premises within the so-
13 called garage, and it's just basically walk-in traffic from
14 people who are walking up and down JFK Street or otherwise
15 in the Harvard Square area.

16 That the physical design, including color and use
17 of materials of the establishment, shall be compatible with
18 and sensitive to the visual and physical characteristics of
19 other buildings, public places, public spaces, and uses in
20 the particular location.

21 And though we don't have any specific designs,
22 this will be like it is right now in terms of the appearance

1 of the store -- internal modifications, do you agree?

2 MARY TAYLOR: That's correct.

3 CONSTANTINE ALEXANDER: And whatever color schemes
4 and the like you have are going to be continued generally.

5 MARY TAYLOR: Yeah. And they are pics that were

6 --

7 CONSTANTINE ALEXANDER: Yeah, they're drawings we
8 have in our files. That the establishment will attract
9 patrons primarily for walking trade, as opposed to drive-in
10 or automobile-related trade. And I think that speaks for
11 itself given its location.

12 That the establishment shall to the greatest
13 extent feasible, utilize biodegradable materials in
14 packaging the food, and in the utensils and other items
15 provided for consumption thereof.

16 MARY TAYLOR: That is correct. We agreed to that,
17 yes.

18 CONSTANTINE ALEXANDER: The establishment shall
19 provide convenient, suitable and well-marked waste
20 receptacles to encourage patrons properly to dispose of all
21 package materials, utensils and other items provided with
22 the sale of food.

1 I'm going to talk to you about that. You going to
2 have any waste receptacles as a result of your sandwich
3 activities?

4 MARY TAYLOR: It won't be anything that's in
5 addition to what we generate now. We handle, you know,
6 through Trinity Properties the way all of the garage does it
7 now. But we do handle waste I think responsibly now.

8 CONSTANTINE ALEXANDER: And there are receptacles
9 outside of your premises?

10 MARY TAYLOR: Absolutely.

11 CONSTANTINE ALEXANDER: In the garage? Within the
12 garage.

13 MARY TAYLOR: Yeah, the whole garage takes
14 advantage of it. Trinity Properties manages it.

15 CONSTANTINE ALEXANDER: And lastly, that what
16 you're proposing will comply with all state and local
17 requirements applicable to ingress, egress, and use of all
18 facilities on the premises for handicapped and disabled
19 persons. And you're street-level; there's no stairs to
20 climb up and down?

21 MARY TAYLOR: There are stairs. We're on the --
22 we're technically the first level. So there's eight or so

1 steps from Dunster Street.

2 CONSTANTINE ALEXANDER: Oh, from the street.

3 Yeah, from the street, but not --

4 MARY TAYLOR: Right. JFK there's no steps. But
5 so there's -- it is successful, 100 percent.

6 CONSTANTINE ALEXANDER: Okay. That's all the
7 findings.

8 JIM MONTEVERDE: Yep.

9 CONSTANTINE ALEXANDER: So based upon all these
10 findings, are we ready for a vote?

11 COLLECTIVE: Yes.

12 CONSTANTINE ALEXANDER: The Chair moves that we
13 grant the -- very simple, the permit requested by the
14 petitioner to operate a fast-order food establishment at 36
15 JFK Street. All those in favor, please say, "Aye."

16 THE BOARD: Aye.

17 [All vote YES]

18 CONSTANTINE ALEXANDER: Five in favor. Hopefully
19 we'll see you again.

20 MARY TAYLOR: Thank you.

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1 * * * * *

2 (7:50 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Janet Green, Andrea A. Hickey,
5 Jim Monteverde

6 CONSTANTINE ALEXANDER: The Chair will call Case
7 Number 017204 -- 6 Hawthorne Park. Anyone here wish to be
8 heard on this matter?

9 SEAN HOPE: good evening Mr. Chairman. For the
10 record, Attorney Sean Hope, Hope Legal Law Offices in
11 Cambridge. Here on behalf of the petitioner, we have Mrs.
12 Rebecca Krauss O'Hara, and we also have Project Architect --
13 and I'm not going to try to attempt his name.

14 MARKUS VON ZABERN: Markus von Zabern, M-a-r-k-u-s
15 v-o-n Z-a-b-e-r-n.

16 SEAN HOPE: Yes. So this is an application
17 requesting variance relief. This is a two-fam dwelling in a
18 Res B district on Hawthorne Park. And the petitioner lives
19 on the second floor. Presently, right now all the living
20 spaces on that one floor, there is an attic space on a
21 pitched roof.

22 And so, the proposal, like, the Board is maybe

1 seeing other families looking to expand, to try to activate
2 that added floor for bedroom, so that the primary main
3 living level can be used for open floor plan, kitchen,
4 living and dining area.

5 The way the condo is structured, it's such that
6 even when you create living space on the third floor and we
7 have a series of dormers to do that, it's not possible to
8 create an internal stair to be able to get internally to the
9 exterior, based on how the condo is structured.

10 So part of the relief is requesting a spiral
11 staircase that is located in the side yard setback.

12 CONSTANTINE ALEXANDER: That's puzzles me. I
13 mean, why can't you do it internally? I mean, it may be
14 expensive, or maybe takes away your living space on the
15 first floor, but your spiral staircase is going to intrude
16 into the side yard setback?

17 SEAN HOPE: That's right.

18 CONSTANTINE ALEXANDER: That's additional relief
19 beyond the relief you're seeking for the dormers. So --

20 SEAN HOPE: Definitely. That was also thought
21 through, and we did go seek the highest deed, because when
22 we were taking maybe an existing condition where you're

1 access and egress are internal, when you're making an
2 external, there's always a question about that. So we did
3 think about that.

4 Maybe because this is a design and also a condo
5 issue, do you want to speak to that, in terms of --

6 REBECCA O'HARA: Hi, I'm Rebecca O'Hara, O --
7 apostrophe -- H-a-r-a. I reside at 6 Hawthorne Park, and
8 the need for the external stair has to do with -- the
9 internal stair currently goes to the exits on the rear deck
10 of the first floor.

11 So if we were to use that as an egress, it would
12 be obviously for emergency purposes only, as it would only
13 go to the rear deck, and not to the yard or the -- you know,
14 outside the actual structure of the building.

15 So we thought an external stair would actually
16 give us easier access to both the exterior of the house as
17 well as, you know, save some internal space that is
18 otherwise used for emergency egress only.

19 CONSTANTINE ALEXANDER: This Board, particularly
20 one member of this Board, is very sensitive to the notion of
21 taking interior space and pushing it outside, with the view
22 to getting more room, and also, -- but the outside stairs

1 intrude upon your neighbors, obviously, particularly if it's
2 through a side yard setback. That's -- to me, it's
3 troublesome.

4 I don't want to say it's defeat -- it's going to
5 -- me I'm going to vote against it, but I'm not happy with
6 that kind of solution.

7 REBECCA O'HARA: Mm-hm. I will say -- and I
8 completely understand that, the side yard that we're
9 speaking of is, as you're saying, a small setback. It does
10 not even meet completely the setback requirement I believe,
11 at least not to the existing fence line.

12 And it is a ramble of shrubs at the moment. It is
13 not in any way -- and it abuts the neighbors' driveway, and
14 their external stairs as well.

15 So this was actually in the physical -- you know,
16 the view would sort of mirror their stairs.

17 ANDREA HICKEY: Have you talked to those neighbors
18 about your proposal?

19 REBECCA O'HARA: Absolutely, yes.

20 ANDREA HICKEY: And what was their reaction?

21 REBECCA O'HARA: Oh, they're in high favor for it.
22 Both the upstairs -- that was a two-family condo unit. The

1 upstairs neighbors, who have the external stairs, it's a
2 fantastic idea. It made a world of difference for them.

3 ANDREA HICKEY: Do they have a spiral staircase?

4 REBECCA O'HARA: They actually have a straight
5 staircase. The spiral staircase was proposed because we
6 didn't want to cross the window that is off the kitchen of
7 the downstairs neighbors.

8 I have since spoken with them, and they actually
9 said, "Actually, you know, maybe a straight stair is
10 better." They were less nervous about crossing that window
11 than I was. So that was why we proposed the spiral, to
12 hopefully appease them, which turned out to not be
13 necessary.

14 The downstairs neighbor of the home to that side
15 of my home is also in favor of this, and he's been
16 supportive.

17 ANDREA HICKEY: So there are two units on that
18 side, in that neighboring building?

19 REBECCA O'HARA: Correct.

20 ANDREA HICKEY: And both of them have not
21 expressed to you any concerns?

22 REBECCA O'HARA: No, in fact, I don't know if it

1 was passed through, but at least one of them e-mailed a
2 letter of support, and I had a signed letter from the
3 upstairs neighbor that I don't know if it made it into the
4 file. But anyway, I had someone sign the letters of
5 support.

6 ANDREA HICKEY: Okay, great, thank you.

7 REBECCA O'HARA: You're welcome.

8 CONSTANTINE ALEXANDER: Yeah, we do have some
9 letters of support, which I'm going to read into the record
10 at the proper time. Any other questions or comments from
11 members of the Board at this point?

12 JANET GREEN: I just have a question. In general,
13 do you -- would you prefer to have the straight stair to the
14 circular stair, and that was just a last-minute attempt to
15 get it to work, and then you found out it doesn't
16 necessarily the best -- your neighbor had no feelings about
17 it?

18 SEAN HOPE: Correct.

19 JANET GREEN: I wondered what your perspective was
20 about that.

21 REBECCA O'HARA: Sure. We consider it an
22 emergency egress, honestly, the external stair either way.

1 From a maintenance standpoint, I think perhaps a straight
2 stair would be more --

3 CONSTANTINE ALEXANDER: Your spiral stair is going
4 to be metal, right?

5 REBECCA O'HARA: Presumably, yes.

6 CONSTANTINE ALEXANDER: And if a straight stair
7 could be wood or match the exterior of your building --

8 REBECCA O'HARA: Sure. And that would be
9 perfectly fine as well.

10 SEAN HOPE: I would only comment that I think due
11 to the requirements of the rising run of those stairs, it
12 would eat up a lot more of that side yard. So it may be
13 preferable, I just think the impact, if we did through a
14 legal exit stair, it would probably block a window, but it
15 would also take a lot more of that side yard.

16 And so, the consolidation of a spiral staircase is
17 probably more efficient aesthetically, to the Chair's point.
18 But also in terms of maintenance, you know, wood stairs in
19 New England, I mean that -- so, I do think that outside of
20 being in the side yard setback.

21 I can see people preferring a more consolidated
22 stair for efficiencies, but I can also see if it weren't

1 along the side yard to the rear yard, oftentimes that's when
2 you see these stairs, they go off to the rear yard.

3 And so, I think because that's not possible in
4 this way, I think there was a rationale for it.

5 BRENDAN SULLIVAN: I've always found that all
6 these cases that come down to us, and I'm the so-named
7 number who sort of objects to these, because what really
8 drives a staircase going to the outside is an architect who
9 -- not to cast aspersions on you -- is to say, you know, we
10 could gain so much more room in this kitchen at better
11 layout if it wasn't for that darned staircase.

12 So let's push that staircase outside, so we can
13 capture more interior space. And that's really, I think
14 what drives this whole thing, is -- you know -- pushing this
15 thing outside. But then what that does is it imposes what
16 is normally interior space onto your neighbors. And I think
17 there is an alternative. But anyhow, that's my view on
18 that.

19 On the proposed third-floor level, you have a
20 dormer of 11 foot two inches?

21 MARKUS VON ZABERN: Which one?

22 BRENDAN SULLIVAN: On the third-floor level, there

1 are two dormers?

2 MARKUS VON ZABERN: Yes. Oh, the width of the
3 dormers?

4 JANET GREEN: Yes. That's what he's asking.

5 CONSTANTINE ALEXANDER: Yeah.

6 MARKUS VON ZABERN: Right, okay.

7 JANET GREEN: The link.

8 BRENDAN SULLIVAN: Our dormer guidelines call for
9 not to exceed 15 foot, or a combination up to 15 feet. So
10 you're at 17 foot, you're at 18 feet on those two dormers.
11 And I notice in that one bathroom which is 11 foot two, am I
12 reading this that that is a bathtub and a shower combo?

13 MARKUS VON ZABERN: Yes, yeah.

14 BRENDAN SULLIVAN: Is that really necessary to
15 have, as opposed to just a shower to reduce the size of
16 that? I mean, it seems like gilding the lily a bit, that's
17 all.

18 MARKUS VON ZABERN: Right.

19 SEAN HOPE: Is there -- we -- you know, the 15
20 feet is per side, right? So we did -- you know, so when we
21 looked at the this, we were cognizant of the dormer
22 guidelines, and I think there was about meeting the needs of

1 the petitioner.

2 But we also looked at the context of the
3 neighborhood. If you drive down that street, we had lots of
4 photos in the file. You see much larger dormers all
5 throughout Hawthorne Street on some of these existing two-
6 family dwellings.

7 So we were cognizant of the dormer guidelines -- I
8 did express it to the architect. So the one door was for
9 the stairs. And those are the dormers that could be the
10 most consolidated.

11 And then we did, really, the dormer for the head
12 height and living space in the house. Never in our
13 conversation really came up about the shower/bath combo, but
14 we did recognize what the space we would need to do that,
15 and I think this was what we felt was a compromise. I don't
16 remember -- I mean if we thought about the bathroom in
17 particular.

18 REBECCA O'HARA: To the point, yes. Again, we did
19 -- we were very cognizant of the dormer guidelines. We
20 tried many configurations to accommodate the family needs we
21 have for this level, and the bathroom is considered, you
22 know, larger than an average basic three-piece bathroom. It

1 is, however, a master bathroom in the context of a
2 neighborhood where other master baths are this size in
3 nature.

4 So we were trying to sort of be within the context
5 of the neighborhood. There's a number of homes that have
6 added dormers recently with a similar general layout or
7 general, you know, scope of living space that we were trying
8 to match.

9 CONSTANTINE ALEXANDER: The dormer guidelines --
10 if there were dormers, they were filled before the dormer
11 guidelines came along, and they don't comply with the guides
12 as they were written, that's how it is.

13 REBECCA O'HARA: Yes.

14 CONSTANTINE ALEXANDER: Similarly, if someone
15 wants to add a dormer, and then not otherwise need zoning
16 relief -- they have enough FAR, or whatever setbacks -- they
17 don't have to comply with the dormer guidelines.

18 But what the Community Development Department has
19 said is that if someone does need zoning relief, we want
20 them -- we don't require it, but we urge that the dormer
21 guideline be applied to minimize the impact -- the aesthetic
22 impact, presumably, on the neighborhood.

1 So I hear you, and I don't know that really
2 addresses the points that Mr. Sullivan has raised.

3 And I too -- I've got to tell you, I'm here all
4 for this -- not the dormers -- that's a problem for me, but
5 I don't like spiral staircases. You would put wooden stairs
6 there. Yes, it'll intrude into the side yards, but that's
7 the price you pay if you want external -- if you want to
8 move a stairway from the inside to outside.

9 So I'm not troubled by the plans generally, both
10 by the design of the dormers, and the nature of these side
11 yard setback, the external staircase. I don't know how
12 other members feel?

13 JANET GREEN: I'd like to speak to the question
14 about the shower bath and the bathtub. I don't find that
15 excessive at all. If someone else moved in and had little
16 children, they would need to have something like that. I
17 just don't think that it's excessive to have a shower
18 bathroom, and to put it in plans for a new bathroom right
19 now.

20 I also don't feel against the circular stair,
21 especially where it's going to be used as an emergency exit.
22 It's not something that's going to be used on a daily basis.

1 I think I might feel differently about it, if it were that
2 case.

3 And so, noting that your neighbors had no
4 objection to it, and they're the ones that will be looking
5 at it. So that's my thoughts about your plan.

6 ANDREA HICKEY: I just have a couple of quick
7 things. I think the use of the spiral staircase in an
8 emergency situation really doesn't make sense to me. If you
9 were fleeing a building on fire, I think you'd want a
10 straight away, and not a slippery, perhaps icy, round-about
11 way down.

12 I feel pretty strongly about moving indoor stairs
13 outdoors for convenience. I'm not at this moment in favor
14 of the moving of the stairway. And I also feel very
15 strongly about dormers being within our guidelines.

16 And I think -- I don't mean to speak for Mr.
17 Sullivan, but I think the question about whether a bathroom
18 could be scaled down a bit was with the idea that that might
19 allow that dormer to be within the guidelines.

20 BRENDAN SULLIVAN: I think you spoke very well for
21 me.

22 CONSTANTINE ALEXANDER: Took the words right out

1 of your mouth, right?

2 ANDREA HICKEY: Thank you. So I have concerns
3 about both requests. And from my perspective, I think the
4 concepts need to be rethought.

5 CONSTANTINE ALEXANDER: Do you want to add, or no?

6 JIM MONTEVERDE: Well, you've got the vote total,
7 so --

8 CONSTANTINE ALEXANDER: Yeah, my view is this, is
9 that you've got to get -- I think you've heard support for
10 affirmative relief of what you want in the big picture.
11 You've got to go back to the drawing board, to the design
12 room. The external staircase I think you're not hearing --
13 you're hearing it's not going to work.

14 The dormer needs to be reconfigured, and if you
15 bring back new plans with some of these issues addresses, I
16 think the chances of getting favorable relief are very good.
17 But tonight --

18 JANET GREEN: Can I ask a question? Are you
19 talking about the circular staircase in particular, or any
20 outside staircase?

21 CONSTANTINE ALEXANDER: I'm -- certainly -- well,
22 if we're going to have outside -- I'm not happy with outside

1 staircases. If we're going to have it, I don't want a
2 spiral staircase.

3 JANET GREEN: That's exactly my sentiment as well.

4 CONSTANTINE ALEXANDER: Yeah.

5 JANET GREEN: I could probably live with it, but I
6 don't see a spiral as an emergency --

7 CONSTANTINE ALEXANDER: Right.

8 JANET GREEN: -- exit conceptually.

9 CONSTANTINE ALEXANDER: And we can talk about
10 emergency exit all we want. It'll get used, and not in
11 emergency situations.

12 REBECCA O'HARA: I just want to -- if I may --

13 CONSTANTINE ALEXANDER: No, go ahead.

14 REBECCA O'HARA: -- clarify one point. So because
15 of the way the condo is structured, I have no access --
16 well, I have no use of the basement, other than to pass
17 through for my utilities. And have no use of the exterior
18 yard.

19 So I just -- to that point, the internal staircase
20 is, again, used as exclusively an emergency exit in my case,
21 because I can't go to the basement with it. And then also
22 the exterior yard is -- to your question or point, that it

1 might be used on a daily basis, I have no use of the outside
2 space.

3 So it will not be used, except as an emergency
4 exit. That's part of the agreement with the downstairs
5 neighbors, who do have the right to the yard, and them
6 permitting me to put this in the side yard, in part because
7 it's a space they do not use at all, and it is a space that
8 they -- you know, and they're very happy to have us there,
9 and to, you know, find a way to accommodate our needs
10 upstairs.

11 So to those points.

12 BRENDAN SULLIVAN: When this is all said and done,
13 you will have three -- two bedrooms?

14 REBECCA O'HARA: Conceivably three bedrooms. It's
15 really meant to be two bedrooms and an office, very small.

16 BRENDAN SULLIVAN: And so, you piqued my interest,
17 when you mentioned having a bathtub. So there's a two-
18 bedroom unit with three bathrooms? And three bathtubs
19 proposed. So the need for a bathroom tub, a bathtub, I
20 think has been satisfied. That dormer up there with that
21 bathroom at 11:42 I think can be scaled back, that's all.

22 CONSTANTINE ALEXANDER: Am I right? Because I

1 think the sense of the Board is, we need to continue this
2 case and give the petitioner time to redesign?

3 MARKUS VON ZABERN: Can I make a point about the
4 stair? Just a point about the stair? Briefly mention very
5 shortly -- the existing egress stair passes through the
6 porch of the downstairs unit.

7 From an egress point of view it's not ideal,
8 because the downstairs tenant could for instance put a couch
9 in front of the door or furniture, you know, without Becky
10 controlling that. So that's an argument for putting the
11 stair outside of the building.

12 CONSTANTINE ALEXANDER: I think what you're
13 hearing, sir, is that -- maybe with some reluctance --
14 there's no objection to the outside stair.

15 MARKUS VON ZABERN: Yeah.

16 CONSTANTINE ALEXANDER: But it is the nature of
17 the stair --

18 MARKUS VON ZABERN: Yeah.

19 CONSTANTINE ALEXANDER: -- that's causing some of
20 us grief.

21 MARKUS VON ZABERN: Right. The -- just two more
22 points. One, so if it's the aesthetics of a round stair

1 that is foreign to the neighborhood -- that's what I'm
2 hearing -- from a code point of view, the spiral stair,
3 because it can be 26 inches instead of 35, 36 wide, it's
4 allowed to be 10 inches, you know, the run -- and because of
5 the way it's stacked, it can -- it uses up less space,
6 significantly less space than a run of stair.

7 So that's just one argument for the spiral stair
8 -- maybe not aesthetically, but just the space used by a
9 spiral stair is less.

10 And from an ice point of view, we can use a metal
11 grate treads, so snow can fall through instead of
12 accumulating on the treads.

13 SEAN HOPE: Just a last point, we're definitely
14 going to go back to the drawing board and take the Board's
15 comments. As we were talking about the dormers, something
16 triggered to me. Part of the reason why we looked at the
17 that 11 two and thought programmatically that might be
18 important I grant was the location of that dormer.

19 When you look at the dormer guidelines, there is
20 also an aesthetic quality to do you want to see certain
21 housing types income. If you look down the street, and
22 these are presong, there's some really larger dormers that

1 are at the front of the property. So you've changed the
2 whole aesthetic. This dormer, this 11' 2" dormer, is
3 actually in the rear.

4 And so, the idea is, you know, there is the
5 dimension, and we are looking at dimensions. But in terms
6 of the impact on the street, in terms of the visual impact,
7 we internally -- and maybe we convinced ourselves that it
8 was as if a good argument, that it wasn't going to impose or
9 be -- you know, this size, this massing, wasn't going to be
10 in the street.

11 Frankly, based on the house, you're not going to
12 see everyone standing in front of the house. So that was
13 one of the reasons why we thought that this was a larger
14 dormer, and the benefit was the stair was closer to the
15 front.

16 Again, we're hearing from the Board, understanding
17 the dormer guidelines and taking Mr. Sullivan's point that
18 we may be able to consolidate to bring the dormers in closer
19 to conformance.

20 I would say, though, that part of the spiral stair
21 is the aesthetic quality. But there are ways in which you
22 can make those grades and treads safe. I'm not sure that

1 open wood stairs are always going to be more safe and
2 functional than what we're proposing -- you could slip down
3 a long flight of stairs.

4 But I think the petitioner stated that it wasn't
5 -- a spiral staircase, it wasn't necessarily her preferred,
6 that she did it to appease some downstairs neighbors and
7 blocking windows, and it sounds like they may be amenable to
8 a different type of stair. So I think for those reasons, I
9 think that some time would allow us to improve the plan in a
10 way that's more fitting.

11 CONSTANTINE ALEXANDER: And that's what we're
12 working on as well. As he indicated, I have signaled to you
13 maybe inappropriately, that we're sympathetic to the relief
14 -- basic relief you're looking for. We just think this is
15 not the best set of plans to effect that relief. So --

16 BRENDAN SULLIVAN: I think your point on impact of
17 that dormer is a fair one, and you may very well relook it
18 over and come back with the same plan.

19 CONSTANTINE ALEXANDER: Yeah. Exactly.

20 BRENDAN SULLIVAN: And that's fine. But we're
21 just asking that you relook at it, that's all.

22 CONSTANTINE ALEXANDER: Okay, we have -- as you

1 know, we have to continue this case -- we don't have to --
2 if we continue this case, we have to do it at a time when
3 all five of us can be present.

4 And so, I don't know -- first of all, first -- how
5 much time -- let's start with you. How much time do you
6 think you need? We're not -- we have a meeting next week.

7 SEAN HOPE: Okay.

8 CONSTANTINE ALEXANDER: And then we don't have a
9 meeting until January. And I can't make the first January,
10 which is January 9. So January 30 would be the -- right?

11 MARIA PACHECO: We have four continuances.

12 CONSTANTINE ALEXANDER: Oh, that's right. That's
13 a big night.

14 JANET GREEN: So we're not meeting on the December
15 19? Okay.

16 MARIA PACHECO: Next week we are.

17 JANET GREEN: Yeah. Okay.

18 CONSTANTINE ALEXANDER: So nothing is January 30,
19 then?

20 MARIA PACHECO: January 30 we have four continued
21 cases.

22 CONSTANTINE ALEXANDER: I'm sorry, I meant --

1 you're right.

2 MARIA PACHECO: February 13.

3 CONSTANTINE ALEXANDER: February 13?

4 BRENDAN SULLIVAN: I'm not here.

5 CONSTANTINE ALEXANDER: You're not here.

6 SEAN HOPE: So the petitioner is saying that they
7 thought they could work quickly if there was an appetite to
8 have us at the next hearing in December, as opposed to --

9 CONSTANTINE ALEXANDER: Next one is next week.

10 JIM MONTEVERDE: You've got to advertise, and all
11 that.

12 CONSTANTINE ALEXANDER: Yeah, this is odd, because
13 of the Christmas holiday. So you can't do it next week?

14 SEAN HOPE: Well, is it just to revise plans?

15 MARIA PACHECO: He doesn't have to advertise.

16 [Crosstalk]

17 SEAN HOPE: There's not an advertising
18 requirement, we have to just change the sign.

19 JIM MONTEVERDE: Would you like to just adjourn
20 for an hour and a half? We're still going to be here for a
21 while. Do what you want to do and come back. I mean --

22 CONSTANTINE ALEXANDER: Can you redesign it in

1 time? I mean --

2 JIM MONTEVERDE: Or is that -- you've advertised
3 certain plans that are public, is that the rule.

4 CONSTANTINE ALEXANDER: That's not a problem. No,
5 we've done that before. But --

6 JIM MONTEVERDE: Did you want to do that?

7 REBECCA O'HARA: Absolutely.

8 CONSTANTINE ALEXANDER: Well, I don't know how --
9 we'll be here for another hour, hopefully.

10 BRENDAN SULLIVAN: Try it, come back. You may
11 come back and say we need to kick it forward or something --

12 JIM MONTEVERDE: Right, exactly.

13 BRENDAN SULLIVAN: -- but at least this gives you
14 the opportunity to talk among yourselves.

15 CONSTANTINE ALEXANDER: There's a room back there
16 you can use.

17 JANET GREEN: And if they were going to kick it
18 forward, where would it go?

19 BRENDAN SULLIVAN: Well, into March, I think.

20 JANET GREEN: I'm not here in March.

21 CONSTANTINE ALEXANDER: Oh, God.

22 JIM MONTEVERDE: Okay.

1 REBECCA O'HARA: We'll be back in an hour.

2 CONSTANTINE ALEXANDER: We've kicked it forward
3 before.

4 REBECCA O'HARA: Oh, that's true. Okay. Well,
5 regardless we'll --

6 CONSTANTINE ALEXANDER: Even though the odds are
7 not as great, but you've also got an expression of approval
8 from us tonight, so the basic risk is not there, in my view
9 anyway. Anyways, do you want to --

10 SEAN HOPE: Yes, we'll take a minute and come
11 back.

12 CONSTANTINE ALEXANDER: We'll recess this case.

13 SEAN HOPE: Yes.

14 CONSTANTINE ALEXANDER: Move onto our other cases,
15 and then when you're ready to come back or we'll let you
16 know we're ready to go.

17 MARKUS VON ZABERN: Is one of the things we're
18 looking at is getting rid of the spiral nature of the stair?

19 JANET GREEN: Yes.

20 CONSTANTINE ALEXANDER: I think we should get rid
21 of it, but --

22 SEAN HOPE: That's fine.

1 CONSTANTINE ALEXANDER: -- I'm only one person,
2 so.

3 SEAN HOPE: Okay. Yes.

4 REBECCA O'HARA: Thank you.

5 CONSTANTINE ALEXANDER: Thank you. Sean, you're
6 going to have to come back for another case.

7 JANET GREEN: Sean, you're next.

8 CONSTANTINE ALEXANDER: Yes, you're going to have
9 to leave them.

10 [Crosstalk]

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2 (8:24 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Janet Green, Andrea A. Hickey,
5 Jim Monteverde

6 CONSTANTINE ALEXANDER: The Chair will call Case
7 Number 017206 -- 25-27 Berkshire Street. Let me explain to
8 you why, and this is my opinion, we're not ready to hear
9 this case tonight. You want two forms of relief. You want
10 to rebuild a house that burned down, and that's
11 straightforward. You want to split the lot. I guess they
12 must have merged over the years? One person acquired two
13 joining lots, right?

14 SEAN HOPE: Yes.

15 CONSTANTINE ALEXANDER: Okay. The trouble is,
16 when we have cases that split a lot, like you're proposing,
17 we need better -- we need plans that we don't have. So we
18 need a drawing with dimensions showing the two lots, and the
19 structures on the two lots to see whether further zoning
20 relief is required.

21 SEAN HOPE: I understand.

22 CONSTANTINE ALEXANDER: I suspect when you want to

1 divide this lot, you're going to have a problem with one of
2 the lots being too -- one of the buildings on the lots being
3 too close to the lot line. And that's not been advertised.

4 SEAN HOPE: Yes. So one of the -- and
5 respectfully for the Board, understanding that there were
6 some deficiencies in the file in terms of the submission, we
7 are preparing -- we want to withdraw the request for the
8 subdivision, as we talked internally.

9 CONSTANTINE ALEXANDER: Oh, okay.

10 SEAN HOPE: And we also thought about the merger
11 issue, I think there -- it's the tail wagging the dog. I
12 think when we look closer at what would be the result of the
13 subdivision, we would have some very nonconforming sized-
14 lots.

15 CONSTANTINE ALEXANDER: Exactly.

16 SEAN HOPE: We talked to the petitioner, and also
17 being aware of the hardship that is necessary to prove that,
18 and some of the -- I explained to him that history of the
19 Board in that.

20 So I think the primary goal is that there was a
21 multifamily structure that was destroyed by fire, we need to
22 rebuild that. There are other mechanisms via condo,

1 different ways to effectuate if you wanted to somehow --

2 CONSTANTINE ALEXANDER: Exactly.

3 SEAN HOPE: Right. So I think we would like to
4 withdraw the subdivision variance.

5 CONSTANTINE ALEXANDER: Okay. But let's not do it
6 right now. You need to be back here helping the other folks
7 out. So I'm going to recess this case. We'll go to their
8 other cases, and then you can come back and we can take a
9 formal vote on the withdrawal.

10 ANDREA HICKEY: Why can we not do this now?

11 CONSTANTINE ALEXANDER: I guess we can do the
12 action right now.

13 JIM MONTEVERDE: Yeah.

14 SEAN HOPE: Right.

15 CONSTANTINE ALEXANDER: All right. But then
16 you've got to come back for the other part of the case,
17 which is rebuilding the three-family house. I'm very happy
18 to take the case now, but I'm not --

19 ANDREA HICKEY: I'm sorry, I didn't -- I
20 understand now.

21 SEAN HOPE: Now I'm --

22 CONSTANTINE ALEXANDER: Yeah, I think they may

1 need your help --

2 SEAN HOPE: Well, understood. So we withdrew this
3 portion, I can go back there, and then we would come back
4 and we would focus on the variance --

5 ANDREA HICKEY: You still want to proceed with the
6 variance part tonight?

7 SEAN HOPE: Yes.

8 ANDREA HICKEY: Okay.

9 CONSTANTINE ALEXANDER: We don't have to have to
10 put any vote right now. I don't have to vote. Just go back
11 there, come back and we'll vote on -- you can withdraw on
12 your subdividing the lot --

13 SEAN HOPE: Yeah.

14 CONSTANTINE ALEXANDER: -- and we'll hear on the
15 merits the rebuilding of the construction.

16 SEAN HOPE: Understood. And was there a case
17 scheduled between the 6 Hawthorne and this case?

18 CONSTANTINE ALEXANDER: I've got a couple of the
19 Telecom cases, and one Russell Street case. So there are
20 three cases scheduled after this case.

21 SEAN HOPE: Okay. And just for the benefit of the
22 petitioner, so I'm going to -- we're going to recess, I'm

1 going to go back there, and then when we're ready will we
2 call this case first? I just want to --

3 CONSTANTINE ALEXANDER: Sure.

4 SEAN HOPE: Okay. Just wanted him to understand
5 the process.

6 CONSTANTINE ALEXANDER: Okay.

7 SEAN HOPE: Okay. We'll do that.

8 CONSTANTINE ALEXANDER: Thank you.

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2 (8:27 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Janet Green, Andrea A. Hickey,
5 Jim Monteverde

6 CONSTANTINE ALEXANDER: The Chair will now call
7 Case Number 017 -- let me find it -- 208 -- 599 Mass Ave,
8 605 Mass Ave and 2-12 Essex Street.

9 TIMOTHY TWARDOWSKI: Good evening Mr. Chairman and
10 members of the Board. My name is Tim Twardowski. I'm an
11 attorney with Robinson & Cole in Boston, here representing
12 the applicant, Verizon Wireless. I have extra copies of the
13 photo sims and site plans if that would help the Board in
14 review.

15 CONSTANTINE ALEXANDER: I have the file copy.

16 TIMOTHY TWARDOWSKI: Okay. Just to give a quick
17 recap, this is a proposal to upgrade an existing wireless
18 facility at 599-605 Mass Ave. Currently, it's comprised of
19 three antenna arrays, each consisting of four antennas. The
20 proposal for this evening is to replace all 12 antennas, a
21 one for one swap at each of the three antenna arrays.

22 In addition, the proposal is to add radio heads

1 and junction boxes, two of each, to accompany each of the
2 three arrays.

3 For the two sectors that are affronting Mass Ave
4 -- and if you want to look at the photo sims, these would be
5 -- I'll look first at what's referred to in the site plans
6 as the gamma array.

7 And these are on pages 3 and 4 of the photo sims.
8 Page 3 shows the actual existing conditions, and then page 4
9 shows the proposed view.

10 In this view, you'll note that you can only see
11 two of the four antennas, and they're located on that dark
12 grey bump out for the --

13 CONSTANTINE ALEXANDER: It's impossible to see.

14 TIMOTHY TWARDOWSKI: Yes, they are. And so, the
15 proposal here would be to replace those two antennas plus
16 two additional that can't be seen in the photo sims.

17 The remote radio heads and junction boxes would be
18 mounted on a ballast frame set back behind the parapet --
19 again, not visible from the street view, so not shown in
20 this particular photo sim.

21 The second array shown on pages 5 and 6 in the
22 photo sims -- this is referred to as the data sector on the

1 site plan. You'll see the actual view on page 5. You can
2 see all four antennas. There's actually two just kind of to
3 the left of that raised area of the roof, and then two more
4 to the right, I guess which would be the woman's headdress.

5 On page 6, you can see we're proposing to replace
6 all four of those antennas, and we've also lowered the
7 height of those antennas. Current ones do rake the cornice
8 line to some extent, when viewed from the street level, so
9 we've lowered them to addressed at that -- that particular
10 issue.

11 CONSTANTINE ALEXANDER: That's the issue the
12 Planning Board raised?

13 TIMOTHY TWARDOWSKI: That's correct, that's
14 correct. We did receive a letter from planning staff. The
15 Planning Board declined to review the application --

16 CONSTANTINE ALEXANDER: Yep.

17 TIMOTHY TWARDOWSKI: -- but we did receive --

18 CONSTANTINE ALEXANDER: Exactly --

19 TIMOTHY TWARDOWSKI: -- comments.

20 CONSTANTINE ALEXANDER: Right.

21 TIMOTHY TWARDOWSKI: Last --

22 JANET GREEN: It's a little hard to see --

1 CONSTANTINE ALEXANDER: I know. I couldn't see -

2 -.

3 JANET GREEN: -- the, on page 6 --

4 TIMOTHY TWARDOWSKI: Right.

5 JANET GREEN: It's a little hard to see when you
6 lowered them, I see where they're not over the parapet.

7 TIMOTHY TWARDOWSKI: Mm-hm.

8 JANET GREEN: Do they go into the mural?

9 TIMOTHY TWARDOWSKI: Well, yes --

10 JANET GREEN: Because you can't see it from the
11 picture.

12 TIMOTHY TWARDOWSKI: The mural covers the entire
13 façade of that particular wall. So the proposal in this
14 particular case, we know typically, you know, the Board
15 doesn't prefer to have any types of patterns painted onto
16 the antennas.

17 In this case, given the size and the various
18 colors and the mural, we thought it made sense, given the
19 current condition, it's essentially painted to match the
20 mural. And the proposal for this -- the replacement
21 antennas -- would be to do the same.

22 JANET GREEN: It's a little bit better, but not

1 too much. Let's see --

2 CONSTANTINE ALEXANDER: Isn't there any --
3 preliminary plans?

4 TIMOTHY TWARDOWSKI: Yes, we have. Did you
5 receive copies of the plans?

6 CONSTANTINE ALEXANDER: I don't see it.

7 TIMOTHY TWARDOWSKI: I circulated the copies.
8 Yeah. So you can see -- and actually for this, the last of
9 the antenna arrays, alpha sector, so just to orient the
10 Board, this is Mass Ave here. So here's the front of the
11 building; gamma and beta sectors, which we just looked at on
12 the photo sims.

13 The last of the three arrays is currently located
14 on what I'll refer to as the original building. It's on an
15 equipment shelter, we've also got the exterior wall. With
16 this new building, that was recently -- and I guess still to
17 some extent under construction, I believe it's five stories
18 tall, so it's actually blocking this antenna.

19 So the proposal is to move this antenna array
20 here. There's an existing rooftop penthouse, which is shown
21 in pages seven and eight of the photo sims, and those will
22 be mounted inside of a fiberglass enclosure, which will be

1 painted to match the existing penthouse.

2 So as you will see in looking at -- if you compare
3 the actual view in page 7 of the photo sims versus page 8,
4 the only real difference is that it's been extended a little
5 bit with this fiberglass enclosure, which would enclose all
6 of the antennas as well as the remote radio heads and the
7 junction boxes.

8 And again, that would be painted to match the
9 existing rooftop penthouse.

10 All of the special permit criteria, and also, the
11 Section 6409 criteria are addressed in the written
12 materials. I won't take up the Board's time going over
13 those, unless you have questions. Otherwise, I'll accept
14 any questions from the Board.

15 CONSTANTINE ALEXANDER: Anybody have any
16 questions? I'll open the matter up to public testimony.
17 Anyone here wishing to be heard on this matter? No one
18 wishes to be heard? We did hear from the staff of the
19 Planning Board, as you indicated. Somewhere it's buried in
20 here. And just read that into the record, that's all.

21 TIMOTHY TWARDOWSKI: I have it.

22 CONSTANTINE ALEXANDER: Thank you. It's from the

1 memo, actually. It's from the Community Development staff
2 to the Planning Board.

3 And with regard to this petition, "The updating of
4 the site at Mass Ave and Essex Street addresses issues
5 regarding visual clutter. The rooftop structure addition
6 will screen the antenna facing the residential neighborhood.
7 The antenna on Mass Ave should be installed below the roof
8 line's parapet to not break the façade line and minimize the
9 appearance on the street," and you've indicated that's been
10 done on the plan -- you made that?

11 TIMOTHY TWARDOWSKI: That's correct.

12 CONSTANTINE ALEXANDER: It's reflected in the
13 photo simulations?

14 TIMOTHY TWARDOWSKI: It is.

15 CONSTANTINE ALEXANDER: And that's all they wrote
16 with regard to this at least. Questions from members of the
17 Board? I'll open the matter up to public testimony.

18 Anybody here wishing to be heard on this matter? No, and as
19 I indicated, only the Planning Board has commented in
20 writing. So I'll close public testimony. Ready for a vote?

21 COLLECTIVE: Mm-hm.

22 CONSTANTINE ALEXANDER: This is the usual drill.

1 Okay, let's talk about the general conditions for a special
2 permit: That the requirements of the ordinance cannot be
3 met unless we grant the relief that's being sought.

4 That traffic generated or patterns in access or
5 egress resulting from what is proposed will not cause
6 congestion, hazard, or substantial change in established
7 neighborhood character. Again, we're talking about
8 telecommunications equipment, just updating of those. And
9 so, whatever impact has occurred before, it's not going to
10 be increased. In fact, it will be ameliorated by what is
11 proposed.

12 That the continued operation or development of
13 adjacent uses, as permitted in the ordinance, will not be
14 adversely affected by what is proposed. Again, we have --
15 if this is not a de novo situation, we have -- our
16 neighborhood has had the experience of dealing with the
17 antennas -- the telecom antennas on these buildings, and no
18 one has had a problem.

19 No nuisance or hazard will be created to the
20 detriment of the health, safety and/or welfare of the
21 occupant of the proposed use, or the citizens of the city.
22 And generally, what is being proposed will not impair the

1 integrity of the district or adjoining district, or
2 otherwise derogate the intent and purpose of the ordinance.

3 So in continuing, there are additional findings.
4 Also that the Board also finds that the modification of its
5 existing telecommunication facility at the site proposed by
6 the petitioner does not substantially change the physical
7 dimensions of the existing wireless tower or base station at
8 such facility within the meaning of Section 6409(a) of the
9 Middle-Class Tax Relief and Job Creation Act of 2012, also
10 known as the Spectrum Act.

11 So based on all of these findings, the Chair moves
12 that the petitioner be granted the special permit it is
13 seeking, subject to the following conditions:

14 One, that the work proceed in accordance with the
15 plans submitted by the petitioner, the first page of which
16 has been initialed by the Chair -- and I've done that.

17 That upon completion of the work, the physical
18 appearance and visual impact of the proposed work will be
19 consistent with the photo simulations submitted by the
20 petitioner, and initialed by the Chair, which I've done.

21 Three, that the petitioner shall at all times
22 maintain the proposed work so that its physical appearance

1 and visual impact will remain consistent with the photo
2 simulations previously referred to.

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

9 And lastly, that the petitioner is in compliance
10 with and will continue to comply with in all respects, the
11 conditions imposed by this Board with regard to previous
12 special permits granted to the petitioner with regard to the
13 site in question.

14 And to continue, we have this long stuff.

15 It is not just the health effects of the
16 transmission of electromagnetic energy waves as a matter of
17 ongoing societal concern, and scientific study.

18 A special permit is also subject to the following
19 conditions:

20 a) That the petitioner shall file with the
21 Inspectional Services Department each report he files with
22 the federal authorities regarding electromagnetic energy

1 waves initially, emanating from all of the petitioner's
2 equipment on the site.

3 Each such report shall be filed with the
4 Inspectional Services Department no later than 10 business
5 days after the report has been filed with the federal
6 authorities. Failure to timely file any such report with
7 the Inspectional Services Department shall ipso facto
8 terminate the special permit granted tonight.

9 b) That in the event that at any time the federal
10 authorities notify the petitioner that its equipment on the
11 site, including but not limited to the special permit
12 granted tonight, fails to comply with the requirements of
13 law or governmental regulation, whether with regard to the
14 emissions of electromagnetic imaging ways or otherwise, the
15 petitioner within 10 business days of receipt of such
16 notification of such failure shall file with the
17 Inspectional Services Department a report disclosing in
18 reasonable detail that such failure has occurred, and the
19 basis for such claimed failure.

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

1 c) That to the extent that a special permit has
2 terminated, pursuant to the foregoing paragraphs a) and b),
3 the petitioner may apply to this Board for a new special
4 permit, provided that the public notice concerning such
5 application disclosed in reasonable detail that the
6 application has been filed because of a termination of
7 special permit, pursuant to paragraphs a) and b).

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

12 And then d) That within 10 business days after
13 receipt a building permit or the installation of the
14 equipment subject to this petition, the petitioner shall
15 file with the Inspectional Services Department a sworn
16 affidavit of the person in charge of the installation of
17 equipment by the petitioner of the geographical area that
18 includes Cambridge stating that a) he or she has such
19 responsibility and b) that the equipment being installed
20 pursuant to the special permit we are granting tonight will
21 comply with all federal safety rules, and will be situated
22 and maintained in locations with appropriate barricades and

1 other protections, such that individuals, including nearby
2 residents and occupants in nearby structures will be
3 sufficiently protected from excessive radiofrequency
4 regulation under federal law.

5 All those in favor of granting the special permit
6 on this basis, please say, "Aye."

7 THE BOARD: Aye.

8 [All vote YES]

9 CONSTANTINE ALEXANDER: Five in favor, special
10 permit granted. Did you hear from the other case too?

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2 (8:41 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Janet Green, Andrea A. Hickey,
5 Jim Monteverde

6 CONSTANTINE ALEXANDER: The Chair will now call
7 Case Number 017209 -- 64 Linnaean Street. Anyone here
8 wishing to be heard on this matter?

9 MICHAEL DOLAN: Good evening. My name is Michael
10 Dolan, D-o-l-a-n, the Law Firm of Brown and Rudnick, here on
11 behalf of the applicant, new Cingular Wireless, other known
12 as AT&T. My client has an existing stealth antenna facility
13 on the roof of this 49-foot 7-inch building owned by
14 Harvard.

15 AT&T's existing antenna facility consists of nine
16 antennas. There's three antennas fixed to the side of the
17 penthouse on the roof, four behind a screen wall that was
18 fiberglass wall that was previously installed, and there are
19 two antennas inside a faux chimney on the roof.

20 We're proposing something much less than the
21 previous application. We're only proposing to install three
22 new antennas, two of which would be behind the existing

1 screen wall, and one of which would be attached to the
2 penthouse. Those antennas that are currently attached to
3 the penthouse are painted to match the penthouse.

4 This new antenna that we'll be adding will
5 similarly be so; however, we think I would be look best to
6 just put a brick concealment structure around the table.
7 And I think you'll see from the photo sims, I actually think
8 this improves the look of the roof top of the building.

9 CONSTANTINE ALEXANDER: I'm having trouble
10 locating your photos in all this paperwork.

11 MICHAEL DOLAN: Let's see.

12 CONSTANTINE ALEXANDER: Do you have an extra copy?

13 MICHAEL DOLAN: I have it here.

14 JIM MONTEVERDE: Well, black and white. I don't
15 know if --

16 CONSTANTINE ALEXANDER: Yeah.

17 JIM MONTEVERDE: That may not be clear.

18 MICHAEL DOLAN: Okay. And so we're -- in sum,
19 we're proposing a net gain of three antennas. They'll all
20 be behind a stealth enclosure.

21 We're also proposing six new radio heads, which
22 will be out of view as well, and as part of the design or

1 redesign of this upgrade of our facility, certain of the
2 antennas need to have new required separation for them to be
3 most effective. Consequently, the antennas and some of the
4 equipment behind these enclosures may be altered, or will be
5 altered, and moved about a little bit.

6 Structurally, everything sounds, as we noted in
7 our application, and we think from a land use planning
8 perspective, this would be a negligible visual impact, and
9 in fact a beneficial visual change to the building. And for
10 the reasons set forth in our application, we're respectfully
11 requesting a special permit or a 6409.

12 CONSTANTINE ALEXANDER: One thing you forget --
13 you neglected to address in your application -- is under our
14 zoning ordinance, you're in a residentially zoning district,
15 okay?

16 Under our ordinance, our ordinance states that,
17 "The Board of Zoning Appeals shall grant a special permit to
18 erect the facility you're proposing in a residential zoning
19 district only upon a finding that nonresidential uses
20 predominate in the vicinity of the proposed facility's
21 location, and that the telecommunication facility is not
22 inconsistent with the character that does prevail in the

1 surrounding neighborhood." Do you want to just address that
2 for the record?

3 MICHAEL DOLAN: Yeah. So there are a number of
4 nonresidential uses in the area. As alluded to we believe
5 the facility will have no negative impact on the surrounding
6 area. It's consistent with an existing facility already
7 there. So we're not intensifying the use in any way.

8 CONSTANTINE ALEXANDER: And I'll just -- out of
9 sequence here, planning the memo we have from the Community
10 Development staff to the Planning Board in commenting upon
11 your application, simply -- and I think correctly -- "The
12 updating of the site on Linnaean Street appears to be all
13 internal to either existing screening or additional
14 screening, and is well-designed."

15 CONSTANTINE ALEXANDER: So you have no opposition
16 from the staff on this. Questions from members of the
17 Board?

18 COLLECTIVE: No.

19 CONSTANTINE ALEXANDER: Okay. Anyone here wishing
20 to be heard on this matter?

21 COLLECTIVE: No.

22 CONSTANTINE ALEXANDER: Okay. We're ready for a

1 vote. Well, I assume we're ready for a vote. Everybody
2 agree?

3 COLLECTIVE: Ready.

4 CONSTANTINE ALEXANDER: I don't know if you heard
5 what we went through with the --

6 MICHAEL DOLAN: I did, do you have to do it again?
7 Got to do it again. God Bless.

8 CONSTANTINE ALEXANDER: Unless you lend me your --
9 at least with regard to the last time, incorporate for our
10 reference.

11 MICHAEL DOLAN: I would, but I don't know how --

12 CONSTANTINE ALEXANDER: I'll get you out of here
13 early.

14 MICHAEL DOLAN: Whatever you want to do,
15 whatever's easiest for you.

16 CONSTANTINE ALEXANDER: Okay. I got to make the
17 specific findings first.

18 MICHAEL DOLAN: You don't share this love with
19 others, they get to do it? All these conditions?

20 CONSTANTINE ALEXANDER: We'll get it every time.
21 But usually we have the people who come before us have come
22 before. I recognize the face, and I say, "Can I just use

1 the old language?" And they say, "Sure" and day we move on.
2 But you're a newcomer to our group. I've got to find the --
3 here it is. Okay.

4 First of all, we have to make the general findings
5 with regard to all special permits. I move -- the Chair
6 moves that we make the following findings: That the
7 requirements of the ordinance cannot be met unless we grant
8 you the special permit.

9 Anyway, traffic generated or patterns in access or
10 egress resulting from what you're proposing will not cause
11 congestion, hazard, or substantial change in established
12 neighborhood character, and as the Community Development
13 staff pointed out, it's all internal, it's not going to have
14 any impact on the neighborhood.

15 That the continued operation or development of
16 adjacent uses, as permitted in the ordinance, will not be
17 adversely affected by the nature of what is proposed.

18 No nuisance or hazard will be created to the
19 detriment of the health, safety and/or welfare of the
20 occupant of the proposed use, or the citizens of the city.

21 And generally, what is being proposed will not
22 impair the integrity of the district or adjoining district,

1 or otherwise derogate the intent and purpose of this
2 ordinance.

3 And then lastly, we also find that the
4 modification of its existing telecommunication facility at
5 the site proposed by the petitioner does not substantially
6 change the physical dimensions of the existing wireless
7 tower or base station at such facility within the meaning of
8 Section 6409(a), the Middle Class Tax Relief and Job
9 Creation Act of 2012, also known as the Spectrum Act.

10 Based on these findings, the Chair moves that the
11 petitioner be granted the special permit it is seeking,
12 subject to the following conditions:

13 One, that the work proceed in accordance with the
14 plans submitted by the petitioner, and initialed by the
15 Chair, and I've done that.

16 Two, that upon completion of the work, the
17 physical appearance and visual impact of the proposed work
18 will be consistent with the photo simulations submitted by
19 the petitioner, initialed by the Chair. I've done that.

20 Three, that the petitioner shall at all times
21 maintain the proposed work, so that its physical appearance
22 and visual impact will remain consistent with the photo

1 simulations previously referred to.

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

8 Five, that the petitioner is in compliance with
9 and will continue to comply with in all respects the
10 conditions imposed by this Board with regard to previous
11 special permits granted to the petitioner with regard to the
12 site in question.

13 And then last, we have this whole song and dance
14 about the Spectrum Act, and you read we can just take the
15 old case, and same language to your case.

16 Based upon all these, the Chair moves that we
17 grant the special -- like we already said -- these are the
18 condition we impose should we grant the special permit. All
19 those in favor, please say, "Aye."

20 THE BOARD: Aye.

21 [All vote YES]

22 CONSTANTINE ALEXANDER: Five in favor, thank you.

1 Go back to your office.

2 MICHAEL DOLAN: Thank you for your time and
3 consideration. That's right.

4 COLLECTIVE: Thank you.

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2 (8:55 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Janet Green, Andrea A. Hickey,
5 Jim Monteverde

6 CONSTANTINE ALEXANDER: The Chair will call Case
7 Number 017205 -- 9 Russell Street, Unit C. Anyone here
8 wishing to be heard on this matter?

9 CAMPBELL ELLSWORTH: Good evening, my name is
10 Campbell Ellsworth. I'm the architect for the owner,
11 Richard Gilreath, who's sitting to my right.

12 We are here because Richard and his wife would
13 like to modify a set of windows that are at the back of
14 their property, which happened to also be within the
15 required setback, so modification of an opening within a
16 setback requires a special permit.

17 It's -- their basement space has always been
18 finished. It's a finished space right now. They'd like to
19 make it an end. They have three children, among whom is a
20 14-year-old who has dreams of living down there. We'd like
21 to create that as --

22 CONSTANTINE ALEXANDER: Actually you have dreams

1 of living down there too, right?

2 CAMPBELL ELLSWORTH: Well, apparently, they're in
3 a bunk bed situation.

4 RICHARD GILREATH: So at least once a week we have
5 one of those, " That's it, I'm going to the basement."

6 CONSTANTINE ALEXANDER: [Laughter].

7 THE REPORTER: Can you state your name for the
8 record?

9 RICHARD GILREATH: What?

10 THE REPORTER: Can you state your name for the
11 record?

12 RICHARD GILREATH: Richard Gilreath.

13 CAMPBELL ELLSWORTH: By being able to enlarge that
14 would allow that to be a fully code-complaint egress window.
15 And originally, we thought that we might have to actually
16 cut down below the grade level, and thereby create a window
17 well, which that probably would have taken a variance to
18 build into the --

19 CONSTANTINE ALEXANDER: Probably.

20 CAMPBELL ELLSWORTH: -- into the setback. But it
21 does not -- the basement space is high enough so that you
22 can see -- I believe in your packets on the left-hand side

1 what is, and this is what would be. Very modest. No
2 increase in FAR or anything else, or any other
3 nonconformity.

4 We did send out letters of supports.

5 CONSTANTINE ALEXANDER: I'll read some letters of
6 support, and I'll briefly read them --

7 CAMPBELL ELLSWORTH: Great.

8 CONSTANTINE ALEXANDER: -- in a few minutes.

9 CAMPBELL ELLSWORTH: Super.

10 CONSTANTINE ALEXANDER: Any questions?

11 COLLECTIVE: No.

12 CONSTANTINE ALEXANDER: I don't think anybody
13 should have any questions. The Chair will open the matter
14 up to public testimony. Anyone here wishing to be heard?
15 Apparently not.

16 We are, as you indicated, let me quickly put into
17 record letters of support. There was a letter from Sarah
18 Hall -- and I'll try to pronounce it correctly, "Quan" Q-u-
19 a-n -- Nghiem? I'm going to just spell it: N-g-h-i-e-m,
20 who reside at 1Russell Street, 101.

21 "I'm writing in reference to a special permit that
22 has been requested by our neighbor, Richard Gilreath, who

1 lives at 9C Russell Street in North Cambridge. He will be
2 presenting his request at the December 5 meeting of the BZA.
3 For the record, we have no objection to this special permit
4 request."

5 CONSTANTINE ALEXANDER: And then also a letter
6 from the owner of Laverty, L-a-v-e-r-t-y Lohnes, L-o-h-n-e-s
7 Properties. "Please be advised that we have -- " I guess
8 they're located at 17 Russell Street "-- please be advised
9 that we have no objection to the variance requested by
10 Richard Gilreath for 9C Russell Street."

11 And last but not least is an e-mail from Birol, B-
12 i-r-o-l -- I'm going to probably butcher this -- Bekirov, B-
13 e-k-i-r-o-v. And it simply says, "I, Birol Bekirov,
14 President of Russell Place Homeowners Association, have no
15 objections to 9C Russell Street's appeal to increase the
16 size of the unit's rear basement window."

17 And that's all we have. Questions from members of
18 the Board? There's nobody here in the audience to comment,
19 so I'm not even going to ask. Ready for a vote?

20 The Chair moves that we make the following
21 findings with regard to the special permit being sought,
22 with regard to the modification of the two windows.

1 That the traffic generated, or first of all it
2 appears this to the requirements of the ordinance cannot be
3 met unless we grant you the special permit.

4 That traffic generated or patterns of access or
5 egress resulting from this window modification will not
6 cause congestion, hazard, or substantial change in
7 established neighbor character, and I think the facts speak
8 for themselves.

9 That what is being proposed will not cause
10 congestion, hazard, or substantial change in established
11 neighborhood character -- and I think the facts speak for
12 themselves as to why this is so.

13 That the continued operation or development of
14 adjacent uses, as permitted in the zoning ordinance, will
15 not be adversely affected by what is being proposed -- and
16 again, we have neighborhood commentary that indicates that's
17 the case.

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

21 And that generally, what is being proposed will
22 not impair the integrity of the district or adjoining

1 district, or otherwise derogate the intent and purpose of
2 this ordinance.

3 So on the basis of all of these findings, the
4 Chair moves that we grant the special permit requested on
5 the condition that the work proceeds in accordance with
6 plans and photos -- one, two three pages of which, the first
7 page of which is -- well, first and last page, the first
8 page of which has been initialed by the Chair.

9 And they've been prepared by Ellsworth Associates,
10 and they're dated October 21, 2019.

11 All those in favor, please say, "Aye."

12 THE BOARD: Aye.

13 [All vote YES]

14 CONSTANTINE ALEXANDER: Five in favor.

15 COLLECTIVE: Thank you very much.

16 CONSTANTINE ALEXANDER: Sorry to keep you around.

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2 (9:02 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Janet Green, Andrea A. Hickey,
5 Jim Monteverde

6 CONSTANTINE ALEXANDER: The Chair will now
7 reconvene Case Number 017204. The floor is yours.

8 SEAN HOPE: Sure. So after going into the back,
9 one we realized we had a stair -- wood stair drawn
10 previously before, and so we attempted to get that plan and
11 proposed to sketch something, when we realized there were
12 some different modifications in that plan.

13 So what the architect has done, has redrawn some
14 wood stairs based on an initial proposal. So this is the
15 revised elevation. And so, the idea is this is where --

16 CONSTANTINE ALEXANDER: We're going to continue
17 the case, so you can talk to your husband, and think further
18 about the dormer issue. I think it would be a case heard,
19 but I think you can proceed with this case with only four of
20 us.

21 I don't think you have to worry about a dissent.
22 Maybe I'm wrong. Well, unless you come back with the very

1 same proposal, you might get a dissent. You might. I'm not
2 going to predict.

3 SEAN HOPE: I think I might ease my objection to
4 the dormer, in light of the fact that the bathtub, which is
5 part of the master suite, is not a luxury item, but instead
6 is used for therapeutic.

7 CONSTANTINE ALEXANDER: You've got to be careful
8 of that. If we grant the variance, it's got to be because
9 it would -- it's necessary to anybody who occupies the
10 premises.

11 SEAN HOPE: I know, but -- right.

12 CONSTANTINE ALEXANDER: Not just you folks, but.
13 But that's your risk, I suppose, if you approve it.

14 SEAN HOPE: And a lot of times people come down
15 with 17-foot dormers.

16 CONSTANTINE ALEXANDER: Oh, yeah.

17 SEAN HOPE: And we really kind of beat up on them
18 too. And, you know, after some tweaking and moving of the
19 deck chairs, they can, you know, somehow get closer to that
20 15 feet. So, you know --

21 CONSTANTINE ALEXANDER: Well, let me ask the other
22 members of the board. Are we ready to take a vote tonight

1 with the dormers unchanged? Or do you want to ask them to
2 go back and think about it some more?

3 SEAN HOPE: I would accept the dormer as is.

4 JIM MONTEVERDE: Yeah. I would ask that you just
5 take a look at it. Talk to your husband.

6 REBECCA O'HARA: You would like to ask him to look
7 at it?

8 JIM MONTEVERDE: Yeah. I would just look at the
9 configuration of the bath in total -- understanding you need
10 the tub, you need the other fixtures. Just see if there's a
11 configuration that will get you close to within the dormer
12 guidelines. I would certainly favor that.

13 ANDREA HICKEY: I agree with Jim as well. I still
14 have concerns, and Mr. Sullivan's point that there are two
15 other tubs, even if they're not jacuzzi, perhaps they could
16 be made for that purpose.

17 CONSTANTINE ALEXANDER: Well let me -- okay, if we
18 do continue this case, of course as a case heard, if you're
19 willing to go forward with four, I won't be here January 7.
20 I think -- are the other ones?

21 ANDREA HICKEY: Let me just check.

22 CONSTANTINE ALEXANDER: If we can continue this

1 case until January 7, just about a month.

2 BRENDAN SULLIVAN: Or, next case is --

3 JANET GREEN: Next week.

4 BRENDAN SULLIVAN: Next week.

5 JANET GREEN: Yeah, because I'm not here.

6 BRENDAN SULLIVAN: What is the agenda? Is that a
7 full?

8 CONSTANTINE ALEXANDER: No, that's a pretty easy
9 agenda. But the question is --

10 JIM MONTEVERDE: Can't advertise, right?

11 CONSTANTINE ALEXANDER: You don't have to
12 advertise. But the question is, if you're going to modify
13 the plans, you can't get them in on time.

14 REBECCA O'HARA: Monday by 5.

15 JIM MONTEVERDE: Oh, Monday.

16 [Crosstalk]

17 CONSTANTINE ALEXANDER: Oh no, if we continue the
18 case, we need to do it after 14 days.

19 ANDREA HICKEY: No.

20 BRENDAN SULLIVAN: No.

21 CONSTANTINE ALEXANDER: Don't we have to -- it's a
22 continued case? Well, I guess --

1 BRENDAN SULLIVAN: Well, we do if it's --

2 ANDREA HICKEY: I mean he's posted.

3 JANET GREEN: This is barely continued.

4 There's no such thing.

5 CONSTANTINE ALEXANDER: I'm prepared to modify the
6 sign for the week. You know, but there's a risk. If
7 somebody wants to comply/challenge their decision, they'll -
8 - they can challenge on the basis of you didn't comply with
9 the posting requirements. The other alternative is January
10 30, and I will -- even though we have four other cases, I
11 would put you on the agenda then.

12 So you've going to decide what you want to do.

13 [Crosstalk]

14 SEAN HOPE: January 7.

15 CONSTANTINE ALEXANDER: January 7, okay.

16 REBECCA O'HARA: As opposed to December?

17 CONSTANTINE ALEXANDER: I thought --

18 SEAN HOPE: Next week.

19 CONSTANTINE ALEXANDER: Next week.

20 REBECCA O'HARA: Next week?

21 CONSTANTINE ALEXANDER: Okay.

22 REBECCA O'HARA: Okay. You do want next week?

1 SEAN HOPE: Yes.

2 JANET GREEN: Yes.

3 CONSTANTINE ALEXANDER: Okay.

4 JANET GREEN: December the twelfth.

5 REBECCA O'HARA: Twelfth.

6 CONSTANTINE ALEXANDER: Twelfth, yeah. The Chair
7 moves that we continue this case as a case heard, and that's
8 relevant now, subject to the following conditions: That you
9 modify the posting sign to reflect even though it's a week,
10 reflect the new date, which is the twelfth, and the time,
11 which will be 7:00 p.m.

12 That the petitioner sign a waiver of time for
13 decision -- you know about that, Sean. We can do that
14 before you leave tonight.

15 And lastly, I think we can waive -- to the extent
16 you're going to come back with modified plans regarding --
17 well, you're talking about the dormer --, well, the dormer
18 and the stairs. They should be in our files no later than -
19 - can you get it in our file by Tuesday night, before the
20 twelfth, whatever that date is?

21 JANET GREEN: The tenth.

22 REBECCA O'HARA: The tenth, absolutely.

1 CONSTANTINE ALEXANDER: Tenth?

2 REBECCA O'HARA: Yes.

3 CONSTANTINE ALEXANDER: It would be in our files
4 no later than 5:00 p.m. on January tenth. Not January --

5 REBECCA O'HARA: December.

6 CONSTANTINE ALEXANDER: December 10. Right?
7 Everybody okay with that?

8 COLLECTIVE: Yeah.

9 CONSTANTINE ALEXANDER: Everybody okay with that?

10 COLLECTIVE: Yeah.

11 CONSTANTINE ALEXANDER: All those in favor, please
12 say, "Aye."

13 THE BOARD: Aye.

14 [All vote YES]

15 CONSTANTINE ALEXANDER: Five in favor. So we'll
16 see you hopefully briefly on December 10.

17 REBECCA O'HARA: Thank you very much.

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2 (9:12 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Janet Green, Andrea A. Hickey,
5 Jim Monteverde

6 CONSTANTINE ALEXANDER: The Chair will now call
7 back the recessed case for 017206 -- 25-27 Berkshire Street.

8 SEAN HOPE: Good evening Mr. Chairman, members of
9 the Board. For the record, Attorney Sean Hope, Hope Legal
10 Offices in Cambridge. And I'm here with Ray Acevedo, R-a-y
11 A-c-e-v-e-d-o, owner of 25-27 Berkshire Street. So this is an
12 application requesting variance relief to reconstruct a
13 multifamily dwelling.

14 CONSTANTINE ALEXANDER: I think we need to take a
15 vote on the withdrawal. Let's do that first.

16 SEAN HOPE: Sure.

17 CONSTANTINE ALEXANDER: Do I understand that
18 you're planning to withdraw the request to subdivide the
19 lot?

20 SEAN HOPE: Yes, we would.

21 CONSTANTINE ALEXANDER: All those in favor of
22 accepting that waiting list?

1 THE BOARD: Aye.

2 [All vote YES]

3 CONSTANTINE ALEXANDER: You know that you can't
4 come back for two years?

5 COLLECTIVE: Yes.

6 CONSTANTINE ALEXANDER: All right. Now we can go
7 it.

8 SEAN HOPE: Yes. So this was a multifamily
9 dwelling, and back in 2016 there was a devastating fire that
10 destroyed many homes in East Cambridge. The density of that
11 period was such that the houses were close together. If you
12 go by the site now, you see that in addition to it, the
13 structure was so compromised that it had to be razed.

14 The City Council did take action to allow for
15 petitioners to be able to rebuild within a two-year
16 timeframe. This particular prior owner was not able to
17 marshal the multifamily heirs to be able to sell and have
18 them building reconstruction. And so, this expired in
19 April.

20 Mr. Acevedo was not aware of that, and so, when he
21 went to get his building permit, he was unfortunately
22 surprised that that window had passed. And so, now it is a

1 situation where you had an existing building that can only
2 be rebuilt by variance. And so, the proposal is to rebuild
3 what was previously burned down, and in the --

4 CONSTANTINE ALEXANDER: Is there any chance it
5 would be the same as the --

6 SEAN HOPE: Yes.

7 CONSTANTINE ALEXANDER: The burned down house?

8 SEAN HOPE: Yes.

9 CONSTANTINE ALEXANDER: Because you have the
10 substantial departure from our ordinance with regard to the
11 FAR.

12 SEAN HOPE: That's right.

13 CONSTANTINE ALEXANDER: And so, -- on the other
14 hand, there are circumstances relating to the fire and the
15 desire of this community to help that area being restored
16 that I think mitigates the adverse impact of the FAR
17 increase or departure.

18 SEAN HOPE: That's okay. And I would say that the
19 departure in those oversized buildings on smaller lots is
20 pretty consistent with East Cambridge --

21 CONSTANTINE ALEXANDER: Yeah.

22 SEAN HOPE: -- just the way that those structures

1 were built. And I would also say too at a time where
2 Cambridge is struggling with adequate housing stock, it is
3 of substantial benefit in the city to be able to at least
4 rebuild what was there, so that we're not at a loss, due to
5 the fact that --

6 CONSTANTINE ALEXANDER: Yeah, because it's a
7 three-family house?

8 SEAN HOPE: Three-family house.

9 RAY ACEVEDO: Three family house.

10 CONSTANTINE ALEXANDER: How many bedrooms are in
11 each unit.

12 RAY ACEVEDO: Those there? The same thing, with
13 three units. Three bedrooms in each unit.

14 CONSTANTINE ALEXANDER: You're going to have nine
15 bedrooms in the structure?

16 SEAN HOPE: Same exact thing.

17 CONSTANTINE ALEXANDER: Making maximum use of the
18 land, that's for sure. Fine.

19 RAY ACEVEDO. No, no, they're not big though.

20 CONSTANTINE ALEXANDER: I'm sorry?

21 RAY ACEVEDO: The units are not big at all.

22 CONSTANTINE ALEXANDER: Yeah. I might well guess

1 that. Okay. Questions from members of the Board?

2 JANET GREEN: No, I think the city always needs
3 more three-bedroom units.

4 CONSTANTINE ALEXANDER: That's true. We've
5 commented on that before, a number of times.

6 JIM MONTEVERDE: --I had one --

7 CONSTANTINE ALEXANDER: Sure.

8 JIM MONTEVERDE: I just had a couple -- I one
9 question. And it was about the -- understanding that it was
10 there burned down, you're just replacing it. But do you
11 need exemption from the side yard. And I'm just reading the
12 footnote in the C1 District. It says, "No building plane
13 may be nearer than seven feet six inches through a side lot
14 line."

15 RAY ACEVEDO: So definitely --

16 CONSTANTINE ALEXANDER: All you need is the
17 setback and wall.

18 RAY ACEVEDO: Yeah --

19 SEAN HOPE: It's surrounding it.

20 RAY ACEVEDO: Yeah. We need full dimensions so
21 was -- so instead, back to the open space FAR, so --

22 JIM MONTEVERDE: Yeah. Do you think the reason

1 that most of that neighborhood burn down, and the church
2 burn down, is just --

3 RAY ACEVEDO: They're built those so close
4 together. You could actually go check something and bruise
5 his (sic) hand in the window.

6 JIM MONTEVERDE: No, I know that. So in the
7 context, why would I want to be three foot away from a
8 property line or, in this case, they need to be four and a
9 half feet from the adjacent building.

10 SEAN HOPE: Yeah, I mean I think --

11 JIM MONTEVERDE: I'm just trying not to repeat the
12 same mistake --

13 SEAN HOPE: Understood.

14 CONSTANTINE ALEXANDER: Yeah.

15 JIM MONTEVERDE: -- that you made before.

16 SEAN HOPE: Yeah. And I think the way that the --
17 the ordinance was written to allow people to rebuild what
18 was there. Taking it to your point, if it was a larger lot,
19 and you could maybe make conforming setbacks and center the
20 building the size it was, I think that that would be a case.
21 But it's already on a tight Los.

22 So I don't think -- you push it to one side, and

1 you gain another. So there wasn't, I felt, a very logical
2 way to reposition the building where you were going to cure
3 a nonconformity. But to your point, one of the benefits of
4 reconfiguring the structure -- so they didn't have
5 sprinklers before, vinyl siding so, you know, overall system
6 will be much safer. And I don't know what the -- I usually
7 have Hardy on the --

8 BRENDAN SULLIVAN: Yes, Hardy.

9 JIM MONTEVERDE: So you'll have fire-retardant
10 material. So I think overall the structure, even so close
11 to the property line, will be much safer. So if there was a
12 fire, there would be systems in place like a sprinkler
13 system that should hopefully mitigate what wasn't available
14 for any of the properties during the fire.

15 CONSTANTINE ALEXANDER: Okay. Any other questions
16 for members of the Board? There's no letters or anything
17 else in the file? I will close public testimony. Ready for
18 a vote, or do you want a discussion?

19 JANET GREEN: I'm ready.

20 ANDREA HICKEY: Read.

21 CONSTANTINE ALEXANDER: Ready for a vote? Okay.

22 The Chair makes a proposal to make the following findings

1 with regard to the variance being sought.

2 That a literal enforcement of the provisions of
3 the ordinance would involve a substantial hardship, such
4 hardship being as that this is a dense neighborhood that was
5 unfortunately adversely affected by a fire, and so, this is
6 the only way we can restore to the city the housing that was
7 lost in the fire.

8 That the hardship is owing to the fact that the
9 shape of the lot -- it's a very small lot, in a very dense
10 neighborhood, and that relief may be granted without
11 substantial detriment to the public good, or nullifying or
12 substantially derogating from the intent or purpose of the
13 ordinance.

14 So on the basis of all of these findings, the
15 Chair moves that we grant the variance requested on the
16 condition that the work proceed in accordance with plans
17 prepared by Professional Building Systems, Inc. -- I'm
18 looking for a date, it's here somewhere -- it was in my,
19 there it is, right there -- dated November 19, and the first
20 page of which has been initialed by the Chair.

21 All those in favor, please say, "Aye."

22 THE BOARD: Aye.

1 [All vote YES]

2 CONSTANTINE ALEXANDER: Five in favor, variance

3 granted.

4 COLLECTIVE: Thank you. Happy Holidays.

5 COLLECTIVE: Thank you.

6 [09:18 p.m. End of Proceedings]

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CERTIFICATE

Commonwealth of Massachusetts

Middlesex, ss.

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

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

In witness whereof, I have hereunto set my hand this _____ day of _____, 2019.

Notary Public

My commission expires:

August 6, 2021