

BOARD OF ZONING APPEAL  
FOR THE  
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, FEBRUARY 1, 2018  
7:00 p.m.

in

Senior Center  
806 Massachusetts Avenue  
First Floor  
Cambridge, Massachusetts 02139

Constantine Alexander, Chair  
Janet Green, Member  
Patrick Tedesco, Member  
George S. Best, Associate Member  
Jim Monteverde, Associate Member

Sean O'Grady, Zoning Specialist

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P R O C E E D I N G S

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(7:00 p.m.)

(Sitting Members: Constantine Alexander, Janet Green, Patrick Tedesco, George S. Best, Jim Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call this meeting of the Zoning Board of Appeals to order. And as is our practice, we will start with continued cases. These are cases that have started at an earlier date, but for one reason or another have been continued until this evening and then we'll turn to our regular agenda.

At the outset I'm going to make a statement:

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

And I wish to advise everyone that a recording is being made. At least one anyway. Our stenographer records the session to help her when she does the transcript of the meeting. So be advised that your every last word you say is going to be on record, on tape.

With that, we'll turn to our continued agenda.

\* \* \* \* \*

(7:05 p.m.)

(Sitting Members Case BZA-015008-2017: Constantine Alexander, Janet Green, Patrick Tedesco, George S. Best, Jim Monteverde.)

CONSTANTINE ALEXANDER: And I will call case No. 015008, 20 Surrey Street.

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

(No Response.)

CONSTANTINE ALEXANDER: No one is here wishing to be heard.

We are in receipt of a letter from petitioner, petitioner's counsel. (Reading) Confirming our prior telephone conversation of earlier today my client is requesting a continuance of the hearing previously scheduled for Thursday, February 1st, until the next available date when all five members of the zoning Board of Appeals who sat at the previous hearing relative to the above-captioned address are present. And it's signed by Jack P. Milgram, M-I-L-G-R-A-M, Esq.

And just by way of education, if we hear a case and we get into the merits and then we for one reason or another we have to continue it, the same five people who were started the case -- we have a second recording being made right now.

The same five people who started the case must be here for the whole case. And one of the members who was

here when we heard this case first thought she could make it tonight but something has happened and she can't, so that's the reason for the request. Otherwise we would hear the case with just four members and the odds of getting relief for the petitioner would diminish because four votes are required to get relief. And if there are five of us, as there usually are, you could have one dissenter and still get relief. But if there's four, everybody's got to vote for the relief. And so as is the case for most petitioners, they've decided to wait until we get the same five people.

So by way of background I think the next meeting when we all can be here is April 25th.

SEAN O'GRADY: 26th.

CONSTANTINE ALEXANDER: 26th.

Janet, you can make the 26th?

JANET GREEN: Yes.

CONSTANTINE ALEXANDER: George?

GEORGE BEST: Yes.

CONSTANTINE ALEXANDER: Patrick?

PATRICK TEDESCO: The 26th of April? Yeah.

CONSTANTINE ALEXANDER: And Andrea indicated she can make it as well.

Okay. The Chair moves that we continue this case as a case heard until seven p.m. on April 26th subject to the following conditions:

First, that the petitioner signs a waiver of time for a decision. And the petitioner has already done that.

Second, that the posting sign must be modified or a new one obtained reflecting the new date, April 26th, the new time, seven p.m. And that sign must be posted for the 14 days that are required under our Zoning Ordinance for all cases.

And lastly, and this is important for the petitioner to know, and I'm sure you'll communicate it, to the extent that the petitioner's going to submit new or different or modified plans of dimensional forms, they must

be in our files no later than five p.m. on the Monday before April 26th. If that's not the case, we will not hear the case again.

All those in favor of continuing the case on this basis, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

(Alexander, Green, Tedesco, Best, Monteverde.)

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(7:05 p.m.)

(Sitting Members Case BZA-015150-2017: Constantine

Alexander, Janet Green, Patrick Tedesco, George S. Best, Jim Monteverde.)

CONSTANTINE ALEXANDER: Next the case will call 015150, 18 Perry Street.

Is there anyone here wishing to be heard on this matter? Edrick, the floor is yours.

EDRICK VANBEUZEKOM: Thank you for continuing the case. My client was out of the country at the last hearing. So she appreciates being able to be here. My name is Edrick Vanbeuzekom. My company is EVB Design. I'm the architect for this project. Marietta is a former client who's came back to me for a small change for her current structure.

Just for context I have a block map here that shows the location of the lot and where the proposed addition change would be. So we can pass that around if you want.

CONSTANTINE ALEXANDER: We have that anyway.

EDRICK VANBEUZEKOM: Yeah, okay. And then I also

have --

CONSTANTINE ALEXANDER: I mean, you can pass them around anyway.

EDRICK VANBEUZEKOM: I have larger versions of the photos that I had submitted before, too, to Sean.

CONSTANTINE ALEXANDER: Does anybody want to see them?

JANET GREEN: I'd see the map if I could.

EDRICK VANBEUZEKOM: Yeah. And let me just let Marietta introduce herself.

MARIETTA SBRACCIA: Hello, I'm Marietta Sbraccia. I submitted a letter to you all.

CONSTANTINE ALEXANDER: Yes, we have it.

MARIETTA SBRACCIA: And would you want me to reiterate --

EDRICK VANBEUZEKOM: Well, let me present the case first.

MARIETTA SBRACCIA: Oh, I'm sorry.

EDRICK VANBEUZEKOM: Yeah.

MARIETTA SBRACCIA: So sorry.

EDRICK VANBEUZEKOM: Okay.

MARIETTA SBRACCIA: I'm a little nervous.

EDRICK VANBEUZEKOM: So I'll basically walk you through real quickly what we submitted for drawings here. Marietta owns a triple decker on Perry Street. We had previously gotten a Zoning Variance to do a one-story addition expansion of her house. At the time it was built they installed a bulkhead at the back of it for egress from the basement. Marietta uses the basement quite a bit and has tenants who come down there for laundry and who are very concerned about the safety of getting out of there. So, she asked me to look into are there any other options for how to get out of the basement.

So we looked into basically changing the bulkhead stair to be a regular stair with a one-story enclosure for it essentially. So it adds a tiny bit of FAR because the

bulkhead did not count as FAR besides a few square feet.

It's basically a pretty small structure.

CONSTANTINE ALEXANDER: You're adding 52 square feet.

EDRICK VANBEUZEKOM: Yeah.

CONSTANTINE ALEXANDER: Or 52 feet according to what I see in the file.

EDRICK VANBEUZEKOM: Yeah.

CONSTANTINE ALEXANDER: And your FAR, which is over now, is 0.89 in a 0.6 district which will go to 0.9. A notch higher.

EDRICK VANBEUZEKOM: Yeah.

The structure is approximately five feet by ten feet, and, you know, we're trying to keep it as low as possible. It's got a sloped roof over the stair. We positioned it so that she didn't lose any windows in the first floor, and we want to have some glass in it, too, so partly to make it more attractive and also get some natural

light into the stairway.

The materials on the exterior of the house would match the current house in terms of color. I think we would, we're recommending she use fiber cement siding instead of vinyl siding which is what she has on the current house. Fiberglass windows, and then an insulated entry door at the top. Pretty basic.

I have some 3-D views here which we can pass it around to give you a sense of what it looks like on the back of the house.

CONSTANTINE ALEXANDER: Okay. I'll take those for the files.

EDRICK VANBEUZEKOM: Yeah.

JIM MONTEVERDE: All set.

EDRICK VANBEUZEKOM: And that's basically it. And why don't I let Marietta explain her reasons for wanting this.

MARIETTA SBRACCIA: So I did submit the letters --

JANET GREEN: Just need you to speak up a little bit louder because there are all those people behind you.

MARIETTA SBRACCIA: My apologies.

JANET GREEN: No, you're fine.

MARIETTA SBRACCIA: So I would like to just submit that I've lived at Perry Street for 23 years and I've been a teacher at the Cambridge Public Schools for 25 of those 23 years as a staff developer and a special education teacher. My son went to Cambridge Public Schools. My mother was born there. So I just wanted to give you a little history. And that I've been involved myself in Cambridge as well.

I started the co-ed scouting with another friend of mine and received the Nichols Chair for my involvement through the Central Square Business Associate at the Unity Dinner in 2008, and then I've also helped to keep All Grace Methodist Church, a neighborhood church, rather than making it into condos like a lot of the churches in Cambridge. And I've also received a recognition for -- from the City of

Cambridge for being the first to put a white roof on my house.

So I'm putting out that background as demonstration that I am an active and loyal citizen of Cambridge, and that I am asking for this Variance that alters the existence of the footprint slightly, getting rid of the rear bulkhead. And I inherited this bulkhead because a contractor abandonment to the loss of \$100,000. And Edrick and Just-A-Start saw me through it. And I believe you, sir, were the ones that helped me get through that as well.

So admittedly I have a personal distaste for the bulkhead. I have to admit that. But as I get older and my tenant on the second floor is older than I am, I do feel the bulkhead is really not safe. My tenants do frequent the basement often and -- for the use of laundry. And right now the exit is to the side -- up the stairs to the side. The bulkhead in the rear of the house is awkward and opens

because you have to push against gravity in order to do that. And also in the winter it presents additional issues with snow and ice. And I do have somebody who comes in to take care of that, but he has 24 hours in order to do that.

So, I think that I've covered everything that I want -- oh, oh, that I have the letters that were submitted to all of my neighbors with no objections.

CONSTANTINE ALEXANDER: You want to give them to us so we can put them in the files?

MARIETTA SBRACCIA: Yes, sir, yes, sir. Along with Edrick's drawings. And we have an e-mail also submitted by my next-door neighbor also saying that she approves of it. So I'm asking you, please, to consider this request of 18 Perry Street.

Thank you for --

CONSTANTINE ALEXANDER: This is your letter to the neighbors?

MARIETTA SBRACCIA: Yes.

CONSTANTINE ALEXANDER: The only response you got in writing is the e-mail we have right here?

MARIETTA SBRACCIA: That's correct, sir. Thank you very much.

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

Questions from members of the Board?

JANET GREEN: I don't think so.

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

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. As indicated, we do have a letter, an e-mail, from a neighbor, Debra M.

MARIETTA SBRACCIA: Yes, she's next-door.

CONSTANTINE ALEXANDER: Okay. And it

says -- she's at 14-16 Perry. (Reading) 14-16 Perry is okay with you moving ahead with your plans to change the bulkhead in the rear of your building.

And that's all she wrote.

I'm going to close public testimony. Discussion or are we ready for a vote?

PATRICK TEDESCO: I'm ready.

JANET GREEN: Ready.

CONSTANTINE ALEXANDER: Okay.

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

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner. Such hardship being is that the bulkhead in its current form and design raises safety issues that would extend not only to the current petitioner but to anyone who resides at the structure.

That the hardship is owing to the fact that this

building is already non-conforming and therefore any modification of it requires zoning relief.

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

In this regard, the Chair would note that the work proposed is very modest in nature.

It will improve the inhabitability of the structure.

And it has at least the support of an abutter and certainly no objections that we're aware of.

So on the basis of all of these findings, the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with plans prepared by EVB Design, the first page of which has been initialled by the Chair.

And these are your finals, right?

EDRICK VANBEUZEKOM: Yep.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

(Alexander, Green, Tedesco, Best, Monteverde.)

(7:15 p.m.)

(Sitting Members Case BZA-015287-2017: Constantine  
Alexander, Janet Green, Patrick Tedesco, George S. Best, Jim  
Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call case  
No. 015287, 1-3 Harwell Drive and 5-7 Harrington Terrace.

Is there anyone here wishing to be heard on this  
matter? This is an appeal from a decision of the building  
inspector, Mr. Singanayagam.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Mr. Chair,  
I'd just like to reserve my right after the --

CONSTANTINE ALEXANDER: Say it again, please.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: -- after petitioner presents their side of the story, I'd like to present ours as well.

CONSTANTINE ALEXANDER: Oh, yes, everybody will have a chance. Don't worry.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Thank you, sir.

CONSTANTINE ALEXANDER: Names?

ROBERT OWENS: My name is Robert Owens. This is my husband Steven Lemley.

STEVEN LEMLEY: Steven Lemley, L-E-M-L-E-Y.

ROBERT OWENS: And we live at 7 Harrington Terrace, apartment C, which is one of the addresses that is at issue with the building of these fire escapes.

CONSTANTINE ALEXANDER: Okay.

ROBERT OWENS: How would you like us to begin?

CONSTANTINE ALEXANDER: Anyway you wish.

ROBERT OWENS: We'd first like to say that we are

not here for any other reason than safety, and we are not opposed to the construction of a fire escape. On the contrary, it was our complaint that led to what we're dealing with now. If it hadn't been for our efforts, the fire escapes would have remained sealed shut. We have the board and we have the nails in the back of the room. I can assure you that the fire escape was not operational and could not be safely used, and this was something that we brought to the attention of the place in which we live. Their response has been to construct a fire escape that we also feel is unsafe. While we don't agree with the decision to use a spiral staircase, it's not the main reason why we're here. Our major concern is the box, the closet-like structure that leads to the proposed fire escape. And we have several concerns with it: We feel it's both risky and ill-conceived.

The first and foremost concern is that there's simply no lighting inside it, and it is absolutely a closet.

So if you stepped into a closet in your home and shut the door, that's what this room looks like. This room is very small. The dimensions are in the appeal, but it's really, it's a small space. And petitioners and frankly Inspectional Services have known that there was no lighting within this box closet since last summer. And even as we speak there's no light in that room such that we could not safely use either the hatch that's there now or the proposed spiral staircase. And I do not know what the excuse of the petitioners is for posing that risk to us and 16 other units in our community.

We also have reason to believe that the fire escape was closed shut for several years, going back to general contracting that was done at an earlier time. And so, again, we're, we're very, very cautious about the idea that the persons who allowed that to happen be allowed to lead this process without, without being held accountable in the ways that we feel need to occur.

In addition to --

CONSTANTINE ALEXANDER: Excuse me, I don't mean to interrupt you.

ROBERT OWENS: Yes, sir.

CONSTANTINE ALEXANDER: When was the building permit that created the current unsafe second means of egress, when was that granted?

ROBERT OWENS: The permit I understand was granted in November.

CONSTANTINE ALEXANDER: No, no, no. That's the one they want to do now. The original? What's been sealed up.

ROBERT OWENS: The building is from 1971, and my understanding is it's original.

CONSTANTINE ALEXANDER: Okay.

ROBERT OWENS: So at that time it would have been code compliant. But this alteration is complete. I mean the hatch ladder is being removed and being replaced by a

spiral staircase, so I feel any grandfather considerations are not there as well in terms of these being from 1971, the original hatch.

CONSTANTINE ALEXANDER: I'm sorry, you're losing me.

ROBERT OWENS: Please.

CONSTANTINE ALEXANDER: The Building Code, the State Building Code not -- requires two means of egress in the dwelling unit --

ROBERT OWENS: Yes.

STEVEN LEMLEY: Yes, sir.

CONSTANTINE ALEXANDER: Okay. Originally I guess in 1971, on paper anyway, there were two means of egress.

ROBERT OWENS: Yes.

STEVEN LEMLEY: Yes, sir.

CONSTANTINE ALEXANDER: Along the way the means of egress, if you will, disappeared because it became unusable.

ROBERT OWENS: Yes.

CONSTANTINE ALEXANDER: Okay. And now there's a desire to make a second means of egress?

ROBERT OWENS: Yes.

CONSTANTINE ALEXANDER: And you feel that what is proposed is not, is unsafe, if you will, as before and for different reasons, but unsafe. Isn't this issue for the State Building Board not us? We don't, we don't get into these kinds of safety issues. We're a Zoning Board. And when it comes to Building Code matters like two means of egress, that stuff is state governed. You can take an appeal for there, and they're more expert than that. The zoning doesn't -- it's trumped if you will, it's a bad word these days. It's trumped by the State Building Code. That's where you, if you have a case, that's where you take it, not to us. We're not going to hear this case on a -- one of the reliefs you're suggesting is that these folks should seek a Variance. Variance is irrelevant here. The issue of whether this second means of egress satisfies a

state, state, not Cambridge, state building laws. I don't know why you're here. I mean, I'm not -- it's not that we -- your case may not be very sound.

ROBERT OWENS: Oh, it certainly is.

CONSTANTINE ALEXANDER: That's not for us to decide.

ROBERT OWENS: Right, I can see that.

CONSTANTINE ALEXANDER: The fact of the matter is, I think you're in the wrong body. The wrong forum.

ROBERT OWENS: Yeah. I mean does this Board have the jurisdiction to oversee the actual inspection report process? I mean, when I read the zoning act, it seems to be relating to Inspectional Services and it also references the sanitation code.

CONSTANTINE ALEXANDER: Yeah, what's in those reports is not -- it's not relevant. I mean what's relevant is the building, the Inspectional Services Department looked over a set of plans presumably and said, we're going to

issue a -- issue whoever applied for it a building permit. They made, the person or persons, made a determination that that was being proposed was adequate.

Your view is it's not. It's unsafe. It continues to be unsafe for different reasons. Okay. Go to the state, state offices, state Building Department and get, and bring your case to them. And if they say yes, you're right, in some case, then the building permit will not be acted on.

PATRICK TEDESCO: Can I offer another suggestion?

CONSTANTINE ALEXANDER: By all means.

PATRICK TEDESCO: Speaking as an architect, and I'm not going to judge whether or not the proposal is code compliant, but, but it's a multi-family building, right?

ROBERT OWENS: Yes, sir.

STEVEN LEMLEY: Uh-huh.

PATRICK TEDESCO: So you're absolutely right, and my understanding, and Jim, correct me if I'm wrong, on a path of egress you have to have a certain amount of foot

candles, not very many but it has to be lit.

JIM MONTEVERDE: I would think.

PATRICK TEDESCO: Rather than go to Beacon Hill, sit with the architect or engineer or whoever is stamping these drawings, and do a code review and figure that out. Because it's a pretty simple design.

STEVEN LEMLEY: Yes, sir. We have attempted to -- I've actually spoken with the commissioner one time. I've e-mailed him multiple times. I've actually had the senior building inspector to our property.

ROBERT OWENS: But what they're saying --

CONSTANTINE ALEXANDER: One at a time so she can --

STEVEN LEMLEY: Yes. There's been no sort of direction on how we might rectify these safety issues. It's my understanding that the Building Code Appeals Board could help us shine some light on this.

PATRICK TEDESCO: Well, the Building Code Appeals

Court is to generally to allow relief away from, you know, against Building Code requirements if you have an historic building. I don't know if it's the Board where they complain of Building Code violations.

CONSTANTINE ALEXANDER: I don't know either.

PATRICK TEDESCO: Anyway, to me it's a very simple problem.

STEVEN LEMLEY: I think it is as well.

PATRICK TEDESCO: And I would -- whoever the building manager or whoever is responsible for building this, I think you try to sit down and try to work this out with them rather than go before another appeals board. Because it's, these stairs are built all the time and there's four or five particular code requirements and they ought to be able to, you ought to be able to meet upon those.

CONSTANTINE ALEXANDER: I assume --

PATRICK TEDESCO: It's not grey.

CONSTANTINE ALEXANDER: I assume if they do go to the Inspectional Services Department and can't convince them of -- then they do have recourse.

PATRICK TEDESCO: I suppose. I don't know the process.

CONSTANTINE ALEXANDER: They can go to the state body.

PATRICK TEDESCO: But I can tell you the path of egress lighting is certainly a requirement in a multi-family.

CONSTANTINE ALEXANDER: I understand that.

PATRICK TEDESCO: Beyond that I don't see any issues with the spiral stair or anything else. So, I just think this is a very simple problem.

CONSTANTINE ALEXANDER: Yeah, it's not a problem that we can resolve.

PATRICK TEDESCO: You're right, I agree.

ROBERT OWENS: Well, I think the persons who can

are present, so I hope they take the suggestion that illumination be placed into this space seriously.

I don't know exactly what disposition this Board will now give the case, but to the extent that this case can just be without prejudice and we'll pursue other options, I would appreciate it if it's not within your jurisdiction. I assume that's not a concern either.

CONSTANTINE ALEXANDER: What's the purpose of deciding it without prejudice to bring it back? I mean, I don't think we have -- I'm not being contentious. I don't see how we can get involved in this case beyond the way you want us to get involved. I don't think it's just for us to do. But I'd be happy to continue, if other members of the Board agree, to continue without prejudice.

JANET GREEN: Did you mean continue the case?

ROBERT OWENS: Well, just that we would have the ability in the case it is determined that the Board has some jurisdiction in the matter, not to contradict you, but

that's what I would request. Or to continue the matter until we pursue the possibility of the state board and then you can make the determination at that time.

CONSTANTINE ALEXANDER: Any reaction, Sean?

SEAN O'GRADY: This may well be years.

CONSTANTINE ALEXANDER: Well, I hope not. Because we have an unsafe situation here. I would hope somebody would move --

SEAN O'GRADY: Pursuing other --

ROBERT OWENS: The Board could dismiss it at the next hearing. We would propose we continue it until that time to give us some flexibility with pursuing our options. In the event that you do determine that the Board does have some jurisdiction.

JIM MONTEVERDE: My point we don't.

CONSTANTINE ALEXANDER: We don't.

ROBERT OWENS: I understand that.

CONSTANTINE ALEXANDER: That's what I'm saying.

What's not clear to me is if you want to take an appeal, the one thing that troubles me, and I don't know the answer, if you want to take an appeal of the decision of the Inspectional Services Department to grant a Special Permit for this -- not a Special Permit, a building permit for this spiral staircase, and you feel -- the question is then -- and they continue to want to do that and you continue to believe it's unsafe, I don't know where it is in the Ordinance of the city that allows you to come and see us. I don't know where you go next, frankly. I would assume it would be the state appeals court, but I don't know.

JIM MONTEVERDE: Yes, so I think you have two avenues: There's a state -- there are two codes; there's the state building code, there's the state fire code. So you can always do the other approach through the fire code, fire department if you haven't gotten satisfaction from the Building Department to discuss your safety concerns relative

to the fire code there and see if they have another method for a resolution. But, again, I don't think it involves this Board.

ROBERT OWENS: Well, I'll leave it up to the Board to decide.

STEVEN LEMLEY: Thank you. Appreciate that.  
Thank you. Appreciate that.

CONSTANTINE ALEXANDER: We decided that we don't have jurisdiction to deal with the complaints. We're not getting into the merits.

ROBERT OWENS: Yes, sir.

STEVEN LEMLEY: I understand.

CONSTANTINE ALEXANDER: So on the basis of this, I will accept a requested withdrawal of your appeal?

ROBERT OWENS: Yes, that would suffice. A withdrawal is good.

CONSTANTINE ALEXANDER: The chair moves that we request the petitioner's request to withdraw their appeal.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Green, Tedesco, Best, Monteverde.)

JIM MONTEVERDE: Can I make one comment before  
you --

ROBERT OWENS: Yes, sir.

CONSTANTINE ALEXANDER: Go ahead.

JIM MONTEVERDE: In my architectural practice,  
because I practice, is that what we deal with Building Code  
Variances all the time and making the request for them  
usually in advance of some construction. We usually use one  
of our -- and the city's full of code consultants, Building  
Code consultants who usually rely on as the entity who knows  
the ins and outs of the state board and the state boards and  
as to what they've seen before, how it works, how you  
process through. So I might suggest you might at least  
contact there to see if anyone there can also help you, give

you some advice, and if they have broached anything like this before -- dealt with anything like this before.

ROBERT OWENS: We appreciate it, and we also hope that this is an opportunity for some of the remedial measures that we're concerned about to be taken without meeting for any particular process.

CONSTANTINE ALEXANDER: I saw you stand.

ROBERT OWENS: I don't see how he has standing if I've withdrawn my application.

CONSTANTINE ALEXANDER: We haven't voted on it.

ROBERT OWENS: I see.

CONSTANTINE ALEXANDER: And I think it's a matter of just courtesy. We let him speak. He and a number of people have come down.

ATTORNEY ERIC NADEAU: Should I just stand here?

CONSTANTINE ALEXANDER: No, come a little closer so the stenographer can hear.

ATTORNEY ERIC NADEAU: Good evening, Mr. Chairman

and members of the Board. Thank you for giving me the opportunity to speak --

THE STENOGRAPHER: Your name?

JOHN HAWKINSON: Mr. Chair. It's tough to hear you and the audience is too loud.

ATTORNEY ERIC NADEAU: Okay.

CONSTANTINE ALEXANDER: Maybe if you sit on the side so your voice will go this way as well as that way.

ATTORNEY ERIC NADEAU: All right. My name is Eric Nadeau. I represent Harwell Homes. I'm here with my clients, the engineer, and here with Mr. Mark Regan. I'm here with Ms. Laurie McGrath. And I just want to let the Board know we had the permits granted. This was for a drop-down ladder style fire exit which was grandfathered in. They have now since installed four spiral staircases. They are all now installed. And what we believe is the -- well, the appellants are looking to have a private means of egress. Not a second means of egress. Not in the event of

a fire that I can get out of the unit and get down to the ground and become safe. I would like to have -- because their proposal is to have a deck and then that drops down further and has another grade and then drops down to grade which we have issues with setbacks. And the additions with the abutting units and the abutting owners. And what this is about is that there is a proper way to get in the building through the front door, and in the event of an emergency or if they did choose to use this fire escape spiral staircase as a means of egress, they are welcome to. But what they're asking for is to have it done the way they would like it to be done. As with respect to this box, I do hear what the appellants have to say --

CONSTANTINE ALEXANDER: Save those arguments, those points for the state authorities.

ATTORNEY ERIC NADEAU: So I do hear their commentary about the lighting --

CONSTANTINE ALEXANDER: Don't get into the merits.

We're not going to deal with it.

ATTORNEY ERIC NADEAU: I guess ultimately there was no cease and desist from the building inspector. They didn't have a problem. They've been thorough with my client. They've been there throughout the entire process --

CONSTANTINE ALEXANDER: Sir.

JANET GREEN: Tell them, not us.

STEVEN LEMLEY: He's never even been to the property.

ROBERT OWENS: Steve, Steve, Steve.

ATTORNEY ERIC NADEAU: I guess at this point I wanted to make, you know, this is not a matter of whether or not the egress is appropriate for a fire escape, it is. That's exactly what the spiral staircase has been built for and that's what the intent is and I will rest there. Thank you.

STEVEN LEMLEY: I appreciate it.

ROBERT OWENS: Thank you. We appreciate the

direction and insight.

CONSTANTINE ALEXANDER: I guess we need to take a vote. If you want to withdraw that's your decision.

ROBERT OWENS: We would like to withdraw.

CONSTANTINE ALEXANDER: Case is over.

ROBERT OWENS: Thank you.

STEVEN LEMLEY: Thank you so much.

CONSTANTINE ALEXANDER: To be continued but not in this room.

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(7:35 p.m)

(Sitting Members Case BZA-015229-2017: Constantine

Alexander, Janet Green, Patrick Tedesco, George S. Best, Jim Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call case No. 015229, 25 Glenwood Avenue.

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

KRISTIN CANAVAN: I'm Kristin Canavan, K-R-I-S-T-I-N C-A-N-A-V-A-N and John Lodge.

JOHN LODGE: John Lodge, L-O-D-G-E.

KRISTIN CANAVAN: And I was nervous the last time we came here and I'm even more uncomfortable this time. I feel we were relieved when we had our first dormer approved and that we were done and never coming back here again.

CONSTANTINE ALEXANDER: One of the questions I'm going to ask --

KRISTIN CANAVAN: Yes.

JOHN LODGE: Why are we coming back here?

CONSTANTINE ALEXANDER: Why the second dormer? What's hardship that requires a second dormer?

KRISTIN CANAVAN: Right.

JOHN LODGE: So, so --

KRISTIN CANAVAN: Once we started going through the process with a builder, and we went through with several interviews with several people --

CONSTANTINE ALEXANDER: I'm sorry. My fault. For the benefit of the Board, why don't you start from the beginning.

JOHN LODGE: Why don't I start from the beginning. All right. So this dormer was approved in --

CONSTANTINE ALEXANDER: November.

JOHN LODGE: November. Correct.

After we got the approval for the -- for this dormer, we -- the builder came in and looked at -- started looking at the project. And what we found when we went up on to the roof and looked more carefully and did a little bit of sort of exploratory demo, is that this sort of strange little L that was put on later, I think when this, the stair to the third floor was put on, wasn't very well built. There's a ton of water damage behind it. So the builder's opinion was that when we, when we do this, we're going to have to reframe that space regardless. So given, given the option of just reframing what's sort of an odd little dormer versus just sort of filling in -- sort of filling in this little piece here -- so this -- so basically this is the existing L on here. So the idea is just to continue the ridge out, you know, sort of complete the end of the roof and fill in this sort of odd little space. So that was just to sort of take care of all of what, you know, in the future would be sort of difficult waterproofing

issues, etcetera, etcetera.

CONSTANTINE ALEXANDER: It doesn't require zoning relief, does it?

JOHN LODGE: Yes, it does.

CONSTANTINE ALEXANDER: It does?

JOHN LODGE: It does. Because there's about 32 square feet if you come from the five feet line up that we're --

CONSTANTINE ALEXANDER: Okay.

JOHN LODGE: So --

KRISTIN CANAVAN: We weren't planning to do any work --

CONSTANTINE ALEXANDER: Oh, I'm sure.

KRISTIN CANAVAN: -- financially in that back area.

CONSTANTINE ALEXANDER: Don't go too far with that, because it has the second dormer on there, too.

JOHN LODGE: Yes, yes.

KRISTIN CANAVAN: So that is where the second dormer comes in.

JOHN LODGE: All right, so this was sort of the first discussion. Once we got through this discussion, Kristin and her husband Ross said well, if we're going to have to reframe this back part anyways, you know, could we go and ask for another dormer to try and get a little bit more space? Really more for their laundry than anything else. Because where the second bathroom is proposed now could become a laundry room instead of a laundry closet. The laundry closets are spilling out over into the hallway. So the idea is if we're going to come back anyways, we should ask for, you know, everything that they really want. The scope of the budget has crapped anyways. So now is the time to not come back a third time.

CONSTANTINE ALEXANDER: Please.

JOHN LODGE: So basically that's the sort of the logic of the raft.

CONSTANTINE ALEXANDER: And the dormer, your new second dormer, like the first, complies with the dormer guidelines?

JOHN LODGE: It does. And because of where it is, you really can't see it from the street. It's sort of tucked in behind this one. It's not within any of the setbacks because it's on the driveway side.

CONSTANTINE ALEXANDER: And basically the case for a hardship and special conditions that you brought before us for the first dormer apply equally here?

JOHN LODGE: Yeah, yeah.

CONSTANTINE ALEXANDER: You're --

JOHN LODGE: Yes, yes, absolutely.

KRISTIN CANAVAN: The second bathroom was going to be, John, forcing the --

JOHN LODGE: Well, yeah, that's true.

KRISTIN CANAVAN: -- the laundry to be in.

JOHN LODGE: Oh, the laundry?

KRISTIN CANAVAN: Yeah. The laundry to go into my daughter's room that has this peaked roof. So it will come in very far --

JANET GREEN: She was sleeping in the laundry room, I remember.

KRISTIN CANAVAN: Well, she'll be sleeping with the laundry. But I mean there will be a closet.

JOHN LODGE: No, the son's sleeping with the laundry now.

JANET GREEN: Okay.

JOHN LODGE: Now it's going to the daughter.

KRISTIN CANAVAN: This is the laundry now. And we're hoping to close that in to make it, what it says, new laundry. It's really just enclosing the laundry space. And then it allows us not to have to bump the laundry off the new hallway into her room so that the bedrooms will be more --

JOHN LODGE: Yeah, the part of her room that

actually has more headroom is where the laundry, the proposed laundry is now. So the idea is if we can find some -- other space for that, then she has more bedroom with sort of full headroom.

KRISTIN CANAVAN: And we wish we had this complete plan the last time so we could have just come here one time. I'm so -- we apologize for that.

CONSTANTINE ALEXANDER: Questions from members of the Board?

JANET GREEN: I'm comfortable with it.

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

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. I don't think -- we have letters?

KRISTIN CANAVAN: There should be a couple

letters.

CONSTANTINE ALEXANDER: Yeah, we do.

We have a letter from Lewis Ron Wyman, W-Y-M-A-N, who says "I am the owner and resident of the house at 29 Glenwood Avenue." This property is 24. "Next-door who Ross Berbeco and Kristin Canavan and have been notified of the changes to the previous submitted plan. The extension of the roof line will eliminate a problem area for them and will frankly make the view better from my house. While the proposed additional dormer does not affect my view, it will make it possible for them to have four reasonably sized bedrooms to accommodate their growing family. The latest proposed innovations continue to complement the current style of the house and are in character with the neighborhood. We hope the Board will grant them this additional Variance."

And the other letter is from Jim Harrison who resides at 23 Glenwood Avenue. (Reading) I am the

downstairs neighbor of Kristin Canavan and Ross Berbeco who live at 25 Glenwood Avenue. I understand that they are hoping to renovate their home to accommodate the changing needs of their growing family. This letter is to offer my strongest support for the renovations they are proposing to the property we share at 23-25 Glenwood Avenue. Kristin and Ross are precisely the type of people that the City of Cambridge needs to encourage to remain in our city. A city I have lived in for the last 32 years. I believe that the work they are proposing not only conforms to the character of the neighborhood, but will be done with the utmost attention to detail or concerns for the structural integrity of our property. I sincerely hope the Board will grant them the Variance they are seeking and help -- this word is kelp -- and help keep them in the neighborhood for the long run.

That's it. There's no opposition.

Did anybody express verbally to you in the

neighborhood?

KRISTIN CANAVAN: No.

CONSTANTINE ALEXANDER: Okay.

KRISTIN CANAVAN: And our across the street neighbor who spoke the last time was hoping to be here this time, but he had a last minute meeting.

CONSTANTINE ALEXANDER: With that I'll close -- any final comments?

(No Response.)

CONSTANTINE ALEXANDER: Ready for a vote? The Chair moves that we make the following findings with regard to the Variance being sought -- and I'm going shortcut a little bit. The findings I propose we make are the same findings we made when we granted the Variance for the other dormer back in November.

So for the same reasons should apply to here. Because in fact what is proposed is part of one project and for unforeseen reasons, because you couldn't go to the

building, and you couldn't tell what was underneath, this case wasn't brought at one time, it's been brought in two pieces.

So on the basis of all of these findings that we've incorporated by reference, the Chair moves that we grant the Variance being sought on the condition that the work proceed in accordance with the plans prepared by John Lodge architects dated 12/4/17, the first page of which has been initialled by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Green, Tedesco, Best, Monteverde.)

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(7:45 p.m.)

(Sitting Members Case BZA-015306-2017: Constantine

Alexander, Janet Green, Patrick Tedesco, George S. Best, Jim

Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call case  
No. 015306, 7 Fayette Street.

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

DON FOOTE: How are you?

CONSTANTINE ALEXANDER: I'm fine. How are you?

DON FOOTE: Very well.

CONSTANTINE ALEXANDER: As you've seen, name and address to the stenographer for each of you, please.

DON FOOTE: I'm the builder, Don Foote, 35 Myrtle Terrace. F-O-O-T-E. Winchester, Mass.

JON ARNASON: Jon Arnason. First name is spelled J-O-N. Last name is A-R-N-A-S-O-N. One of the owners at 7 Fayette.

RACHEL KNIPE: And I'm Rachel Knipe, K-N-I-P-E also owner.

DON FOOTE: So you might have seen the photos here. This is the existing conditions at the front porch at this two-family that they live on the second and third floors of. This deck is deteriorating and needs to be repaired. What we are asking relief for is to fill in this area. We're going to turn it into a deck that looks like this.

CONSTANTINE ALEXANDER: Right.

And by doing this you're adding a little bit of  
a --

DON FOOTE: We're filling in --

CONSTANTINE ALEXANDER: Yeah, the crease. FAR  
issues.

DON FOOTE: Four and a half feet per floor. About  
nine square feet of additional space. It's going to be  
exterior. It's kind of modeled on -- this is the house  
that's right next-door to them that did the same thing I  
would assume because it's almost exactly the same. We think  
it looks a lot more attractive. We don't feel like adding  
the additional square footage is detrimental to the  
neighborhood, and we're just trying to -- going to take all  
the ugly storm windows off of this and make it look good.

CONSTANTINE ALEXANDER: Okay.

And the reason this is all started is because a  
deterioration to the existing deck?

DON FOOTE: Yeah, it's just really unsafe. We had

to just replace the steps temporarily because they were falling apart. The whole thing is sagging and just needs to be rebuilt.

CONSTANTINE ALEXANDER: Okay.

Questions from members of the Board?

PATRICK TEDESCO: I would just say I have to think what you're doing is probably restoring it back to its original. I don't think it was built --

JON ARNASON: I think that's probably right.

PATRICK TEDESCO: Yeah, because they just tried to use an easier way for them to frame the deck.

JON ARNASON: Correct. I think they wanted to get some more interior space and just did that cheaply and this is the way it should be.

CONSTANTINE ALEXANDER: Any other comments or questions?

JANET GREEN: No.

CONSTANTINE ALEXANDER: I'll open the matter up to

public testimony.

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. And I don't think we have -- we have no letters in the file from any neighbors or concerned citizens or unconcerned citizens.

So I will -- unless you have anything further to say, I'll close public testimony.

DON FOOTE: We're good.

CONSTANTINE ALEXANDER: Okay.

Ready for a vote?

JIM MONTEVERDE: Yeah.

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

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such

hardship being is that the porch is deteriorating, and to repair it probably, as Patrick has said, to its original condition. Zoning relief is required.

That the hardship is owing to the fact that the building already is a non-conforming building.

And that any modification or repairs to it requires zoning relief.

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

In fact, the project is very modest in nature in terms of its departure, further departure from our Zoning Code. And it is beneficial in that it will improve the visual appearance of the structure, and therefore the housing stock of the city.

So on the basis of these findings, the Chair moves that we grant the relief requested on the condition that the work proceed in accordance with this plan. Now, if you

deviate from this plan, you're going to have to come back.

You're comfortable this is it?

DON FOOTE: We want to build it just like that.

CONSTANTINE ALEXANDER: I got to make -- on the condition the work proceed in accordance with plans prepared a Don Foote, F-O-O-T-E Contracting which has been initialled by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

(Alexander, Green, Tedesco, Best, Monteverde.)

\* \* \* \* \*

(8:00 p.m.)

(Sitting Members Case BZA-015308-2017: Constantine

Alexander, Janet Green, Patrick Tedesco, George S. Best, Jim Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call the next case on our agenda. It's case No. 015308, 54 Reservoir Street.

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

ANNLEE FOSTER: Hi. Annlee, one word, A-N-N-L-E-E Foster.

CAMPBELL ELLSWORTH: Campbell Ellsworth,

architect.

CONSTANTINE ALEXANDER: You said that with a sense of resignation.

CAMPBELL ELLSWORTH: I'm just out of breath.

You're not taking that down, right? Okay. You don't miss anything.

Good evening. Annlee's house burned down in April. It was a two-family structure at 54 Reservoir Street, and we are here to request -- Annlee would like to rebuild the house. A little bit of history.

So we were advised by Ranjit because the builder -- Annlee wanted to get going, the builder wanted to get going. We knew we were going to come to the Board of Zoning Appeals. We were advised to put in a building permit for the reconstruction of the existing house as it was with minor exceptions, and I'll tell you that. Except that -- but that it would have the same roof line, the same ridge, the same volume, everything. That is -- that permit

is pending, but it has passed every hurdle including zoning is my understanding, and now lies only with the building inspector who is the last stop on the permit chain.

As part of that rebuild, we were also capturing some pre-existing GFA space, meaning covered, covered porches, both front and back, and those were intended to be enclosed and then included in the interior layout. So, again, no modification to GFA from existing to proposed in the current plan, in the current permit application, building permit application that is about to be released.

Now we come before you because Annlee knew that she wanted to rebuild that house but to do it in a slightly different way. She still wanted to capture that pre-existing GFA space and those covered porches, but she also chose to take the hipped roof and determine the GFA space, meaning all of the third floor space in that attic which was above five feet, was counted as GFA, and according to -- or one of the techniques that many architects and

builders use is to define that profile and then to be able to build that as a full height third floor. It's an as-of-right move if you will. So the plans before you tonight are in fact that, and we are here seeking zoning relief on three counts:

One is a straightforward Special Permit which you've seen many, many times before of being able to move window openings within a setback. She is on a corner lot, and is -- it's a non-conforming structure, certainly with respect to that left-side where her neighbor has a driveway. So we're here before you to request the Special Permit for the changing of those window openings.

The second part of the relief we're seeking are two modest variances which happen to increase the GFA. One of those is to create a covered -- small covered canopy at the rear of the house next to the driveway because the garage has always been there. Annlee has always used the back of the house as her entryway into her home as opposed

to the front which was the more formal entrance. And now with the sort of capturing of that additional pre-existing GFA space, she would like to add a small canopy over that area to be able to have --

CONSTANTINE ALEXANDER: You call that modest canopy.

CAMPBELL ELLSWORTH: A modest canopy.

CONSTANTINE ALEXANDER: Well, that's not appropriate for a notice.

CAMPBELL ELLSWORTH: Well, I --

CONSTANTINE ALEXANDER: Next time don't put modest.

CAMPBELL ELLSWORTH: Okay.

CONSTANTINE ALEXANDER: You can characterize it in your presentation not in your public advertisement.

CAMPBELL ELLSWORTH: Okay, well I didn't put the public advertisement together. I --

CONSTANTINE ALEXANDER: You didn't? Somebody put

modest and it's inappropriate. But anyway, keep going.

CAMPBELL ELLSWORTH: Anyway, it's a small canopy.

The second bit is a little more -- it takes a little bit more explanation which is this:

The original house had a stairway in the back of the house. And let me, let me actually -- I think it will make more sense to take a look. Okay. So, this is the typical second floor. The first floor looks exactly like it. This is a very straight ahead Cambridge two-family -- stacked two family. The third floor -- so this represents, if you will, this represents that GFA, the pre-existing GFA above five feet in the attic space. So the original design and the original concept for this was simply to -- we were going to create an access stair up to the roof which would have solely -- it was not connected initially. Would solely service mechanical equipment up here. And as such, it's my understanding that were this to only service mechanical equipment, that would not be counted in GFA.

The fire that Annlee experienced was caused by the tenant on the second floor, and she intends to again use this as a rental. And when we looked at the idea of creating a full height third floor, the first design thought was to create a connection between these two floors with something like a spiral stair or a small stair. That started to create a rental unit that was larger than she wanted, had more bedrooms than was comfortable renting as a rental unit, so we came to the decision to basically give this space back to her unit on the first floor. And then, therefore, to do that this non-GFA mechanical access stair becomes GFA by connecting it here.

So the increase of GFA is this canopy over the back entries for both units 1 and 2 as well as this amount of square footage in the stair and a small amount -- this would have been symmetrical over here, because they were front and rear dormers. So those are the -- and thank you for your patience of listening, but that's the explanation

of why this is now GFA. And that GFA is now -- goes beyond what the pre-existing GFA was.

CONSTANTINE ALEXANDER: But there is a problem here in this case. You're seeking two variances, but you've only advertised for one. And I realize the consequence of both variances is more GFA, and in the case of the staircase it's not much more.

CAMPBELL ELLSWORTH: Right.

CONSTANTINE ALEXANDER: But you got to -- the advertisement, because -- it should have identified the second Variance and it didn't.

CAMPBELL ELLSWORTH: Right, that's correct. That came later. And I, I had spoken last week and early this week with Maria to ask again if I -- and I said I knew that when you hear a case and you continue the case, you're always providing the information that any modifications need to be in by Monday.

CONSTANTINE ALEXANDER: But that wouldn't work.

We can't continue the case to get the other staircase in because you haven't advertised it. It has to be a separate -- let me. Don't despair yet, but you need to have a separate case or a separate advertisement why you're seeking two variances.

CAMPBELL ELLSWORTH: Right.

CONSTANTINE ALEXANDER: Now, from my perspective, other members of the Board may disagree with me, the second Variance, the one you didn't notify everybody of is modest as you pointed out. It's a small space. It's all interior. I don't know why anyone would have an objection to it. And so in my judgment I would go on and pass your second Variance as well as your first tonight. But I have to tell you that this second Variance is open to challenge. People in Cambridge appear out of the woodwork sometimes. That second Variance for that staircase was inappropriately granted because it was never noticed in public advertisement, and seek to revoke that part of the Variance.

CAMPBELL ELLSWORTH: I see.

CONSTANTINE ALEXANDER: And they can do that not within -- they don't have to wait, they don't have to bring their suit within the 20-day appeal period. They can do it -- I don't know how long, but it's much longer.

CAMPBELL ELLSWORTH: I see.

CONSTANTINE ALEXANDER: So if you go forward tonight with both, and I'm prepared to let you go forward, again, subject to what my fellow board members feel, you've got to recognize that. The only way you can solve the problem is to bring a separate petition for that, for the second Variance that wasn't noticed. You can do it at any time I suppose, but that would give you complete protection. Right now you've got, I think practically speaking, a lot of protection but you don't have 100 percent protection.

CAMPBELL ELLSWORTH: I understand.

CONSTANTINE ALEXANDER: You should understand that.

CAMPBELL ELLSWORTH: Right. And let me address and Annlee can speak to it, too. Maria generates the abutters' list. Letters went out to every abutter. Annlee inviting to an open house, Annlee hosted that, and all of those abutters and anybody who was interested, have already seen these plans just to, I mean with that modification.

CONSTANTINE ALEXANDER: Again, that doesn't mean that somebody, you know -- we just had a case down in a different part of town where a person came and all the neighborhood support and we granted the Variance, and now all of a sudden a lawsuit's been filed in court challenging the granting of the Variance. It wasn't an advertisement issue. So you never know who is going to emerge from the woodwork.

ANNLEE FOSTER: Yes.

CONSTANTINE ALEXANDER: And that's what I'm trying to tell you.

CAMPBELL ELLSWORTH: Let me ask, then, if

both -- if we proceed and both variances are in fact granted tonight and it's challenged, assuming that it is challenging -- does the canopy Variance still hold?

CONSTANTINE ALEXANDER: It can be challenged, but they've got to fight that on the merits because you've properly advertised it. And their complaint would be that we applied the wrong standard. We shouldn't have granted the Variance. But the challenge of the staircase is a much easier case. It wasn't advertised. I never knew about it.

CAMPBELL ELLSWORTH: Right.

CONSTANTINE ALEXANDER: So it's a different standard.

CAMPBELL ELLSWORTH: No, it's interesting, in the original application the staircase existed.

JANET GREEN: It's the same? Is it the same?

CAMPBELL ELLSWORTH: It is exactly the same.

JANET GREEN: Exactly the same.

CAMPBELL ELLSWORTH: It's exactly the same. It

simply did not have that 12 square foot connector that connected one to the other.

CONSTANTINE ALEXANDER: Practically speaking, I know what you're saying, and I'm sure you're going to be right, but I've got to tell you it doesn't cut it legally if someone wants to challenge it.

CAMPBELL ELLSWORTH: Very good.

CONSTANTINE ALEXANDER: Other members of the Board have any problem with going forward with both variances?

PATRICK TEDESCO: No.

JANET GREEN: I'm okay.

CONSTANTINE ALEXANDER: Okay, just wanted to let you know.

CAMPBELL ELLSWORTH: Annlee's been in that house a long time.

ANNLEE FOSTER: A little bit of background. The house was built by a builder for himself in 1930. He had no children, wasn't married. He had a manservant who slept in

this attic. When he died, his estate sold the house to a family named Polturic (phonetic) who raised two sons there. While they were there, my parents bought the house next-door, 56 Reservoir in the late forties. I'm third generation Cambridge as is my sister. When the Polturics died, the two kids who are lawyers, one in LA and one in Chicago, contacted my father. The neighbor next-door, who was a lawyer, and said, would you handle the sale of the house for us? And my father said certainly and discussed a few things with them and came home and told my mother. And she said well, you can't because I want that house. It's on the corner, I want a corner house. So they resolved that and we moved next-door at the age of seven. I was seven. My sister -- I'm not married. I don't have any kids. It remains a family home. My sister and her husband and her kids and their kids when they're all in town, there's not enough room on one level, and the big problem is there's only -- as in all of those houses, one bathroom. So this

solves the problem. I don't know if there's anything else I can tell you.

CONSTANTINE ALEXANDER: I don't think so. I mean, that's very -- I appreciate what you --

ANNLEE FOSTER: It's been a battle.

CONSTANTINE ALEXANDER: -- told us, but I think we get it. And I think that we -- again, speaking for myself, I don't think we find this case that challenging when it comes to the canopy.

ANNLEE FOSTER: Okay.

CONSTANTINE ALEXANDER: Or with the staircase. But I've got to tell you, I want to make sure you understand what's going on.

Any comments from members of the Board?

ANNLEE FOSTER: Comments? Questions?

JANET GREEN: No, all good.

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

Is there anyone here wishing to be heard on this matter? Ma'am, please, come forward and give your name and address. You've got to come closer, please.

MARY FINNEGAN: My name is Mary Finnegan, F-I-N-N-E-G-A-N. And I live across the street from Annlee and have -- I live in the home that my grandparents had. So we're again third, fourth generations. And she's been a wonderful neighbor. All these years we've all looked out for each other, and very sad about this fire, but very supportive of her making this home again for herself.

So, thank you.

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

MARY FINNEGAN: Oh, my pleasure, my pleasure.

ANNLEE FOSTER: Thanks, Mary.

MONICA STRAUSS: Sorry I'm wearing a mask, but I've been very sick.

CONSTANTINE ALEXANDER: Just come a little closer

so we can understand you better.

MONICA STRAUSS: I'm sorry, I had to come because this is such an important --

CONSTANTINE ALEXANDER: Your name?

MONICA STRAUSS: My name is Monica Strauss, and I reside in and own the house that's across Blakeslees, also a corner house from Annlee. I grew up in this house. My parents and my family live there. And I've known Annlee since I was pretty small. And her house and her parents house was exquisite. Our house is similar in a lot of ways, but her house is in perfect immaculate condition. They kept everything perfectly. All the, you know, original woodwork, everything. We had the same woodwork but we weren't as good at keeping everything fresh as it was originally. So it was extremely devastating to be, you know, we had a bird's eye view of everything that happened and it was just horrific. And Annlee is a woman of beautiful taste. I'm sure that her plans are going to be something that, you know -- I've

looked at them. I'm not an architect, but I -- I'm sure that it's going to be a beautiful house and I just support whatever she does. So, I also have lived across from her for more than 50 years, almost 60.

So that's pretty much all I have to say. I'm looking forward to seeing the house building as it grows.

ANNLEE FOSTER: Thanks, Monica.

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

Anyone else wishes to be heard?

ANNLEE FOSTER: I'm in a -- if I could just add a piece.

CONSTANTINE ALEXANDER: Let me close out, it's okay. I'll read the letters. You'll have a chance. Don't worry. Just taking it out of order. There's no one else wishing to be heard. We do have letters in our file, which I will read into the record.

We have a letter from Monica Strauss. And I don't

think -- since she's been here and spoken, I don't think we need to read the letter.

A letter from Christina Crouch, C-R-O-U-C-H, 56 Reservoir Street. (Reading) I will not be attending the meeting on February 1st for the Board of Zoning Appeals, but wanted to express my opinion. I have no, N-O objections to the plans to rebuild the house at 54 Reservoir Street. I have reviewed the plans with Annlee and hope she's able to move forward with rebuilding her home. We have been next-door neighbors for over 50 years. What a neighborhood. We all look forward to having her back on our street.

And then a letter from -- my name is Mary McLaughlin-Joyce, living at 27 Blakeslee Street, Cambridge. I am an abutter to the property at -- I am an abutter to the property of 54 Reservoir Street, Cambridge. I do not object to any work being done on this property.

And that's it. All in support.

Now, Ma'am, I'm sorry, I cut you off.

ANNLEE FOSTER: It's a corner house. That house across the street, catty-corner, next-door, next-door, behind me, and catty-corner that side, we have all been neighbors for over 50 years.

CONSTANTINE ALEXANDER: That's amazing.

ANNLEE FOSTER: Certainly two generations. The Finnegan's, three generations. The Sullivans three generations. So....

CONSTANTINE ALEXANDER: Wow is all I can say. Unusual in the city.

Okay. I'll now close all commentary. Any discussion or ready for a vote?

JIM MONTEVERDE: Ready.

JANET GREEN: I'm ready.

CONSTANTINE ALEXANDER: We'll take two votes: One for the Variance and one for the Special Permit. Starting with the Variance:

The Chair moves that we make the following

findings with regard to the variances being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being that as a result of the fire and rebuilding, de facto the front of the house or the main entrance is going to be moved to the rear near the garage, and having a cover is very much like just covering the entryway to one's front door.

That the hardship is owing to the fact that this is a non-conforming lot, and any modification would require zoning relief.

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

So on the basis of these findings the Chair moves that we grant the variances being requested and this includes the stair, the modification of the stair, on the condition that the work proceed in accordance with the plans

prepared by Ellsworth Associates, first page of which has been initialed by the Chair and it's dated -- I don't see a date. But anyway, whatever the date it is. Anyway, I've initialled it so we don't need to have the date on the plans.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

(Alexander, Green, Tedesco, Best, Monteverde.)

CONSTANTINE ALEXANDER: Now the Special Permit.

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

Such Special Permit regarding the addition or alteration of windows within a required setback.

That the requirements of the Ordinance cannot be met without the Special Permit you are seeking.

That traffic generated or patterns of access or

egress resulting from these window changes will not cause congestion, hazard, or substantial change in established neighborhood character.

That the continued operation of or development of adjacent uses will not be adversely affected by what is being proposed. And we have verbal and written testimony to that effect from the abutters.

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

And that generally what you're proposing will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

So the Chair moves on the basis of these findings we grant the Special Permit requested on the condition, again, that the work proceed in accordance with the plans referred to with regard to the Variance.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

(Alexander, Green Tedesco, Best, Monteverde.)

\* \* \* \* \*

(8:25 p.m.)

(Sitting Members Case BZA-015364-2018: Constantine

Alexander, Janet Green, Patrick Tedesco, George S. Best, Jim

Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call case

No. 015364, 15-17 Muller Avenue.

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

Your name and address for the stenographer, please.

ELLEN HENDRIKSEN: Ellen Hendriksen,  
H-E-N-D-R-I-K-S-E-N.

NICOLAS CURRIER: Nicolas Currier, C-U-R-R-I-E-R.  
First name N-I-C-O-L-A-S. We both reside at 15 Muller Ave.  
in Cambridge.

ELLEN HENDRIKSEN: And this is our architect.

AMY SEMMES: And I'm Amy Semmes. That's  
S-E-M-M-E-S at 120 Auburn Street in Medford.

CONSTANTINE ALEXANDER: Floor is yours.

NICOLAS CURRIER: So we are coming here today to request two 15-foot shed dormers on our home at 15 Muller Ave. A quick background on who we are. I'm a native Cantabrigian. I was born and raised here. Did move away for work, and with my wife Ellen, we decided to move back to

Cambridge to settle here and raise our boys. We moved into 15 Muller Ave. because it was a two-family house that we could afford and also use rental income to pay the mortgage.

The -- we are -- our boys attend the public schools, and they're very settled and happy here. We want to raise our family here. We feel very invested in the neighborhood. And we wanted to continue to stay here for as long as possible, hopefully for the rest of our lives. The reason for the request today is that we would like to expand our living space up to the third floor in order to enable us to share the third floor living space with our boys and have them within earshot at night. We would like to put, provide the 15-foot -- we'd like to have the 15-foot shed dormers so that they can both sleep upstairs with us on the third floor. That's our primary --

ELLEN HENDRIKSEN: Without the dormers, the usable space within the third floor is quite narrow and would only accommodate two bedrooms, and so in order to have them both

on the same floor as us, we're asking to have the dormers so we can fit three bedrooms up there. And also so we can have the stairs from the second to third floor be to code because they are currently not.

CONSTANTINE ALEXANDER: Now, the dormer guidelines which are the primary element, in my mind anyway, element of them is no more than 15 foot and you've respected that obviously. But you've gone to the ridge line and you've gone to the face of the roof. Why? Is there any reason why you have to do that.

AMY SEMMES: Yes, we have. And I have a couple of boards here. This is a sort of a two-part project. In addition to the dormers there's some changes that are being bundled with that to the back porch which we'll get to.

CONSTANTINE ALEXANDER: Right.

AMY SEMMES: To begin with, to discuss the proposed dormer additions, and this isn't the board of the back porch. The purpose of the dormers in part is to create

some room to stack a new code compliant stair on top of the entry stair.

CONSTANTINE ALEXANDER: That's one of the dormers. I saw that, but what about the other dormer?

AMY SEMMES: The other dormer is really just being extended out to the outside wall in order to match and balance it. But the clearance really requires that we don't have the one-foot push-in but push all the way out to the outside wall --

CONSTANTINE ALEXANDER: Yeah, I understand that.

AMY SEMMES: -- for the stair.

CONSTANTINE ALEXANDER: We've seen that kind of case before. And so the reason for the -- on the other side where you don't have staircase issue is just a matter of aesthetics.

AMY SEMMES: I think it's just aesthetics and balance and gets another foot in the bedroom there.

CONSTANTINE ALEXANDER: Okay.

AMY SEMMES: But that that's not the -- they're not going to hang their hat on that part of it if that's a sticking point. I think sucking in on one side is very doable, but doing it on both is -- would be really difficult with the --

CONSTANTINE ALEXANDER: Right, understood.

AMY SEMMES: -- to get the stair configuration to get the headroom where we need it.

PATRICK TEDESCO: What about -- I'm sorry.

CONSTANTINE ALEXANDER: No, no, go ahead.

PATRICK TEDESCO: What about the ability or inability to drop down from the ridge line. Can you describe that?

AMY SEMMES: Yes, and I'm just going to come back to this. This is actually the rear elevation I'm showing, showing you here. I think that I have a -- I always feel that dormers that are too flat topped in terms of the roof pitch are a bit unsightly compared to something that has a

steep enough roof pitch that you can at least clad the roof with a matching asphalt shingle rather than having to go with a whole rubber roof look. So by hinging the dormer off of the ridge we can come down and get -- I think the cross-section calls for a six-foot, three-inch knee wall at the perimeter, and you can keep this twelve and three roof pitch if you start from the ridge. So that was the logic behind requesting the dormers configured in this way.

CONSTANTINE ALEXANDER: Okay.

What you're basically saying is with regard to this second, what I'm going to call the second dormer, you don't disagree with our dormer guidelines. You think -- you disagree with the dormer guidelines which don't like the fact of a dormer going to the top of the roof?

AMY SEMMES: Well, I like the dormer guidelines but I don't like the resultant -- if the resultant is going to be a really flat, really flat topped roof that -- I wouldn't start there.

PATRICK TEDESCO: You're saying you can only reduce the 12 and 3 pitch if you dropped --

AMY SEMMES: I think 12 and 3 is the shallowest pitch you can do --

PATRICK TEDESCO: Right.

AMY SEMMES: -- and keep an asphalt shingle roof that's all matching and co-planar.

PATRICK TEDESCO: But at the outer edge of the dormer you're saying that's the minimum head height you need?

AMY SEMMES: Yes. So that the windows don't, you don't have to duck to look out windows and that kind of thing.

PATRICK TEDESCO: So it's not really a head height issue really on the stair landing.

AMY SEMMES: Well, so, I've got the floor plans over here. So part of the request for the 15-foot dormer is -- you know, that's enough to fit a bathroom and a stair.

And the bathroom layout has the toilet out close to the outside wall. So the concept that you can actually have the headroom to stand all the way out near the windows was important.

JIM MONTEVERDE: So when you're done what's the ceiling height in the bathroom then? At the outside wall?

AMY SEMMES: I think it will be a cathedraled space sloping up, so it's about six, three at the edge and you'll get to six, eight or so by the time you come in at the toilet.

So in terms of the way -- excuse me.

PATRICK TEDESCO: So it's a minimum ceiling height, minimum ceiling height.

JIM MONTEVERDE: Right.

AMY SEMMES: Yes, to make that space usable for a bathroom. I think the thought is that if we're gonna add dormers, to ask for the 15 feet to have that be more useful and some additional bedroom.

PATRICK TEDESCO: I mean, I don't think anybody objects to the 15 feet.

JIM MONTEVERDE: Right, it's just the height again and why you need to be at the ridge line as opposed to be below it. That's all we're trying to understand. Without a section. So you're basically verbally leading us through the building section.

AMY SEMMES: Yes. Which is there, there is a building section.

JIM MONTEVERDE: Oh, in this packet?

AMY SEMMES: In the packet.

JIM MONTEVERDE: That's okay.

AMY SEMMES: I just did not focus on the boards here. This is sort of supplemental things here.

CONSTANTINE ALEXANDER: While you're looking at it, I've got to point out. Look at the third one down, that house, that's a neighbor's house. Talk about non-dormer guideline compliant.

PATRICK TEDESCO: I looked at that. That's why they wrote the dormer guidelines.

AMY SEMMES: They're actually three different ones that have a slit.

CONSTANTINE ALEXANDER: But they're all joined together.

AMY SEMMES: No, they have a slit.

ELLEN HENDRIKSEN: They have a space.

CONSTANTINE ALEXANDER: And the other side is not dormer guideline compliant either.

ELLEN HENDRIKSEN: These are the next-door neighbors.

AMY SEMMES: These are the neighbors.

So the one other point that I wanted to make is the project has another component which is rebuilding the back porch --

CONSTANTINE ALEXANDER: Yeah.

AMY SEMMES: -- that I wanted to address.

CONSTANTINE ALEXANDER: Yes, please.

AMY SEMMES: Because I think by bundling these two projects --

CONSTANTINE ALEXANDER: Why don't you just wait a second so they can get a chance to look at the plans.

JIM MONTEVERDE: No, we're good.

CONSTANTINE ALEXANDER: You're good?

Go ahead.

AMY SEMMES: So the challenge of making this house be not just their starter house but become their forever house in the upstairs in a two-family to raise their boys, one of the issues involves how to build out the third floor, but I think the additional issue that we focussed on is what to do about the sleeping porch in the back, which is currently a classic Cambridge --

CONSTANTINE ALEXANDER: Yes.

AMY SEMMES: -- narrow porch. I think those porches initially really designed as a place to hang laundry

more than intended to be habitable. You know, it was before the era of electric dryers and whatever. And this porch is, the clearance inside is five-foot, three which is really too narrow to be able to put a table on and easily walk passed them and reach the entryways and all of that. So we had some discussion about how might we -- what's the best way to incorporate a redesign for the back porches into the project? And what we have come up with is -- so this diagram here has the existing back -- two-story back porches which are 16-and-a-half by six feet outside. And our thought is in addition to the fact that -- and I don't have a site plan up here, but the back of the house is too close to the garage to be able to enlarge the porches at all, besides the fact that the house is already non-conforming for FAR. So we've come up with a concept about how to downsize the porches. The thought is that they would be demoed and then a one-story porch with a deck, balcony deck with no roof on the second floor would be constructed in its

place. And that we would actually take the egress stair, rear egress stair from the second floor unit, make that an exterior stair and take some of this floor space and actually expand the balcony into the footprint of the building so that you have a deck overlooking the backyard that's big enough to inhabit without -- and actually have decreased the footprint and the volume and the FAR.

CONSTANTINE ALEXANDER: You can see it on the very bottom one there, look at the before and after if you will.

NICOLAS CURRIER: Correct.

AMY SEMMES: And we have this now and we're adding these dormers and this significantly smaller porch. So when you work through all the statistics for how the project presents as a bundled item between the dormers and the porch things, and the house is, the lot is less than 5,000 square feet. I think it's a little bit under 4500. So we're already starting with a slightly substandard lot in terms of a neighborhood where all the houses are identical. But the

lot sizes vary.

CONSTANTINE ALEXANDER: It's 3,396 feet of lot.

That's the floor area. The lot is 4484.

AMY SEMMES: 4500.

CONSTANTINE ALEXANDER: 4500.

AMY SEMMES: Anyway when we add the two, 15-foot dormers and downsize the rear porch the net additional FAR request we come up with is 82 square feet.

CONSTANTINE ALEXANDER: Right.

AMY SEMMES: And when we actually do the volume calculation, we're proposing a net decrease of tiny, 15 cubic feet in the bulk of the building by bundling these two changes together. So the downsizing of the back porch is gonna very much kind of balance out the add of bulk on the top floor. And all of this is seen as a real -- so this is a little view from above of the backyard. The concept that these guys can use this back stair to supervise play of the kids in the backyard is really appealing to both of them as

a way that a second floor unit can sort of get a little bit better purchase on the backyard not being so remote, by having a direct connection of it, and that habitable balcony on top.

So that's the nut of the request is the sort of bundling these two things together. And I'm happy to hear anybody.

CONSTANTINE ALEXANDER: Well, I'm going to open it up to public testimony.

AMY SEMMES: Any questions?

CONSTANTINE ALEXANDER: I want return to the dormer, what I'm going to call your attention to the second dormer which goes to the ridge line and it doesn't have to because it's not where the staircase is. Are you troubled -- do you want to require that to be modified or we can leave it the way it's designed? What are the views? We have allowed -- the one we -- I don't mean to -- the one we paid most attention to is the length of the dormer.

JIM MONTEVERDE: Right.

CONSTANTINE ALEXANDER: And you've complied with that, the 15-foot. But there are other requirements that you're not complying with. Troubled by it?

JIM MONTEVERDE: No. I think the slope of the roof and the height of the perimeter is actually low and you would really be pushing to a much flatter roof even if you went to the ridge. So I think what you've done is appropriate given what you have. So I don't have any objection to it.

CONSTANTINE ALEXANDER: I feel the same way. But I wanted to make sure that everybody's on the same page.

JANET GREEN: Yeah.

PATRICK TEDESCO: Yeah.

CONSTANTINE ALEXANDER: Okay.

Okay, now I'll open the matter up to public testimony.

Is there anyone here wishing to be heard on this

matter? Sir.

DORON GAN: I would. My name is Doron Gan, D-O-R-O-N G-A-N, and I'm an abutter of these wonderful people. 14 Matignon Road. I've been there for 14 years. And my wife moved in, had a dog, two kids, and a fence, you know, the American dream. Met these folks about a year and a half ago. We've been very good neighbors. They're wonderful people. I saw their designs, they're very appropriate for the neighborhood in my opinion and very necessary when you have two kids that you're trying to raise. So I'm in full support of them and I wish them, you know, great speed to get this done so they can use it.

CONSTANTINE ALEXANDER: Well, thank you. And thank you for taking the time to come down and stick around at this hour. Appreciate that.

Anyone else wishing to be heard?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

AMY SEMMES: May I just make a bit of a clarification?

CONSTANTINE ALEXANDER: Yes.

AMY SEMMES: So in addition to the request for 82 more square feet of FAR --

CONSTANTINE ALEXANDER: Right.

AMY SEMMES: -- I want to point out that the dormer over the stairs is within the side setback because there's only six feet from the property line to the house.

CONSTANTINE ALEXANDER: Right.

AMY SEMMES: It has windows in it. So that's an encroachment part of that, and in addition the new egress stair --

CONSTANTINE ALEXANDER: It goes into the setback.

AMY SEMMES: That we're adding is also gonna -- it's not gonna go passed the line of the house, but I think it is gonna go into the seven and a half foot. So there are two aspects of this design that, you know, are

encroaching on the narrowest side setback.

CONSTANTINE ALEXANDER: Well, when we give you relief, it will be on the basis of the plans that you submitted and it will show what you just described.

AMY SEMMES: I wanted to clarify that there are setback issues in addition to FAR issues.

CONSTANTINE ALEXANDER: We're aware of that, but thank you anyway for calling it to our attention.

Okay. We do have letters I should read into the file. We have a letter from Sarah Bell, B-E-L-L and James McCartney who reside at 19-21 Muller Avenue. (Reading) We are immediate neighbors to Nicolas Currier and Ellen Hendriksen. We are writing in support of all variances which they have outlined in this case. We support their efforts to fully develop their upstairs apartment to better accommodate their growing family, as well as reinforce the ability to stay in their two-family house. We value the preservation of the owner/occupied two-family homes because

it helps to preserve the strength of our urban pocket neighborhood. It promotes a diverse and eclectic community of owners and renters to live together in this vibrant niche of Cambridge.

A letter from Diego Alonso, A-L-O-N-S-O and Elana Serignese, S-E-R-I-G-N-E-S-E who reside at 9 Muller Avenue.

(Reading) We are writing to lend our support for the Variance application of 15 Muller Avenue. We are direct abutters at 9 Muller Avenue. We consider Nicolas, Ellen, Adrienne, and Davin great friends and neighbors. They're a wonderful addition to our community and we would like to see them here for many years. We have no objections to their plans and suggest approval of the Variance since we understand that it will help to keep this wonderful family in our community.

And last, a letter -- and this gentleman has already spoke so I'm not going to read the letter. Those are all the letters I have in the files.

I'll close public testimony. Any final words you want to say at this point? You don't have to.

Ready for a vote?

JANET GREEN: I have one comment I wanted to make.

CONSTANTINE ALEXANDER: Go ahead.

JANET GREEN: Because I really appreciated the back porch decks that you have and the way you treated that. I think often what we have is just an increase in size rather than a thoughtful taking into account the FAR, you know. I really appreciated the way that you did that. And I actually like the look of it, too.

AMY SEMMES: Thank you.

CONSTANTINE ALEXANDER: Okay. I think we're ready for a motion.

The Chair moves we make the following findings with regard to the variances being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such

hardship being is that there is a need for additional living space to be found in the third floor and to better configure the outdoor deck situation.

And this would apply not only to these petitioners but to anyone who owns this property.

That the hardship is owing to the fact that this is already a non-conforming structure, and therefore any relief -- any modification requires zoning relief.

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

What is being done here has full neighborhood support, and is one more example of how people can remain in the city if there's just a little bit of zoning relief to allow them to expand their structure to meet their expanding needs as a family.

So on the basis of all of these findings, the Chair moves that we grant the Variance being sought on the

condition that the work proceed in accordance with the plans prepared by Amy Semmes, the first page of which has been initialled by the Chair.

These are the final plans? Any modifications you're going to have to come back. Understood?

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted. Good luck.

(Alexander, Green, Tedesco, Best, Monteverde.)

\* \* \* \* \*

(8:45 p.m.)

(Sitting Members Case BZA-015369-2017: Constantine

Alexander, Janet Green, Patrick Tedesco, George S. Best, Jim  
Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call case  
No. 015369, 33 Fayerweather Street.

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

Good evening. As you know, the name and address

for the stenographer, please.

MARYANN THOMPSON: Maryann Thompson from Maryann Thompson Architects, 741 Mount Auburn Street in Watertown.

VICTORIA MCGOVERN: Victoria McGovern. Maryann Thompson Architects, same address.

KEN FROOT: Ken Froot, F-R-O-O-T. Same address. Registered owner.

CONSTANTINE ALEXANDER: Just speak up a little bit if you speak again.

MARYANN THOMPSON: So Victoria's going to explain the project to you guys which you've seen.

VICTORIA MCGOVERN: So we are proposing a renovation addition to an existing non-conforming structure. A previous owner put an addition on to this building in 1986, I believe, that was a little too tall, about a foot and a half too tall. And since we are under the allowable FAR, there is, there's really no way to add an addition without going through this Variance because it's

non-conforming as it exists.

CONSTANTINE ALEXANDER: As you probably know, to obtain a Variance you've got to meet certain conditions. These are set by our Zoning Ordinance and actually by state law. And the first and I think significant one is that a literal enforcement -- I'm reading from the statute. A literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner. And this hardship has got to be a hardship that runs with the land.

Now instinctively my gut tells me, you've got a structure that's currently has 6,878 square feet and you still need another 250 square feet? What's the hardship?

KEN FROOT: So sorry, so my unit is the back unit. So it's actually a condo. The entire structure is a condo.

CONSTANTINE ALEXANDER: Oh, it's two units?

KEN FROOT: Yeah, exactly. It's 31 and 33 Fayerweather Streets.

CONSTANTINE ALEXANDER: That didn't come across in

any of the paperwork.

KEN FROOT: Yeah, I'm sorry. Yeah, it's confusing. Google has it wrong, too. And the change that Tori was referring to was in addition of a mansard toward the back side which duplicated what was originally the mansard on the front side, and then I think basically the owners tore off the front side third floor mansard in order to save on heat.

CONSTANTINE ALEXANDER: Understandable.

KEN FROOT: So it was created as a historically sensible feature, but even though it was, you know, I guess a Variance. And I believe also that height restriction is computed separately from my unit, right? Basically?

MARYANN THOMPSON: Yeah.

KEN FROOT: It's for my unit, right?

MARYANN THOMPSON: So there is a hardship that I do want to let you guys know about. Ken is a bachelor and it's kind of a bachelor pad. It's the lower level is your

office.

KEN FROOT: Yeah.

MARYANN THOMPSON: And then there's very small amount of, you know, living room, dining room, kitchen. The kitchen is really, really small. So the idea behind the renovation is that Ken has -- bringing a family into his life, two children and --

KEN FROOT: Wonderful.

MARYANN THOMPSON: A wonderful family into his life. And there actually isn't room. It is a hardship.

CONSTANTINE ALEXANDER: So how many square feet is your unit?

KEN FROOT: Well, Tori, you could probably say better than I. It has four floors. So that, you know, that whether you count the stairs as space, I think matters. It is over 3,000 square feet I imagine, right?

MARYANN THOMPSON: Yeah. But the problem is it's the civic rooms. And if you look at the floor plan you can

see what I mean. It's a tiny little New York style kitchen that doesn't have a dining room. Like we sometimes go for dinner and it's really, really super crowded just with a few people.

KEN FROOT: I have to move furniture basically to fit more than -- you know we can fit four people in the dining room off the kitchen, which is the only place to eat. And if we have more people, we have to expand the table and I have to move furniture to be able to fit it.

MARYANN THOMPSON: Yeah.

KEN FROOT: You know, it's -- and unfortunately --

CONSTANTINE ALEXANDER: 3300 feet and you don't have enough room.

KEN FROOT: You should see how many stairs this has. The thing is that on this floor the living room is on a different level. It's a kind of split level sort of set up basically. So the living room is more generous basically, but you can't really use that, because that's

already far from the kitchen. You can't really sensibly set that up as a dining area, right? So this is really to -- made to enhance the experience around, you know, when you're cooking, kids around, trying to do homework, having people being able to be social and eat together really.

CONSTANTINE ALEXANDER: And the addition will solve this problem how?

KEN FROOT: By basically adding a minimum amount of square footage basically.

CONSTANTINE ALEXANDER: I looked at the plans and some of that square footage is on the top floor to what looks like a conference room.

KEN FROOT: No, that -

MARYANN THOMPSON: Here's the existing plan.

KEN FROOT: Let's get that straight because that's important.

MARYANN THOMPSON: This is the existing plan and that little kitchen that I was telling you about --

CONSTANTINE ALEXANDER: Yeah.

MARYANN THOMPSON: -- and that's -- and then here's the sitting area and the dining room table.

CONSTANTINE ALEXANDER: Yeah.

MARYANN THOMPSON: This goes down to a big living room, but it's disengaged from the kitchen.

CONSTANTINE ALEXANDER: Yeah.

MARYANN THOMPSON: So what we're doing is we're adding -- we're basically adding out to this porch level here to expand the kitchen and then you get --

KEN FROOT: And dining area.

CONSTANTINE ALEXANDER: Show us the plan that has the --

MARYANN THOMPSON: The expansion?

CONSTANTINE ALEXANDER: The expansion, yes.

KEN FROOT: For that floor, yeah?

MARYANN THOMPSON: And then the upstairs is gonna be a playroom.

CONSTANTINE ALEXANDER: It's gonna be a playroom?

KEN FROOT: Well, yeah.

CONSTANTINE ALEXANDER: I'm just trying to understand.

MARYANN THOMPSON: Like I said, we can compare these two.

KEN FROOT: Yeah.

CONSTANTINE ALEXANDER: There's what I call the conference room over to the right. Upper right-hand corner.

MARYANN THOMPSON: So here's --

KEN FROOT: Oh, that.

MARYANN THOMPSON: That's a deck.

KEN FROOT: That's a deck.

CONSTANTINE ALEXANDER: Thank you.

KEN FROOT: That's outdoors.

MARYANN THOMPSON: Here's the old kitchen and we're basically expanding it into here. Adding a desk for the kids.

CONSTANTINE ALEXANDER: Right.

MARYANN THOMPSON: Flipping this kind of family room area this way, and then here's the larger table.

KEN FROOT: And now you have a lot of flexibility with the table basically.

CONSTANTINE ALEXANDER: And the deck is a second floor deck?

MARYANN THOMPSON: No, this is first floor.

CONSTANTINE ALEXANDER: That's right.

MARYANN THOMPSON: And so the deck -- so the addition --

KEN FROOT: You walk out off the living room, actually which is submerged from this living area, that's right.

MARYANN THOMPSON: You can see it's about like this. It's a little addition on -- it's a nice addition that makes this a big enough room for a family of four. Plus Ken has two children who are in their twenties who come

and go a lot.

JIM MONTEVERDE: Sorry, is that here? Are we talking about the back?

MARYANN THOMPSON: Yeah, it's on the back.

KEN FROOT: Where's Fayerweather Street? I'm sorry.

JIM MONTEVERDE: Out this way?

MARYANN THOMPSON: See the deck.

KEN FROOT: That's correct. It's right there.

JIM MONTEVERDE: Yeah.

KEN FROOT: It's six, seven, eight.

PATRICK TEDESCO: So the building that front --

MARYANN THOMPSON: It's six feet out.

PATRICK TEDESCO: The Fayerweather Street frontage, that's another unit?

KEN FROOT: That's a different unit, right. It's not affected at all. And this is really the only major change on to the exterior. I think there's one other.

MARYANN THOMPSON: Yeah, there's one other. So we added a vestibule here with two cubbies for the children. So they could have place for their coats. You can see the coat closet is really quite small. I would say it is a hardship. I think Ken looked at potentially moving, but really loves the neighborhood and has done an incredible job with the garden. It's so beautiful. It's like an Italian garden it's so beautiful, and I think really that's why you don't want to leave because of the garden.

KEN FROOT: I do love the place. And now well there are going to be four times as many people living there, and I don't know what your definition of hardship is.

MARYANN THOMPSON: I think it's a hardship to bring a family into your life and you've been living like a bachelor, and it's -- I don't think it's very much to be adding. It's not like he said I need a whole other room.

KEN FROOT: We're not trying to create a wing or anything like that.

CONSTANTINE ALEXANDER: That's what I was wondering when I first looked at the file.

PATRICK TEDESCO: That's because of the new facade.

KEN FROOT: That's correct. That's right, that's right. There's a lot of square footage on the outside that has to change for this small amount of inside square footage.

CONSTANTINE ALEXANDER: As you can see my initial skepticism is why do you need a new addition to a 1600 square foot house.

KEN FROOT: Yes.

PATRICK TEDESCO: It's not a FAR issue.

MARYANN THOMPSON: No, it's a height issue. That was a pre-existing owner.

PATRICK TEDESCO: Okay.

KEN FROOT: Yes.

MARYANN THOMPSON: But we're not going above.

We're not making it less non-conforming or any more non-conforming.

JIM MONTEVERDE: Right.

CONSTANTINE ALEXANDER: Any questions to members of the Board?

We'll open it up to public testimony. Is there anyone wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Okay. We do have a letter. The letter is from Frederica Stevenson.

KEN FROOT: The next-door. The folks in front.

CONSTANTINE ALEXANDER: In the front, okay.

KEN FROOT: Yes. Know each other very well.

CONSTANTINE ALEXANDER: Frederica and Howard H. Stevenson, of 31 Fayerweather Street do agree to support the petition of Kenneth Froot to an obtain a Variance to the structure of 33 Fayerweather Street. And that's it. There's no other letters in our file.

KEN FROOT: Howard is the President of our condo unit, condo association I should say.

CONSTANTINE ALEXANDER: I'll close public testimony. Any discussion? Ready for a vote.

JIM MONTEVERDE: Nope. Yep.

JANET GREEN: Ready for a vote.

CONSTANTINE ALEXANDER: Okay. The chair moves that we make the following findings with regard to the Variance being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being is that there is a need for additional living space for a family given the current configuration, internal configuration of this condominium unit.

The hardship is owing to the fact that the structure is already a non-conforming structure and therefore the proposed modification requires zoning relief.

And that relief may be granted without substantial

detriment to the public good or nullifying or substantially derogating from the intent or purpose of the Ordinance.

So on the basis of these findings, the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with the plans prepared by Maryann Thompson Architects first page of which has been initialed by the Chair. Are the final ones if you modify them you're going to have to come back.

MARYANN THOMPSON: They're final.

CONSTANTINE ALEXANDER: You're comfortable this is it?

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

(Aye.)

CONSTANTINE ALEXANDER: Variance granted. Thank you very much.

(Alexander, Green, Tedesco, Best, Monteverde.)

\* \* \* \* \*

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C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS  
BRISTOL, SS.

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of February, 2018.

---

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

My Commission Expires:  
April 29, 2022

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