BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, FEBRUARY 27, 2020
7:00 p.m.
In
Senior Center
806 Massachusetts Avenue
First Floor
Cambridge, Massachusetts 02139

Constantine Alexander, Chair
Andrea A. Hickey
Jim Monteverde
Laura Wernick
Arch Horst

Sisia Daglian, Assistant Building Commissioner
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CONSTANTINE ALEXANDER: The Chair will call this meeting of the Board of Zoning Appeals to order. As is our custom, we start off by hearing continued cases.

These are cases that are started at an earlier date, but for one reason or another were not resolved, and were referred until this evening. And after that, we'll go to our regular agenda.

But before I call the first of the continued cases, I'm going to read 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 media, subject to reasonable requirements that the Chair may impose as to the number, placement and operation of equipment used, so as 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 that not at least two recordings are being made. Our stenographer makes a recording to assist her when she prepares a transcript of the meeting, and a citizen of the city is also recording this meeting, and he's left his tape recorder on the front desk right here.

Is there anyone else planning to record, or whatever -- record or film this meeting? None? Okay. With that out of the way, let's start, and I'm going to first call Case Number 017215 -- 544 Massachusetts Avenue. Anyone here wishing to be heard on this matter?

THE REPORTER: Can you spell your name for the record?

CLIFFORD SCHORER: Sure. My name is Clifford Shore, that's S-c-h-o-r-e-r. That's all you need?

THE REPORTER: And your address?

CLIFFORD SCHORER: 15 Concord Square, Boston, Mass. So basically, I'm here to just read a letter into the record and then submit some materials, and then ask for another continuance. That's the advice I've been given by staff of both Board, if that's okay.
CONSTANTINE ALEXANDER: We won't consider any of that. We'll put it in the files.

CLIFFORD SCHORER: Okay, that would be --

CONSTANTINE ALEXANDER: That's not what we have in the real hearing.

CLIFFORD SCHORER: -- that would be perfect. Let me first thank the Board for the continuance this evening, and I look forward to returning when the Planning Board process is nearing completion.

To explain, we received advice from Counsel confirmed by the staff of Planning -- see attached e-mail from Wendell Joseph, Swathi Joseph and Jeff Roberts of February 21, 2020 -- that although Section 10.45 allows the BZA and Planning Board to combine the processes of special permit requested from each Board into one process by, "not requesting a separate application," in this case, because we are seeking a variance from the BZA and special permits from the Planning Board, the process must remain two separate processes that may run in tandem.

From a practical standpoint, the Planning Board application should make its way through the process before the BZA closes the process in order to avoid duplicate work
by the Boards.

In this interest, I've been advised to ask for her a continuance of the variance application hearing, during which time we will advance the Planning Board process. We'll return to the BZA when the Planning Board process has ruled on the application, and then only with the unit count for lot area of variance requested, as it was initially.

I attach for the Board's information the Central Square Advisory Committee's report from the meeting that was held February 19. The Advisory Committee stated in the summary, "The committee members in attendance were not opposed to the participated project. In addition, there were a large number of people in attendance who were opposed to the project on the basis that a tenant on the top floor of the building, called, 'Studio 550' will be displaced by the construction and redevelopment.

"The message from the dance community was heard loud and clear. Although we have no space available for this use in the future project, I am committed over the next few months to work with Callie Chapman, the Director of the Studio, to seek alternative spaces and nonprofit support for
"The project has agreed to create a community meeting space on site for the Marxist (sic) book store and other organized meetings of community organizations. "This has been located on this site since the 1970s. This will be a small impact on the square footage of the largest units, and will be revised before the first Planning Board meeting.

"There were a number of comments regarding the small units and the extra inclusionary units that would be created by allowing this variance. Some were highly supportive, and others are committed only to larger units, which this project does not offer.

"It is our belief there must be a mix of unit sizes, and a permanent pipeline if any progress is to be made on the housing pressure in Cambridge.

"The facts are that the number of inclusionary units would increase by 3, with this variance granted, to five total. The total unit count increased by 9, and the rent of the market-rate studio units would be among the lowest and least expensive units created in the square in any of the new developments.
The waiting list for studios and one-bedrooms is the longest waiting list there is, and there's been a 12 percent drop in the creation of small units since the zoning, favoring large units, and inclusionary rent percentages being reduced to 25 percent of the applicant's income, inclusive of all utilities rather than the previous 30.

There is no doubt that allowing these additional nine units of smaller housing will provide a dramatic social good, and have no demonstrable downside from a housing perspective.

As every study demonstrates, more units relieve housing pressure, and not every one of them can be $4,000 to $6,000 per month luxury units, as nearly all new developments are offering.

I look forward to returning when the Planning Board has had sufficient time to rule on the special permit application, and we ask that we be put on the agenda at your convenience, and we'll repost the required notices at that time.

Please feel free to contact me with any questions or concerns."
CONSTANTINE ALEXANDER: Before we get to the actual continuance, it's not a time for discussion, okay? Let me point out something to you, you should be well aware of it. Our role as a Board is far different from the Planning Board Central Square Advisory Committee. They can make discretionary decisions to do things they believe in the best interest of the city. We don't have that discretion. We have a very tight state law. The legal standard has to be satisfied. So when you come back and seek the variance, assuming that you will, you've got to make sure you understand what you've got for a case to try to present to us. You've got to demonstrate that unless we grant the relief, you will suffer a substantial hardship. And it's not a hardship for the people who own the property now, it's a hardship for anybody who owns the property. And that this hardship, you've got to make sure you've got it right -- this hardship is owing to circumstances and -- reading from the statute -- relating to the soil conditions, shape or topography of such land or structures, and especially affecting them. But not
generally affecting the zoning district in which it is located. That's a narrow type standard, the third word that's more general.

That's what you're going to have to deal with, assuming you get back to us, you get the variance you seek. There should be no misunderstanding about that.

CLIFFORD SCHORER: Yes, no, thank you for the counsel. And our original application focused on those questions. This is what we were advised to --

CONSTANTINE ALEXANDER: No, no, I meant -- I wasn't sitting on the case when you came the last time. That's exactly what you do. I just want to make sure there's no misunderstanding when you do come back. I wasn't aware of that. So good.

CLIFFORD SCHORER: Okay.

CONSTANTINE ALEXANDER: All to the better.

CLIFFORD SCHORER: Okay.

CONSTANTINE ALEXANDER: So you have a date you want to suggest to people?

CLIFFORD SCHORER: Based on the schedule of the Planning Board, I would suggest two months, so -- two months would give us time.
CONSTANTINE ALEXANDER: If there's a citizen who wishes to speak -- James? Plans?

JAMES WILLIAMSON: So James Williamson, 1000 Jackson Place. I just want to point out that --

THE REPORTER: I'm sorry, what's your address?

JAMES WILLIAMSON: 1000 Jackson Place in Cambridge. So I just want to mention I went by Inspectional Services because the deadline for submitting materials, my understanding, is 5:00 on Monday.

CONSTANTINE ALEXANDER: Mm-hm.

JAMES WILLIAMSON: I went by at about 7:00, 7:30.

Maria Pacheco didn't happen to be there Monday, was there Tuesday apparently. But the material in the file, there was no mention at all of there being a request for a continuance.

I'm sympathetic to there being a continuance, but I -- it's troubling to me that maybe more than one person has shown up here tonight not being aware of the fact that a continuance would be requested, and also mention made of the memorandum for the Central Square Advisory Committee is also not yet in the file.

So I was pretty much in the dark, and there may be
some other people.

In fact, I told at least one other person in the room -- two other people maybe -- that it would probably be a good idea to be here, but there was no...

And I just wonder if this communication aspect couldn't be managed better, so that we would know that the proponent was asking, was planning to ask for a continuance, or that it could have happened, and that information could have been in the file by the deadline of 5:00 Monday.

And I'm not saying it's anybody -- you know, Cliff may have done everything he thought he was honestly supposed to do, I just wonder if this could be addressed.

CONSTANTINE ALEXANDER: Our practice I think, James, is with regard to the 5:00 p.m. on the Monday before, that relates to drawings, dimensional forms, factual matters.

And so, that gives to our Board members, and the citizens of the city the opportunity to read them, study them, and be prepared for the hearing on Thursday night. This is a case for a continuance. There's no requirement that that request for the continuance be in the file.

The way it works is he could have just shown up
here tonight. We knew in advance, through Maria, that he was going to seek a continuance. But we didn't have to know. It wouldn't be out of line if we didn't. To be sure, it can create inconveniences for citizens of the city, that's just the way it is.

Continuances can be for many reasons, and sometimes it's not apparent until the hearing starts that there's a need for a continuance, okay?

So do you want to two for now?

SISIA DAGLIAN: Well April 30 is the first date we have available anyway.

CONSTANTINE ALEXANDER: April?

SISIA DAGLIAN: April 30.

CONSTANTINE ALEXANDER: April 30. Is the thirtieth -- got to give you -- give your name and address to the stenographer, please.

HATCH STUART: My name is Hatch Stuart.

CONSTANTINE ALEXANDER: Your name, I'm sorry?


CONSTANTINE ALEXANDER: Now, you're only going to speak to the request for a continuance. Don't get into the
merits of the case.

HATCH STUART: Well, actual, if there's request for a variance --

CONSTANTINE ALEXANDER: Yeah, we're not hearing that tonight.

HATCH STUART: -- a variance has to be -- you did mention the hardship requests the variance?

SISIA DAGLIAN: No.

HATCH STUART: But I would -- in the BZA deliberations look very carefully, whether what he considers -- a developer considers the hardship has to do with --

CONSTANTINE ALEXANDER: Sir --

HATCH STUART: -- not the characteristics --

CONSTANTINE ALEXANDER: Sir!

HATCH STUART: -- of the property.

CONSTANTINE ALEXANDER: You give, you're going beyond what you can talk about right now.

HATCH STUART: Okay.

CONSTANTINE ALEXANDER: All we're talking about is should we continue this case.

HATCH STUART: It's very fundamental. Thank you.

CONSTANTINE ALEXANDER: April 30 it is. Case not
heard, so.

CLIFFORD SCHORER: Do you need these?

COLLECTIVE: No.

CLIFFORD SCHORER: And these are the materials that the Cambridge --

CONSTANTINE ALEXANDER: Give it to Sisia.

CLIFFORD SCHORER: Yeah, okay.

CONSTANTINE ALEXANDER: It will go in the files, and any member of the city, any person -- citizen -- can come back and read them.

CLIFFORD SCHORER: Okay. Thank you very much.

SISIA DAGLIAN: He has to sign a waiver, right?

CONSTANTINE ALEXANDER: Well, he's already signed one.

SISIA DAGLIAN: Oh, he has? Okay.

CONSTANTINE ALEXANDER: Don't go yet, until we finish this vote. Okay. The Chair moves that we continue this case as a case not heard until 7:00 p.m. on April 30, subject to the following conditions:

First is that the petitioner sign a waiver of time for decision, and he's already done that in connection with the first continuance.
Second, that a new posting sign or a modified posting sign reflecting the new date, April 30, and the new time, 7:00 p.m., must be posted and maintained for the 14 days before April 30 date, just as you did when you had your first application, or first hearing.

And lastly, usually if I talk to James, any modification in the building plans, dimensional forms, should be in our files no later than 5:00 p.m. on the Monday before.

In this regard, we will expand that, and any report from the Planning Board, you don't control that, but I would ask you to request the Planning Board -- what do you have in your Planning Board hearing, by the way? How much in advance of April 30?

CLIFFORD SCHORER: It is the second, it's the --

CONSTANTINE ALEXANDER: Of April?

CLIFFORD SCHORER: It's the beginning of April.

CONSTANTINE ALEXANDER: So are you planning to -- we would like, and the citizens of the city are entitled to see -- whatever their report or recommendations are. So they should be in our files, Inspectional Services files, no later than 5:00 p.m. on the Monday before April 30.
All those in favor of continuing the case, please say, "Aye."

THE BOARD: Aye.

[ All vote YES ]

CONSTANTINE ALEXANDER: Five in favor, case continued. We'll see you on April 30 along with a couple other people.
(7:14 p.m.)

Sitting Members: Constantine Alexander, Andrea A. Hickey, Jim Monteverde, Laura Wernick, Arch Horst

CONSTANTINE ALEXANDER: The Chair will now call Case Number 017225 -- 3 St. Paul Street. Anyone here wishing to be heard on this matter?

CAMILLE PRESTON: Camille Preston, 3 St. Paul Street.

MARK NEWHALL: Mark Newhall, 3 St. Paul.

CAMILLE PRESTON: Ours is a little different.

CONSTANTINE ALEXANDER: So you're seeking both a variance and a special permit?

CAMILLE PRESTON: I'm not versed in this, but I believe our application that we ceded the information on Monday changes it that we're just looking for a special permit, because we've taken away the variance.

CONSTANTINE ALEXANDER: Okay, I must have missed that. You did it right, I didn't do it right. It's just a special permit, okay.

CAMILLE PRESTON: Yeah. And we came back the Board -- I'm not sure if you were here that time --
CONSTANTINE ALEXANDER: No, I will need --

CAMILLE PRESTON: And we were shocked that -- we were kind of taken aback when we had a lot of opposition. We had a number of conversations with our neighbors, who were at the front of the kind of the opposition, and we've come to a resolution for the time of -- and we submitted two letters of support for the revised drawings.

CONSTANTINE ALEXANDER: I saw that in the files.

CAMILLE PRESTON: -- to the special permit, yeah.

CONSTANTINE ALEXANDER: Is there still, as far as you know, neighborhood opposition?

MARK NEWHALL: No.

CAMILLE PRESTON: Yeah. They've written a letter.

MARK NEWHALL: No.

CONSTANTINE ALEXANDER: Well, you're not in opposition. There are other people in the neighborhood.

CAMILLE PRESTON: I don't think so.

MARK NEWHALL: Nobody's --

CAMILLE PRESTON: Voiced any.

MARK NEWHALL: -- raised any concerns to us.

CONSTANTINE ALEXANDER: And just briefly for the
record, what is it you're doing that you need a special permit for?

CAMILLE PRESTON: We're moving -- we're switching a door and a window, and we're making the new door a sliding glass door.

CONSTANTINE ALEXANDER: Into a what?

MARK NEWHALL: Glass.

CAMILLE PRESTON: It will be a sliding glass door, so larger.

CONSTANTINE ALEXANDER: And it's in the setback?

CAMILLE PRESTON: It's -- our back yard, and it's 14 feet, so.

CONSTANTINE ALEXANDER: [Laughter].

CAMILLE PRESTON: Nonconforming setback, yes.

CONSTANTINE ALEXANDER: I'm looking for the plans.

CAMILLE PRESTON: Here. There's two different letters that we submitted; one was on the --

CONSTANTINE ALEXANDER: Yeah, we have our actual file, that's all. Give me a second.

CAMILLE PRESTON: Yeah.

ANDREA HICKEY: So you're not doing anything to a deck or a patio, do I misunderstand?
CAMILLE PRESTON: We have to have --

MARK NEWHALL: A set of stairs out of it.

CAMILLE PRESTON: -- a set of stairs, an egress from the sliding glass doors, because we need two exits. So we are relocating the landing to match where the new door is.

ANDREA HICKEY: And you don't need a variance for that?

CAMILLE PRESTON: I believe you -- again, I'm a psychologist, I don't know this, but my understanding is every egress has the right for a simple, small exit. Like, you -- the -- what I understand is --

MARK NEWHALL: Certainly have the need for it. Whether you have the right for it, I don't know. That would be peculiar.

CAMILLE PRESTON: I -- we had a lot of work on code, and what we understand is that when you exit a premise, you want to step down six inches, not more than --

ANDREA HICKEY: Right, I understand why you'd want it. I guess my question is, what kind of --

THE REPORTER: Can you use the mic, please?

ANDREA HICKEY: I understand why it makes sense to
have it why you want it, I guess.

CAMILLE PRESTON: So let me say it differently.

We're moving, we're proposing moving the existing deck that we have over to the other side and making it smaller.

MARK NEWHALL: It's not a deck, it's a set of stairs.

CAMILLE PRESTON: It's a set of stairs, it's a landing.

CONSTANTINE ALEXANDER: I mean, you said you talked to the Inspectional Services Department?

CAMILLE PRESTON: Every other day. Yeah. Ranjit and Sean.

CONSTANTINE ALEXANDER: And they agree that you don't need a variance, you just need a special permit?

ANDREA HICKEY: That's correct.

CONSTANTINE ALEXANDER: But they change their mind, I guess and they see you need a variance, you're going to have to go back? I think that's the answer to your question, maybe. ISD has signed you up, there's no need for a variance. Okay.

Now, why don't you summarize just quickly what you've done between now and the last time you had appeared?
Okay? And it has mollified your abutter -- one story at a time. We will announce to the Board.

CAMILLE PRESTON: We have invited them over to our house. We've talked through plans. They suggested -- they proposed some plans, we proposed plans, they proposed plans, we went back, we did more plans, and we came up with these drawings, gave them to them on February 13.

So they had a significant amount of time to review them, and they're in support, and they've written -- I included two letters, a letter and an e-mail support.

CONSTANTINE ALEXANDER: Well, I'm going to read the letter that -- you just gave this to us tonight -- into the record.

CAMILLE PRESTON: Do you want to ask them?

THE REPORTER: Could you speak more into the mic, please?

CONSTANTINE ALEXANDER: -- they do not -- no longer believe it, but --

THE REPORTER: I'm sorry, I can't hear it. Could you just -- thank you.

CONSTANTINE ALEXANDER: I think the record should -- we should have a written record of what is going on. The
letter is from Paul Rajcok, R-a-j-c-o-k and Judy Housman, H-o-u-s-m-a-n.

"We are pleased to have reached a compromise and resolution with our neighbors, Camille and Mark, which seem to amicably meet everyone's needs, their new plan for a sliding door with at least a six-inch stepdown to a five by three-foot landing, no higher than 30 inches. And stairs down to the existing patio address our concerns with the previous plan.

"We also understand that the present plan will position is to start the landing three feet from the existing fence instead of across our yard. Any dimensions specified above that are not on the plan drawn were clarified in an e-mail from Camille and Mark on February 13. "We do additionally request, however, that any automated porch light be positioned and appointed so that the light from it does not flood the back of our house and yard, as the present porch light does somewhat.

"Even when we exit our own back door at night, this will be of more concern to us now, since the proposed sliding door is to be placed much closer to our house and yard than a former back door was."
"We wish Camille and Mark the best of luck with their new plan and their future use of this new configuration for their kitchen and yard."

Now, what are you going to do about the lighting issue that they've raised?

MARK NEWHALL: Yeah, I didn't -- I was going to say, I didn't know that that was an issue. I'm happy to get a screwdriver out and --

CONSTANTINE ALEXANDER: No, it's not a big issue.

MARK NEWHALL: Well, but I'm happy to --

CONSTANTINE ALEXANDER: Well, let me see.

MARK NEWHALL: I can tweak it tonight. That's fine.

CONSTANTINE ALEXANDER: Let me suggest that we make a motion in due course to grant you the special permit you're seeking, but may you continue to work with your neighbors --

MARK NEWHALL: Sure.

CONSTANTINE ALEXANDER: -- as you have now, so --

MARK NEWHALL: Yeah. I didn't realize it was bothering them. It's reasonable. I'm happy to adjust the light.
CONSTANTINE ALEXANDER: Questions from members of the Board?

COLLECTIVE: No.

CONSTANTINE ALEXANDER: I'll open the matter up to public testimony. Does anyone want to speak on this matter?

AUDIENCE: Well, we have one question.

CONSTANTINE ALEXANDER: Address the Board, sir, and speak into the microphone.

PAUL RAJCOK: My name is Paul Rajcok, R-a-j-c-o-k, 57 Foss Street. In the earliest discussion, where Camille just pointed out that talking with Inspectional Services, I mean, can they just give verbal consent that --

CAMILLE PRESTON: Yeah, that's insane.

PAUL RAJCOK: -- there's no need to have a variance, as opposed to a -- is that customary, or --

CONSTANTINE ALEXANDER: So --

PAUL RAJCOK: -- isn't there supposed to be some kind of official --

CAMILLE PRESTON: Process -- you would think.

CONSTANTINE ALEXANDER: The way it would work is they have to get a building permit ultimately to grant the release tonight. They go in, and ISD says, "Wait a minute,
you needed the variance too." If there were to happen, they'd have to come back and seek a variance. But --

PAUL RAJCOK: I see.

CONSTANTINE ALEXANDER: Ultimately, ISD signs off on whether -- what --

PAUL RAJCOK: Oh, okay.

CONSTANTINE ALEXANDER: -- if any further release is necessary.

PAUL RAJCOK: Okay.

CONSTANTINE ALEXANDER: And the citizens of the city like yourself, can take an appeal --

PAUL RAJCOK: Yeah.

CONSTANTINE ALEXANDER: -- of that decision. I'm not saying you want to --

PAUL RAJCOK: No, we don't have any problem.

CONSTANTINE ALEXANDER: -- that's how it works.

PAUL RAJCOK: Yeah.

CONSTANTINE ALEXANDER: We get the cases that the ISD says we have to get, because they can't do -- they can't manage permits a person's seeking without getting zone reviewed.

PAUL RAJCOK: All right. Okay. So then it's
still to be -- like, determined officially? Normally it all works?

CONSTANTINE ALEXANDER: It's not going to change.

CAMILLE PRESTON: God help us.

PAUL RAJCOK: Okay.

CAMILLE PRESTON: I mean, we love and respect you all, but, like, we don't want to come back.

CONSTANTINE ALEXANDER: If they need the variance, they will -- ISD will make that determination. Ma'am?

JUDY HOUSMAN: Hi, I'm Judy Housman of 5 St. Paul Street.

THE REPORTER: Spell your last name, please?

JUDY HOUSMAN: H-o-u-s-m-a-n, and that's Judy with a "y." My one concern is, you know, whether or not this is a special permit or a variance, some of the stuff that's written into their plans, some of the stuff, you know, we agreed with them informally.

So I'm wondering if in any motion or whatever you make, that you can add that the -- you know, that you can add the dimensions that were not specifically in the plans, such for example that there would be at least a six-inch stepdown, that the landing would be no higher than 30 feet,
and that the --

MARK NEWHALL: 30 inches.

JUDY HOUSMAN: 30 inches. Well, that's what it looked like when we had the pictures, and that the present plan the landing will start no closer than three feet to the existing fences. We don't care if it's a special permit and a variance, but I'm wondering if those additional dimensions would be written.

CONSTANTINE ALEXANDER: The way it works is that -- and this is in all cases, this instruction -- we grant approval, it's on the condition that the work proceeds in accordance with the plans that you've seen and we've seen and are in our file.

JUDY HOUSMAN: That was not specifically in the plan.

CAMILLE PRESTON: Judy, it's specifically in the plan.

JUDY HOUSMAN: No, it's not. What's specifically in the plan is it's 5 x 3-foot landing. There's not a specific that it's a six-inch stepdown, and it's not that it's specifically 30, that the landing will be no higher than 30 inches, and when looking up closer than three feet.
CONSTANTINE ALEXANDER: I'm sorry, I have to ask the question, why are you concerned about this?

JUDY HOUSMAN: Why are we concerned? Yeah. The reason I'm concerned about it, is what mitigates the height of the landing is the fact that it's a stepdown, so that therefore you're not likely to linger there. That's why I'm concerned about it. So it's not -- you know, it's not just a random concern. Does that make sense?

CONSTANTINE ALEXANDER: Sort of. At least to me.

JUDY HOUSMAN: Yeah, I mean --

CONSTANTINE ALEXANDER: Maybe it makes more sense to my colleagues, no to me.

JUDY HOUSMAN: No, it doesn't -- because, you know, one of the original concerns with the plans was that it would function as an extension of the kitchen. And by it being a step-down, no one is going to stand there.

CONSTANTINE ALEXANDER: Is the stepdown on the plan?

CAMILLE PRESTON: Yeah, again, I am a psychologist, not an architect, but as I believe on the second page of the architectural drawings, it shows that there is a six-inch stepdown.
JUDY HOUSMAN: Is there the motion where it's stated?

CAMILLE PRESTON: Again, I'm not -- this is not my area of expertise, but I think the idea is that you can -- steps cannot be more than seven inches, seven and a half inches, and there's a one-two-three-four steps to get from 36 inches down. So, like, by causal logic it would have to be seven.

JUDY HOUSMAN: But I mean, would there be a probability that it's at least six inches?

CAMILLE PRESTON: I think it's in the drawing.

JIM MONTEVERDE: Yeah, I think it says.

CAMILLE PRESTON: If you look right there. Again, maybe there's an architect.

JIM MONTEVERDE: There are several of us.

LAURA WERNICK: It does say that -- but you're showing stairs.

JIM MONTEVERDE: We'll look.

LAURA WERNICK: But then it would be at least a six-inch stepdown. It's showing the four -- the three treads and the landing, so they're each six inches high.

JUDY HOUSMAN: Okay.
LAURA WERNICK: Okay? You can't do it any other way.

JUDY HOUSMAN: Okay. Because we don't know the height of -- we don't know the height of the --

CAMILLE PRESTON: Well, it's only as high as --

CONSTANTINE ALEXANDER: I'm sorry, you have to --

the color we should get in the record, so --

CAMILLE PRESTON: Yeah. It's an exact mirror of your house. It's 37 inches from that landing out.

PAUL RAJCOK: I'll just say another word, Paul Rajcok. You know, we just didn't see those dimensions, you know, of the height of the stepdown. But more of concern was we made a final compromise on the distance from the existing fence that the platform began at.

And it's not marked on this drawing that it's actually three feet. I mean, maybe you could figure out from the size and ratio, but --

CAMILLE PRESTON: Paul, if you go to the first page, I believe it is. Again, I believe that --

PAUL RAJCOK: No, I never -- I don't see it anywhere, a three-foot dimension shown. Because, you know, originally, we asked for five feet, but made a compromise,
because they want more use of the yard.

CAMILLE PRESTON: I think he was talking about the
dimension.

PAUL RAJCOK: Yeah, this dimension. No, no, the
deck itself is three feet by five feet; the distance from
the fence to where you begin the deck. Because originally,
we were talking about, we'd like it five feet further away,
but, you know, it's not marked. So it should be three feet.

CAMILLE PRESTON: We can put a dimension on it.

JIM MONTEVERDE: That sounds great, three feet.

PAUL RAJCOK: Yeah, yeah, that's all we were
asking so --

[ Simultaneous speech ]

CONSTANTINE ALEXANDER: Please, one at a time so
the stenographer can take down the steps.

CAMILLE PRESTON: So first of all I'm feeling
quite sad that we've had so many conversations.

PAUL RAJCOK: I would agree.

CAMILLE PRESTON: And disappointed that we haven't
had this conversation sooner, because we've had so many
conversations.

PAUL RAJCOK: How could we, you were away?
CAMILLE PRESTON: We've had open communication by e-mail, at least.

CONSTANTINE ALEXANDER: Please, please.

JIM MONTEVERDE: Don't --

CAMILLE PRESTON: I think the thing that is important in the drawings is there's 18 inches from the existing window that is built into the plan, that is part of the drawing. So --

JIM MONTEVERDE: It's right through here.

CAMILLE PRESTON: Fine.

JIM MONTEVERDE: Yeah, three feet to the fence, that's fine. That's the idea, so let's memorialize it.

PAUL RAJCOK: I don't see 18 inches from the existing window.

CONSTANTINE ALEXANDER: Those are the plans. If we approve them, it will be subject to -- they have to go forward in accordance with the plans. If you don't like that, you take an appeal.

JUDY HOUSMAN: No, no, we're --

PAUL RAJCOK: No, no, no.

JUDY HOUSMAN: -- we're fine with the drawing of the plans. What we want to make sure is that everything's
explicit. We're fine with the plans.

In the e-mails that you sent us, you said there would be at least six-inch stepdown, and that the height would be -- we're all fine with that. And we're just asking that that all -- you know, that that all be --

MARK NEWHALL: Sure.

JUDY HOUSMAN: -- made explicit --

MARK NEWHALL: Okay.

JUDY HOUSMAN: Because it's part of the plan.

CONSTANTINE ALEXANDER: Not going to make it explicit. Making that clear. We're going to approve the plans that are there, you have to rely on the good faith of your neighbors.

MARK NEWHALL: Now it's explicit, it's written on these things.

CONSTANTINE ALEXANDER: What? Everything she wants in the plan is not there, obviously.

CAMILLE PRESTON: We also submitted -- we have all of the documentation of our communication. So in addition to the letter, I submitted an e-mail that had three or four e-mails back and forth communicating that we had clearly --

ANDREA HICKEY: Right, but we can't --
JUDY HOUSMAN: Right.

ANDREA HICKEY: -- incorporate that.

CONSTANTINE ALEXANDER: Right.

ANDREA HICKEY: What we can do is incorporate what is on the plan, add it to our file and into our findings. So we need to move on and make a decision.

MARK NEWHALL: It now says three feet, you've got the six-inch stepdown that you, Laura, just mentioned. So we're good, I think we're good.

JUDY HOUSMAN: If it's in the plan, we're fine. I mean, we --

CONSTANTINE ALEXANDER: Sir, excuse me. I see your hand raised. Do you want to speak on this matter? Yes. Come forward, though

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

EPHIAIM HAINE: E-p-h-i-a-i-m H-a-i-n-e, 203 Putnam Avenue.

CONSTANTINE ALEXANDER: So what's the address?

THE REPORTER: What was it?

EPHIAIM HAINE: 203 Putnam, P-u-t-n-a-m.

MARK NEWHALL: Putnam, okay.
EPHIAIM HAINE: Putnam -- "Pootnam" or "Putnam"?

COLLECTIVE: Putnam.

EPHIAIM HAINE: Putnam. I have an accent, so Putnam. I'm from Eritrea, and I'm a longstanding member of the Center for Marxist education.

ANDREA HICKEY: Wrong case.

MARK NEWHALL: That was the previous group.

ANDREA HICKEY: What case are you here -- what address, sir? What case are you hear to speak about?

EPHIAIM HAINE: About 515 Massachusetts Avenue.

MARK NEWHALL: That was --

ANDREA HICKEY: Right.

CONSTANTINE ALEXANDER: No, we’ve already had -- that case is gone.

EPHIAIM HAINE: It's gone?

ANDREA HICKEY: That's continued.

CONSTANTINE ALEXANDER: Well, it's continued.

JIM MONTEVERDE: They rescheduled.

MARK NEWHALL: They continued it.

EPHIAIM HAINE: Okay.

CONSTANTINE ALEXANDER: You can come back on April 30 for that.
EPHIAIM HAINE: Yeah. I will do it next time.

CONSTANTINE ALEXANDER: Okay.

EPHIAIM HAINE: April 30.

CONSTANTINE ALEXANDER: April 30, put it on your calendar. Anyone else wish to speak on this matter? No one wishes to speak. I think we can close public testimony.

Discussion, or are we ready for a vote?

COLLECTIVE: Ready.

CONSTANTINE ALEXANDER: I think we're ready for a vote. The Chair moves that we make the following findings with regard to the special permit that's being sought. That the requirements of the ordinance cannot be satisfied unless we grant the special permit.

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

And I think the facts speak for themselves. We're talking about a slight modification to the structure in the back yard, and it doesn't impact congestion -- excuse me, hazard or substantial change in established neighborhood character.
That the continued operation of or development of adjacent uses, as permitted in the ordinance, will not be adversely affected by the nature of the proposed use. And again, I would cite -- though people might disagree -- the nature of what is being proposed, for which relief is being sought.

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

So on the basis of all of these findings, the Chair moves that we grant the special permit being sought on the condition that the work proceed in accordance with the plans submitted by the petitioner, the first page of which has been initialed by the Chair. All those in favor, please say, "Aye."

THE BOARD: Aye.

[ All vote YES ]

CONSTANTINE ALEXANDER: Five in favor, special
permit granted.

COLLECTIVE: Thank you.

MARK NEWHALL: Do we need to sign anything, or are we --

CONSTANTINE ALEXANDER: Not now. I think you're all set.

COLLECTIVE: Congratulations.
(7:34 p.m.)

Sitting Members: Constantine Alexander, Andrea A. Hickey, Jim Monteverde, Laura Wernick, Arch Horst

CONSTANTINE ALEXANDER: The Chair will now call Case Number 017240 -- 19 Clary Street. Anyone here wishing to be heard on this matter? Mr. Glassman. You know the drill.

ADAM GLASSMAN: Yeah, Adam Glassman, GCD Architects, 2 Worthington Street, Cambridge, representing Michelle Potashman, owner 19 Clary Street. We're here tonight seeking relief to add a small, one-story rear addition.

CONSTANTINE ALEXANDER: Variance relief?

ADAM GLASSMAN: A variance relief, yeah. Variance relief. We're -- we have an existing, nonconforming FAR of 0.76.

By the time we remove or reclaim certain pieces of FAR in the back and add an addition, we'd be adding nets 59 square feet, which would bring our FAR to 0.78. That's why we're seeking relief.

CONSTANTINE ALEXANDER: It's pretty simple.
ADAM GLASSMAN: It's pretty simple. It's basically a mudroom, kitchen extension in the back, taking an existing dysfunctional vestibule and --

CONSTANTINE ALEXANDER: How many feet are you adding? I know you gave the percentages. How many feet is this?

ADAM GLASSMAN: 59 net square feet.

ARCH HOST: That's right.

CONSTANTINE ALEXANDER: questions from members of the Board? Arch?

ARCH HORST: Are you not also reducing the open space?

ADAM GLASSMAN: We're not reducing the useable open space, because that's defined as a 15 x 15-foot area.

ARCH HORST: Right. But there -- I believe in that zone there's also a requirement that only 50% of the open space has to be 15 x 15.

ADAM GLASSMAN: Right.

ARCH HORST: But the rest can be of any dimension.

ADAM GLASSMAN: Well, I would say that we are replacing an existing vestibule, so that peak -- the footprint of the addition is actually an existing structure.
ARCH HORST: Okay.

MICHELLE POTASHMAN: And the steps too.

CONSTANTINE ALEXANDER: Anyone else? I'll open the matter up to public testimony. Is there anyone here wishing to be heard on this matter? No one wishes to be heard?

ADAM GLASSMAN: We have one letter of support that came in on the later side.

CONSTANTINE ALEXANDER: We have one in the file already. We do have letters in the files -- two, I think. And they are -- well, I'll read them into the file. One is from "Marvey Calvman," 21 Clary Street.

"I received your notice of public hearing for the granting the petition for a zoning variance. Being away in the state of Florida at this time, I am unable to attend, but wish to submit my comments at this time in support of this request.

"I am the owner-occupant of abutting property at 21 Clary Street, which was acquired by my family in 1942, and which I have owned since 1984. My buildings date from 1985 and 19 Clary date from sometime earlier than that.

"I don't know when the floor area ratio under
consideration was established, but suspect it is something significantly more recent.

"I do not see where a granting of the requested variance will result in any negative effect on the surrounding properties.

"Being somewhat familiar with 19 Clary, I believe the variance will do much to improve the livability of the property, and thereby contribute to its value, as well as to the value of the surrounding property. I would therefore like to go on record as recommending that the requested variance be approved."

And the other letter we have is from Campbell Ellsworth.

"I wish to write to support the BZA application by Michele and Meyer Potashman, owners of the home at 19 Clary Street.

"I own the five-unit structure at 9-17 Clary Street, the Potashmans' direct abutter on Clary Street. I have known the Potashmans since 2011, when I bought and started working on my property at 9-17 Clary. I also live not far from Clary Street, and am there quite often.

"I know that they are a wonderful family, are
committed to their neighborhood, and that their request to
the BZA is modest in nature, and will ensure that families
remain in our communities. I fully support their request."
And that's all we have. I will close public
testimony. Discussion? Ready for a vote? Looks like we're
ready for a vote.
The Chair moves that we make the following
findings with regard to the variance being sought: That a
literal enforcement of the ordinance would involve a
substantial hardship, the hardship being that the -- this
was a much older structure, that is not well-designed for
the neighborhood in which it is now located, and that
whoever owns the structure, be it the current petitioner or
any successor owners, will have difficulties in using the
structure to the extent that it can be used.
The hardship is owing to basically the shape of
the lot and of the structure. The structure is an odd
shape, and has been situated on the lot, and is especially
affecting this structure and not necessarily all of the
other structures in the neighborhood.
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 all of these findings, the Chair moves that we grant the variance requested on the condition that the work proceeds in accordance with the plans prepared by GCD Architects, dated October 30, 2019, the first page of which has been initialed by the Chair.

All those in favor of granting the variance on this basis, please say, "Aye."

THE BOARD: Aye.

[ All vote YES ]

CONSTANTINE ALEXANDER: Five in favor, variance granted.

ADAM GLASSMAN: Thank you very much.
(7:41 p.m.)

Sitting Members: Constantine Alexander, Andrea A. Hickey, Jim Monteverde, Laura Wernick, Arch Horst

CONSTANTINE ALEXANDER: The Chair will now call Case Number 017241 -- 10 Canal Park. Anyone here wishing to be heard on this matter?

MICHAEL DOLAN: Good evening.

CONSTANTINE ALEXANDER: You've been here before?

MICHAEL DOLAN: Yes, not too long ago. Michael Dolan, D-o-l-a-n on behalf of the applicant, new Cingular Wireless, otherwise known as AT&T.

Similar to the last application, and in fact this one is even less of a visual impact, my client has an antenna facility on top of the 10 Canal park building there, it's about 71 feet off the ground is the rooftop level, and then the antennas are above that.

And the -- what we currently have are 12 antennas and we're looking to swap out three of them to get new technology up there.

We're going to move the one from here OT here just to give it proper separation, but I think you can see from
the photo simulations I think one could make the argument that this actually improves the look of the facility. But nevertheless the net total of the antennas will not change. We're also going to swap out some remote radio heads with the newer technology to remove six and put in 12. These are very small, can't even be seen from the ground. So as part of this technically it's more of a 6409 application, but in this case, we are also seeking a special permit. So we will respectfully ask the Board to approve our special permit application for this facility.

CONSTANTINE ALEXANDER: One thing I notice -- I think I got it right -- if you look at the abutters' simulations, that right now some of the antennas -- maybe one -- extends above the roofline. There is one that now it's going to go down --

MICHAEL DOLAN: Yes, there is one that does appear to have a little bit of overage above the roofline, so that's -- in that respect it will improve the look.

CONSTANTINE ALEXANDER: And that's in accordance with preference of this committee and the Planning Board.

MICHAEL DOLAN: Sure.

CONSTANTINE ALEXANDER: They don't like -- we
don't like things going above the rooflines.

MICHAEL DOLAN: Agreed.

CONSTANTINE ALEXANDER: That's all for the good.


ARCH HORST: I was going to grab one of his chicken nuggets over there.

CONSTANTINE ALEXANDER: I'll close public testimony. Anyone here wishes to see photo simulation, or maybe you have?

ARCH HORST: I have. I've seen it. It's an impressive application.

CONSTANTINE ALEXANDER: Okay. I'll then close public commentary, and I think we're ready for discussion. I think the discussion, let's have a vote.

COLLECTIVE: Yes.

CONSTANTINE ALEXANDER: Well, we have plenty of time. We can't continue the next case until 8:00, so we can stable if we want.
ANDREA HICKEY: Let Counsel go get his chicken nuggets.

ARCH HORST: That's right. Are you saying because I get paid by the hour?

CONSTANTINE ALEXANDER: Not practicing. I'll be practicing. Longer practicing. Anyway, the Chair moves that we make the following findings:

First of all, we have to make the general findings for all special permits, so let me go through those. This is very painful, but I got to do it.

That it appears that the requirements of our ordinance cannot be satisfied, unless we grant you the special permit you are seeking.

That traffic generated or patterns of access or egress resulting from what your client is proposing will not cause congestion, hazard, or substantial change in established neighborhood character, and I think the facts speak for themselves with regard to this.

We're talking about really almost conforming modifications to existing antennas, which we otherwise previously approved anyway. And so, this is not a new thing, a new matter for us in a sense.
That the continued operation of or development of adjacent uses, as permitted in the ordinance, will not be adversely affected by what the nature of the proposed use, and by that I assume the shopping center will be able to continue --

MICHAEL DOLAN: Yes.

CONSTANTINE ALEXANDER: -- the way it was before?

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

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

And that finally the Board also finds that the modification of its existing telecommunications facility at the site proposed by the petitioner does not substantially change the physical dimensions of the existing wireless tower or base station at such facility within the meaning of Section 6409a of the Middle Class Tax Relief and Job Creation Act of 2012, also known as The Spectrum Act.

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

One, that the work proceed in accordance with the plans submitted by the petitioner and initialed by the Chair. Those are in the package you submitted initially.

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

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

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

And five, that the petitioner is in compliance with, and will continue to comply within all respect the conditions imposed by this Board with regard to previous
special permits granted to the petitioner, with regard to the site in question.

And then we go on with this long -- you've heard it before -- thing about The Spectrum Act. And with your permission, since you've seen it before, rather than taking the time to read it, I'll just incorporate the language --

MICHAEL DOLAN: That's fine. I agree to that.

CONSTANTINE ALEXANDER: Get out earlier too. For your interest. Okay. On the basis of all of this, the Chair moves that we grant the special permit. Please say, "Aye."

COLLECTIVE: Aye.

[ All vote YES ]

CONSTANTINE ALEXANDER: Five in favor, special permit granted.

COLLECTIVE: Thank you all very much.
(7:58 p.m.)

Sitting Members: Constantine Alexander, Andrea A. Hickey,
Jim Monteverde, Laura Wernick, Arch Horst

CONSTANTINE ALEXANDER: Call Case Number 017243 --
391 Concord Avenue, #2. Anyone here wishing to be heard on
this matter?

KEVIN KIELER: Good evening.

CONSTANTINE ALEXANDER: Good evening.

KEVIN KIELER: My name is Kevin Kieler, I'm Chief
Designer for Brady-Built Sunrooms. I'm here --

THE REPORTER: Can you spell your last name,
please?

KEVIN KIELER: I'm K-i-e-l-e-r. I'm here
representing Patty Goodman at her request, who is the owner
of the house. We were hired by Patty to enclose her back
second-floor rooftop deck. This is a two-level multifamily
ownership home. She lives on the second floor.

So this house was constructed back in the '20s,
and the rooms were very, very small, especially the kitchen,
which she can barely put a stool in -- let alone a table.

And so, the area is to be a dining room area off the
kitchen. It's going to be open as a kitchen.

And during the permitting process, and the design process, we mistakenly interpreted the zoning regulations to think that rooftop -- and it's my fault -- that rooftop decks were included in the FAR.

In discussions with the zoning enforcement person in town, Sean, we were corrected on that, that it does not count unless it has a roof on top of it. Hence, the reason why we're here.

And this same situation was corrected by a variance that was issued by the town to the previous owners for the first floor, to enclose that deck area down there. Unfortunately, what they did was the ceiling of the dining room on the first floor became a rooftop deck for the second-floor unit, which is kind of virtually useless because of cold and mosquitos and wind.

And so, it's my understanding, and I'll let Patty elaborate a little bit more on that, that the neighbors have no problem with it at all. It only adds 196 square feet to the house. It's on the back side of the house and cannot be seen from the street at all.

It's been designed very tastefully, done to be in
the same look of the house.

And so, we respectfully request, and we feel that it can be done without nullifying or substantially derogating from the spirit and intent of the bylaw. So we --

CONSTANTINE ALEXANDER: What's the material of this room?

KEVIN KIELER: Solid wood structure. The exterior is going to be sided to match the house, and it's going to be trimmed in white.

CONSTANTINE ALEXANDER: Questions from members of the Board?

JIM MONTEVERDE: But it's a -- it is a sunroof?

KEVIN KIELER: It is a sunroom. So the sides --

JIM MONTEVERDE: tall ceiling, glass --

KEVIN KIELER: The ceiling is glass, the front wall is glass, the sides are solid construction like a regular house, and then sided and insulated like a normal house so that when you're looking at it from the neighbor's side, it looks like a regular part of the house.

Now, where you can tell it is a sunroom is if you were in the very back yard looking up. And I think Patty
PATTY GOODMAN: Yeah. So I'd love to share. So I have purchased -- so my daughter and I purchased the home about nine years ago, and at the time, we were excited to have a -- just the space of the windows in the front, because we lived in the Porter Square area where you couldn't have any windows in the front.

And I enjoy having people coming over. We have extended family, so we do a lot of dinners and gatherings. And so, over the last nine years, I've really been working on getting kind of a financial position, so that I can add on the sunroom.

Because what we found is with the deck, we really could only use it three months out of the year, because of rain and, you know, as mentioned where there's trees that are there, so we always end up with lots of leaves and issues.

Anyway, so I was very excited when we were able to kind of find something that would fit, and I had seen very similar sunrooms like this in the neighborhood, which was one of the reasons that gave me the idea.

And so, then I guess when we found out we needed
to do a variance, I spoke with the neighbors and invited them over to go over the plans and we talked about it, and then I asked them if they were okay, if they didn't mind signing.

So I have this document from --

JIM MONTEVERDE: Thank you.

PATTY GOODMAN: Sure, all the neighbors that are connected, that were able to stop by. And everyone was okay with what we were looking at. They actually thought it looked beautiful and they couldn't wait to come back when it's done. I said, "I'll do an open house, I promise."

So if there's any questions, I'm happy to answer. But I just -- in going downstairs and seeing how they were able to make use of that space; it just makes a huge difference. Because right now, literally one person can be in the kitchen, and you really can't do anything else in that area at all.

And then the washing machine and everything is right there. So it's kind of --

CONSTANTINE ALEXANDER: Questions?

LAURA WERNICK: So I'm just curious, is the -- can you use the -- will you be able to use the room year-round?
PATTY GOODMAN: Yes.

LAURA WERNICK: Is it heated?

KEVIN KIELER: All we do is year-round rooms.

LAURA WERNICK: Yeah. It's heated?

PATTY GOODMAN: Mm-hm.

KEVIN KIELER: Yep, yep. It's going to be the dining room.

PATTY GOODMAN: Yeah.

CONSTANTINE ALEXANDER: And the reason you're here before us tonight is it's a nonconforming structure in terms of FAR, and you can just slightly increase the nonconformance?

KEVIN KIELER: By 196 square feet.

CONSTANTINE ALEXANDER: 0.74 to 0.791.

KEVIN KIELER: Yeah.

CONSTANTINE ALEXANDER: And it's not -- by the ordinance, you're not supposed to be more than 0.5.

KEVIN KIELER: Yes, correct.

CONSTANTINE ALEXANDER: It's a modest, very modest increase, in my opinion. Any other questions from members of the Board? None? I'll open the matter up to public testimony. Anyone here wishing to be heard on this matter?
Sir? Dave, if you speak into the microphone.

JIM MONTEVERDE: You can take that off the stand.

CONSTANTINE ALEXANDER: You can take it off the stand, please.

DAVID CHILINSKI: David Chilinski. I live at 391 Concord Ave.

THE REPORTER: Can you spell your last name for each, please?

DAVID CHILINSKI: C-h-i-l-i-n-s-k-i. I'm actually her downstairs neighbor. So I'm a real abutter to the --

COLLECTIVE: [Laughter]

DAVID CHILINSKI: Just here to say that, you know, I'm in favor of granting the variance.

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

DAVID CHILINSKI: And actually I came to a couple of the Sunday invitations with the neighbors, and kind of heard it firsthand that people are fine with it, so.

CONSTANTINE ALEXANDER: I see you're one of the five persons who signed the petition?

DAVID CHILINSKI: I might be on that list.

CONSTANTINE ALEXANDER: Anyone wishes to speak on
this matter? No one does? We are in receipt of a petition
signed by five people in the neighborhood, and it says:
"I have been "informed" -- I have been informed
about Patty Goodman's 2019-2012 and 20 homeowners zoning
variance plan at 391 Concord Avenue #2, Cambridge, Mass.
"The plan is to enclose her back porch, which
increases her living space. I am a neighbor associated to
the 391 Concord property. My signature below is voluntary.
I do not hold a claim against this variance."

JIM MONTEVERDE: Oh. Well, that's good.
CONSTANTINE ALEXANDER: That's good to know.
DAVID CHILINSKI: That's one box we don't have to
check off.
CONSTANTINE ALEXANDER: I will close public
testimony. Anyone here wishes -- well, we've gone through
it all. Discussion, or are we ready for a vote?
COLLECTIVE: Ready.
CONSTANTINE ALEXANDER: Ready for a vote, 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 will involve
a substantial hardship to the petitioner, and the hardship
being with the structure itself, given the way -- given its size, configuration within the unit.

There is a need for something with outdoor space associated with the structure itself, such as a second-floor sunroom or deck.

That the hardship is owing to the -- basically the shape of the structure itself, and the fact that it's really a nonconforming structure, which means that any further 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 this ordinance.

So on the basis of all of these findings, the Chair moves that we grant the variance requested on the condition that the work proceeds in accordance with plans prepared by Brady-Built, there's a hyphen related to the word -- dated May 19, 2019, each page of which has been initialed by the Chair.

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

THE BOARD: Aye.

[ All vote YES ]

CONSTANTINE ALEXANDER: Five in favor, variance
granted. Good luck.

COLLECTIVE: Thank you so much.
(8:13 p.m.)

Sitting Members: Constantine Alexander, Andrea A. Hickey, Jim Monteverde, Laura Wernick, Arch Horst

CONSTANTINE ALEXANDER: The Chair will now call Case Number 017242 -- 20 Craigie Street. Anyone here wishing to be heard on this matter? No?

ARCH HORST: I want to just say that I'm familiar with the owners of this property, but I don't think it will prejudice my --

CONSTANTINE ALEXANDER: As long as you don't have any financial arrangement?

ARCH HORST: No, none whatever.

CONSTANTINE ALEXANDER: That's fine, yeah. It's good that you called it to the attention of the Board.

Anyway.

GREGORY LEGAULT: Hello? My name is Greg Legault. I'm the architect representing the owners, Peter and Helen Haim of 20 Craigie Street.

We are proposing to build a residential elevator on the back side of the existing house that would encroach on the rear yard setback by about six inches. The owners
are both in their '80s, and Helen unfortunately had an accident fairly recently and is unable to make her way up and down the stairs easily. And they're --

CONSTANTINE ALEXANDER: It's a tall building, there are a lot of stairs to climb up.

GREGORY LEGAULT: Yes, yeah. And tough floor to floors, lots of steps. And they apologized they couldn't be here tonight, but they're living out of state, because they can't really live in the house.

And it's a beautiful, historic house. And we looked at options for inserting the elevator within the structure, and it really would take away from the character of the existing house to sort of drive that elevator shaft through the inside of the house. And so, we figured we would add on to the outside.

CONSTANTINE ALEXANDER: And this is the rear of the house?

GREGORY LEGAULT: To the rear of the house, yeah.

CONSTANTINE ALEXANDER: And it's not noticeable to the --

GREGORY LEGAULT: Correct.

CONSTANTINE ALEXANDER: -- people on the street?
GREGORY LEGAULT: Yep. And we've already been through a historic preview and gotten their approval as well.

CONSTANTINE ALEXANDER: And your only zoning issue is you're intruding into the rear yard setback and side yard too?

GREGORY LEGAULT: Just the rear.

CONSTANTINE ALEXANDER: Just the rear?

GREGORY LEGAULT: Yeah.

CONSTANTINE ALEXANDER: Okay.

GREGORY LEGAULT: Yeah. Just by about six inches. I mean, when we got the actuals, we were doing it from the paper survey originally, and thought we were just skirting it. But when we got the real survey, it was just over the line.

CONSTANTINE ALEXANDER: Questions from members of the Board?

ARCH HORST: Are you not increasing the floor area ratio above the limit?

GREGORY LEGAULT: No, it's currently below the limit.
ARCH HORST: Okay.

GREGORY LEGAULT: And then we're not going over.

CONSTANTINE ALEXANDER: I'll open the matter up to public testimony. Is there anyone here wishing to be heard on this matter? Apparently not. Let me see if there are any letters in the file. I don't think there are. No. I will close public testimony. Ready for a vote, or do you want some discussion?

COLLECTIVE: Ready for a vote.

CONSTANTINE ALEXANDER: 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 hardship, a substantial hardship -- this hardship being this is an older structure, quite vertical in nature, and that any occupant of the structure won't -- might need -- and in this case will need -- the assistance of an elevator.

The hardship is owing -- again -- to the location of the structure on the lot, which results -- the elevator shaft will be placed in a most unobtrusive part of the structure, resulting in the need for a variance.
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 all of these findings, the Chair moves that we grant the variance requested on the condition that the work proceeds in accordance with plans prepared by Legault, L-e-g-a-u-l-t Design, LLC, dated December 19, 2019, each page of which has been initialed by the Chair.

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

THE BOARD: Aye.

[ All vote YES ]

CONSTANTINE ALEXANDER: Five in favor.

GREGORY LEGAULT: Great. Thank you very much.
(8:28 p.m.)

Sitting Members: Constantine Alexander, Andrea A. Hickey, Jim Monteverde, Laura Wernick, Arch Horst

CONSTANTINE ALEXANDER: The Chair will now call Case Number 017246 -- 17 Cushing Street. Anyone here wishing to be heard on this matter?

RICK VON TURKOVICH: That's me.

CONSTANTINE ALEXANDER: I would hope so.

RICK VON TURKOVICH: Thank you for seeing me tonight. I was going to say this is almost my bedtime, so

LAURA WERNICK: Mine too.

RICK VON TURKOVICH: All right. Well, I appreciate it. Just to --

JIM MONTEVERDE: You've got to give us your name and address --

RICK VON TURKOVICH: Okay.

JIM MONTEVERDE: -- for the stenographer.

RICK VON TURKOVICH: So my name is Rick Von Turkovich. That's spelled V-o-n T-u-r-k-o-v-i-c-h, and I live at 31 Shepard Street, Cambridge. Thank you. All
Folks, just a little bit of background. So I've been a Cambridge resident since 1980, when I came here to go to school. In 1992, I bought a three-decker on Putnam Avenue, I was married, had a child. We moved out to the house that we live in on Shepard Street.

And then the property in question, 17 Cushing Street, I bought in 1998, and I've operated it as a rental property since then.

CONSTANTINE ALEXANDER: Four family?

RICK VON TURKOVICH: It's a four-family. And, you know, it has very tall ceilings in the basement. I always thought that it might make sense to do something with it.

And then you may know on the Strawberry Hill neighborhood, over the past few years, there's been an increase in the number of dwelling units per property, so I thought it might be an opportune time to try and add a dwelling unit to my property as well.

As you can tell from the variance application, there's two extenuating circumstances, right? As the lot size per dwelling unit would obviously increase, and then I would need some parking -- relief from parking.
CONSTANTINE ALEXANDER: Actually, there's one more.

RICK VON TURKOVICH: Oh, okay.

CONSTANTINE ALEXANDER: To convert, upconvert --

RICK VON TURKOVICH: Yeah.

CONSTANTINE ALEXANDER: -- ISD, you have to deal with Section 5.26. They set forth, and that section sets forth four standards --

RICK VON TURKOVICH: Okay.

CONSTANTINE ALEXANDER: -- you have to meet, if you want to go from increasing the number of dwelling units.

RICK VON TURKOVICH: Oh, okay.

CONSTANTINE ALEXANDER: You flunked three of them.

RICK VON TURKOVICH: Oh, well that's not good.

CONSTANTINE ALEXANDER: That's not good.

RICK VON TURKOVICH: Okay.

CONSTANTINE ALEXANDER: And you flunked them substantially.

RICK VON TURKOVICH: Okay.

CONSTANTINE ALEXANDER: For example, the FAR is not supposed to be more than 0.5. You're now at 1.01, twice for this remittance, which is --
RICK VON TURKOVICH: Right. And I understood we are not conforming, right?

CONSTANTINE ALEXANDER: Yeah, but you're -- and you're not going to increase that.

RICK VON TURKOVICH: Right, right.

CONSTANTINE ALEXANDER: You're still a lot open.

RICK VON TURKOVICH: Right, understood.

CONSTANTINE ALEXANDER: That lot area, the dwelling unit, you're supposed to have at least 2500 feet.

RICK VON TURKOVICH: Right.

CONSTANTINE ALEXANDER: Right now you have 14,15, and if we grant you the relief you're seeking then go down to 1132, which is 50% of what the ordinance says you need to have.

RICK VON TURKOVICH: Okay.

CONSTANTINE ALEXANDER: And you need to have five parking spaces, and you only have two.

RICK VON TURKOVICH: Right.

CONSTANTINE ALEXANDER: And with regard to parking, at least we have a letter in our files from someone in the neighborhood who opposes the relief you're seeking.

RICK VON TURKOVICH: Okay.
CONSTANTINE ALEXANDER: Because of the parking issues.

RICK VON TURKOVICH: Okay.

CONSTANTINE ALEXANDER: Parking and traffic issues.

RICK VON TURKOVICH: Okay.

CONSTANTINE ALEXANDER: So then you have to meet -- those -- so you really have a big hurdle.

RICK VON TURKOVICH: Right.

CONSTANTINE ALEXANDER: And then you've got to meet the legal standard for a variance. And the first one is that a literal enforcement of the provisions of the ordinance would involve a substantial hardship.

RICK VON TURKOVICH: Yeah.

CONSTANTINE ALEXANDER: The only hardship I can see is you can't make as much money with four units as you can do with five. There's no hardship here that runs with the structure. I mean, it's a perfectly viable, four-unit building.

RICK VON TURKOVICH: Right.

CONSTANTINE ALEXANDER: And as I said, there's no hardship that requires you or needs -- other than financial
Also, the hardship must be owing to circumstances relating to the soil conditions, shape or topography of such structure, and especially affecting it but not generally affecting the zoning district in which your building is located. I don't see how you can come close to that one. And then the last one is more general. So sir, what I'm suggesting -- you can see where I'm coming from --

COLLECTIVE: Right.

CONSTANTINE ALEXANDER: -- you made only one of five. Because you're not coming close to meeting the requirements for a variance.

RICK VON TURKOVICH: Right.

CONSTANTINE ALEXANDER: I don't see how we can grant you the relief you're seeking.

RICK VON TURKOVICH: Okay. Okay, well, I appreciate your educating me on those issues. And I understand the aspect of the property being nonconforming.

And with regard to the lot size per dwelling unit, I meant to call -- I called attention in the application to the fact that the property itself, right, is sort of half in the A1 zone, as well as in the B zone, right? So that in
the A1 zone, the lot size per dwelling unit would be only
within six percent of the requirement.

So when I looked at the -- I understand, I tried
to study the circumstance as much as possible, so that what
I was hoping was that the hardship, financial or otherwise,
would be that this property is largely or -- you know, more
than half -- in a business zone, in which case, the lot size
per dwelling unit would be almost within the zoning
requirement.

But, also understanding that the rules are that
the most restrictive zoning --

CONSTANTINE ALEXANDER: Right.

RICK VON TURKOVICH: -- aspect takes place. And
then with respect to parking, you know, listening to some of
the other petitioners, I realize I had spoken to my
neighbors, and generally there was a consensus.

In retrospect, I could have gotten some of those --
- some of that testimony in writing. And if there were an
opportunity to do that, I could do that.

As far as the relief from parking, I did want to
point out -- and I don't know if it's shown in the record
that my property is actually -- my tenants use public
transportation. It's with the -- it's right around the corner from the bus stop. I mean, literally at the corner of Cushing.

So knowing that I needed some relief from parking, I felt that the hardship was that except for the ordinance, there's ample on-street parking and there's a lot of transportation --

CONSTANTINE ALEXANDER: Let me one by one, I hear you and I --

RICK VON TURKOVICH: Right.

CONSTANTINE ALEXANDER: -- hear what you're saying on the parking. It's a cumulative effect.

RICK VON TURKOVICH: Right.

CONSTANTINE ALEXANDER: You're not close to meeting the requirements of our ordinance. And, the reasons -- basis for granting a variance is not there. What's the hardship that you would make? You have a four-unit building.

RICK VON TURKOVICH: Right.

CONSTANTINE ALEXANDER: It's occupied, it's rented --

RICK VON TURKOVICH: Sure, sure.
CONSTANTINE ALEXANDER: You want to have a -- you want to increase the rental income. That’s not a hardship that entitles you to a variance.

RICK VON TURKOVICH: Well, it -- I guess the hardship -- I'm not trying to argue --

CONSTANTINE ALEXANDER: No, no, no --

RICK VON TURKOVICH: -- hopefully see if we can't come to some common understanding is that there's a hardship to me financial or otherwise, right?

CONSTANTINE ALEXANDER: Say it again, I'm sorry?

RICK VON TURKOVICH: Financial or otherwise, as it states in the application.

CONSTANTINE ALEXANDER: Yeah, with the otherwise, okay.

RICK VON TURKOVICH: So the "otherwise" is that in general -- I mean, I -- one of the reasons why I operate the rental property is I actually take satisfaction in having them provided housing for many people over these years. I always thought that there could be an additional dwelling unit.

And while my property -- understanding the nonconforming issues, other properties in the area have
added dwelling units increasing density. And in my case, there's no increase in density.

CONSTANTINE ALEXANDER: I have to assume, since I don't remember any cases on your street requiring zoning relief.

RICK VON TURKOVICH: On hold relief.

CONSTANTINE ALEXANDER: I'm sorry?

RICK VON TURKOVICH: On hold relief.

CONSTANTINE ALEXANDER: I mean, they can do their increase and comply with the zoning ordinance.

RICK VON TURKOVICH: Right.

CONSTANTINE ALEXANDER: You want to do an increase and you are departing from the zoning ordinance.

ANDREA HICKEY: In more than one respect.

CONSTANTINE ALEXANDER: Yes.

RICK VON TURKOVICH: Right. Right. So are you saying that it's --

CONSTANTINE ALEXANDER: What I'm saying is that I'm going to vote against granting you relief.

RICK VON TURKOVICH: Okay.

CONSTANTINE ALEXANDER: You need to get four votes. So you can -- the other four members want to grant
you relief, that's fine, that's the majority. That's their decision.

RICK VON TURKOVICH: Okay.

CONSTANTINE ALEXANDER: That's how it works.

RICK VON TURKOVICH: Okay.

CONSTANTINE ALEXANDER: You need to get four votes.

RICK VON TURKOVICH: Okay. I understand. I guess so you're saying that it's not just parking, and it's not just the lot size per dwelling?

CONSTANTINE ALEXANDER: You don't meet the requirements for a variance. The reason, you don't have a substantial hardship within the meaning of the zoning ordinance, or the zoning laws. And you start, as I say, far departing from the ordinance.

If you were close, you'd have three of the four, and maybe the parking was the one you don't meet. I think our Board tends to be -- you know, we understand that and we attempt to be liberal in terms of applying the ordinance.

RICK VON TURKOVICH: Right, no, I guess --

CONSTANTINE ALEXANDER: And you're far away.

RICK VON TURKOVICH: Yeah. I guess my only appeal
would be that if we could address the parking issue, right?

CONSTANTINE ALEXANDER: Parking's not the only issue, sir

RICK VON TURKOVICH: Okay.

CONSTANTINE ALEXANDER: It's the rest of it. I mean, look what the lot area per dwelling unit. You're going to be half of what our ordinance says the minimum is required by our ordinance, if we grant you the relief. You'll be all -- you're below it now, and you're going to make it more below.

RICK VON TURKOVICH: Right. Well, for one of the -- I mean, the property is half in the B zone, right? That's -- you know, those numbers are far different.

CONSTANTINE ALEXANDER: Right. Well, I don't want to repeat myself --

RICK VON TURKOVICH: Okay.

CONSTANTINE ALEXANDER: -- or be argumentative. I just expressed my views. I don't know if other members --

RICK VON TURKOVICH: Understood.

CONSTANTINE ALEXANDER: -- want to express their views or not. We'll get to a vote at some point.

RICK VON TURKOVICH: Okay.
CONSTANTINE ALEXANDER: But anyway, questions or comments from other members of the Board?

JIM MONTEVERDE: Well, just in fairness, I would tend to agree with the Chair. So, again, you need four.

RICK VON TURKOVICH: Right, right. Yeah. I mean, my -- you know, my fundamental thought was that an extra dwelling unit in a property where there's no visible increase in the size of the structure, right?

Understanding the issue with regard to parking, that it -- you know, it's an opportunity to add another unit of housing in an area that needs more housing.

ANDREA HICKEY: Right. But we're constrained by the ordinance. That sort of sets the stage for what we need to consider, and what we're able to do. And I don't think the need for housing helps us fit your request within these requirements.

JIM MONTEVERDE: So I assume the opportunity would be to -- if there's a vote and we turn down; you can't come back for --

COLLECTIVE: Two years.

CONSTANTINE ALEXANDER: Unless it's substantially different.
JIM MONTEVERDE: -- unless it's substantially different.

CONSTANTINE ALEXANDER: It's the same as -- withdraw is the same as being turned down.

JIM MONTEVERDE: Same thing.

CONSTANTINE ALEXANDER: Same thing.

RICK VON TURKOVICH: Yeah. Yeah.

CONSTANTINE ALEXANDER: Let me read a letter in the file. We only have one letter from the neighbor, or someone. It's from Steven, or Steve, Polimou -- P-o-l-i-m-o-u, 18 Cushing Street.

"I'm writing in opposition to the proposed variance of 17 Cushing Street. The parking situation at this end of Cushing Street is increasingly problematic for the residents, with an overflow of vehicles.

"In addition to a large number of transient vehicles on a daily basis for yoga, coffee and lunch, there are currently five cars registered to 17 Cushing Street. It could be much worse, but the tenant on the first floor doesn't have a car.

"All of these vehicles park on the street, while a good-sized parking area behind the house sits empty. This
is to the best of my knowledge the only empty parking area in the neighborhood, aside from a vacant condo on Spruce Avenue.

"It doesn't seem fair that the other residents in the area use their driveways to minimize the congestion, while 17-19 Cushing Street continually dumps their cars on the street because the landlord wants to make a couple of extra dollars. Already, one of the tenants frequently parks overnight in the two-hour section of Cushing Street."

"Certainly, we shouldn't reward this kind of behavior. Granting this variance would be terrible for the neighborhood. The landlord should be required to remedy the current problem without making things worse."

Sir, are you --

AUDIENCE: No, I'm not here for this case. I assume --

CONSTANTINE ALEXANDER: You can express a view, if you like.

AUDIENCE: I am here for the 8:45.

JIM MONTEVERDE: You're next.

CONSTANTINE ALEXANDER: I know.

CONSTANTINE ALEXANDER: So you don't want to be
involved in this case? Any comments or questions from members of the Board? Okay. Ready for a vote.

ANDREA HICKEY: Assuming that the petitioner wants a vote, versus a withdrawal?

CONSTANTINE ALEXANDER: Not the same way.

ANDREA HICKEY: Right, but he may have a preference.

CONSTANTINE ALEXANDER: It's up to you. That's right. Good point, good point. Do you want to withdraw your case, or you want to have a vote?

RICK VON TURKOVICH: Well, all right. Let me ask you then, there is an old kind of garage that -- on the property, right? And there is -- I see there is a potential that I could increase parking, right?

And I had thought about applying for a permit to do that. Is there any benefit for a subsequent application for a different variance to --

CONSTANTINE ALEXANDER: It improves the strength of your case, in my opinion at least.

RICK VON TURKOVICH: Yes.

CONSTANTINE ALEXANDER: But in my opinion, at least, it still doesn't necessarily get you over the top.
RICK VON TURKOVICH: Right.

CONSTANTINE ALEXANDER: In other words, it's not just parking, it's just one of the issues.

RICK VON TURKOVICH: Right.

CONSTANTINE ALEXANDER: That you have a -- you don't meet the requirements of our ordinance. I think more of the fact that a lack of substantial hardship within the meaning of our ordinance --

RICK VON TURKOVICH: Okay.

CONSTANTINE ALEXANDER: -- is the end of it.

RICK VON TURKOVICH: Okay.

CONSTANTINE ALEXANDER: Do you want -- the question is still there; do you want to vote or not? Want us to vote on it?

ARCH HORST: I was just going to say the advantage of continuing a case, if you want to --

RICK VON TURKOVICH: Right.

ARCH HORST: Is that you may be able to figure out some way to address the Chair's concerns.

RICK VON TURKOVICH: Right.

ARCH HORST: Because if it votes, then it's over for two years.
CONSTANTINE ALEXANDER: Two years, yeah.

RICK VON TURKOVICH: So it could -- a continuance doesn't trigger this two-year, don't come back for two years?

CONSTANTINE ALEXANDER: No, I will just continue the case.

RICK VON TURKOVICH: Okay.

ANDREA HICKEY: No, because a decision hasn't been made.

CONSTANTINE ALEXANDER: Yeah.

ANDREA HICKEY: And it may give you an opportunity to sort of rethink the hardship sort of requirement that --

RICK VON TURKOVICH: Right.

ANDREA HICKEY: -- is strongly acting in my opinion.

RICK VON TURKOVICH: Right, right. Okay.

CONSTANTINE ALEXANDER: It's your call.

RICK VON TURKOVICH: I think I will ask for a continuance, then, and --

CONSTANTINE ALEXANDER: What's the date we have?

SISIA DAGLIAN: April 30.

CONSTANTINE ALEXANDER: So it's still the
RICK VON TURKOVICH: Okay. Can I agree to defer a little bit beyond that?

CONSTANTINE ALEXANDER: We can pick a later date if you wanted to?

RICK VON TURKOVICH: Yeah, a much later date. I just need time to understand --

CONSTANTINE ALEXANDER: No, no, no, what would you like?

SISIA DAGLIAN: May or June?

RICK VON TURKOVICH: Well, let's say June.

SISIA DAGLIAN: June we have the eleventh or the twenty-fifth, it has to be the same Board?

CONSTANTINE ALEXANDER: Yes, because it's a case heard.

RICK VON TURKOVICH: So the twenty-fifth, would that be okay?

LAURA WERNICK: I'm away. I am here on the eleventh, however.

RICK VON TURKOVICH: Okay. I could do the -- I could make the eleventh work.

CONSTANTINE ALEXANDER: Wait a minute, make sure
the other members can.

LAURA WERNICK: I'm going with the eleventh.

RICK VON TURKOVICH: Oh, okay. And we could --

July would be okay, too.

SISIA DAGLIAN: Okay, so July there's the ninth and the twenty-third.

RICK VON TURKOVICH: Does that --

ARCH HORST: Twenty-third's better for me.

LAURA WERNICK: Either is fine with me.

ANDREA HICKEY: Yeah, I'm fine.

CONSTANTINE ALEXANDER: Twenty-third works for everybody?

JIM MONTEVERDE: I think so, yeah.

CONSTANTINE ALEXANDER: Okay. The Chair moves that we continue this case as a case heard until 7:00 p.m. on July twen -- July 23?

SISIA DAGLIAN: Yes.

CONSTANTINE ALEXANDER: -- July 23, subject to the following conditions: These are standard, and I'll just read them.

One, you have to sign a time for decision, a waiver of time for a decision.
RICK VON TURKOVICH: Okay.

CONSTANTINE ALEXANDER: Otherwise, we will be forced to take a vote sooner than you the day we take it.

RICK VON TURKOVICH: Okay.

CONSTANTINE ALEXANDER: Sisia has the form, you can sign before you leave.

RICK VON TURKOVICH: Okay.

CONSTANTINE ALEXANDER: Second, the posting sign that you have up there now you either have to get a new one or just modify what's there by just with a magic marker change the date.

RICK VON TURKOVICH: Okay.

CONSTANTINE ALEXANDER: -- to July 23 --

RICK VON TURKOVICH: Okay.

CONSTANTINE ALEXANDER: -- the time, 7:00 p.m. so that new sign, or modified sign --

RICK VON TURKOVICH: Okay.

CONSTANTINE ALEXANDER: -- must be maintained for the 14 days before the July 20, just as you did tonight.

RICK VON TURKOVICH: All right.

CONSTANTINE ALEXANDER: And lastly, this is -- well, it could be relevant -- to the extent you're going to
want to submit plans, drawings --

RICK VON TURKOVICH: Right.

CONSTANTINE ALEXANDER: -- dimensional changes --

RICK VON TURKOVICH: Yeah.

CONSTANTINE ALEXANDER: -- those must be in our
files no later than 5:00 p.m. on the Monday before July 24.
That is to give us --

RICK VON TURKOVICH: Right.

CONSTANTINE ALEXANDER: -- and other citizens of
the city time to review them --

RICK VON TURKOVICH: Okay.

CONSTANTINE ALEXANDER: -- so we can have an
informed hearing.

RICK VON TURKOVICH: Okay. Understood. I'm not
looking for any kind of -- you know, formal advice or
anything like that, but in your, you know, opinion, if I
were to address a design that would allow for more parking,
do I have any chance of overcoming your --

CONSTANTINE ALEXANDER: I can't tell you that.

RICK VON TURKOVICH: Yeah, okay.

CONSTANTINE ALEXANDER: I mean, it would improve
your chances.
RICK VON TURKOVICH: Right.

CONSTANTINE ALEXANDER: Whether it's over the top --

RICK VON TURKOVICH: Right, right, right, right, right. I understand. I appreciate that. Okay.

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

THE BOARD: Aye.

[ All vote YES ]

CONSTANTINE ALEXANDER: Five in favor, sign that form on the way out --

RICK VON TURKOVICH: All right.

CONSTANTINE ALEXANDER: -- and we'll see you in July.

RICK VON TURKOVICH: Okay. Thank you for your time.
(8:47 p.m.)

Sitting Members: Constantine Alexander, Andrea A. Hickey, Jim Monteverde, Laura Wernick, Arch Horst

CONSTANTINE ALEXANDER: The Chair will now call Case Number 017249 -- 42 Maple Avenue. Anyone here wishing to be heard on this matter?

DOUGLAS OKUN: Hi, my name is Douglas Okun. I'm an architect for the client. And the proposal -- you have it in front of you -- is, they have some nasty windows. I would like to put in windows that match the house, and put a door going out to the back yard and a little step down to the yard.

CONSTANTINE ALEXANDER: So you need both a -- you're seeking both a variance and a special permit tonight.

DOUGLAS OKUN: Okay.

CONSTANTINE ALEXANDER: Okay. So talk about the variance first, which you have to establish, as you've heard, for a substantial hardship that runs with the land. And the hardship is owing to soil conditions, shape or topography of the land or structure.

DOUGLAS OKUN: [Laughter].
CONSTANTINE ALEXANDER: Well, the floor is yours.

DOUGLAS OKUN: Well, I think the land is a little too soft to use it, so I think we need to step down, I don't know.

CONSTANTINE ALEXANDER: You can do better.

DOUGLAS OKUN: It's a hardship not to be able to get out of your house.

CONSTANTINE ALEXANDER: Okay, well it's a hardship that runs -- it's not just peculiar to your clients.

DOUGLAS OKUN: Yeah.

CONSTANTINE ALEXANDER: It's whoever occupies the property, given the topography of the land you need to modify the ability to exit the house.

DOUGLAS OKUN: Yes.

CONSTANTINE ALEXANDER: I think that's what you're saying?

DOUGLAS OKUN: Yes.

CONSTANTINE ALEXANDER: Okay. And the circumstances relating to the topography of such land?

Again, it's the --

DOUGLAS OKUN: Yes.

CONSTANTINE ALEXANDER: Step down.
DOUGLAS OKUN: Yes.

CONSTANTINE ALEXANDER: And desirable relief may be granted without substantial detriment to the public good, or nullifying or substantially derogating from the intent and purpose of the ordinance.

I think those are soft criteria. And I think they speak for themselves. Do you have any letters of support or anything? There's nothing in our files.

DOUGLAS OKUN: Yeah.

CONSTANTINE ALEXANDER: Why don't we finish up with the variance. Any comments from members of the Board?

BOARD MEMBER: Well, nobody's here to get them.

LAURA WERNICK: I'm just curious. The first -- or I guess the second continued case this evening, where the couple indicated that the Inspectonal Services told them they didn't require a special permit for the steps for a --

CONSTANTINE ALEXANDER: Right, right.

LAURA WERNICK: -- required second means of egress. But here we're saying a special permit is required for what appears to be the same situation. Am I --

CONSTANTINE ALEXANDER: It does. I can't understand why Inspectonal Services Department says yay,
and one a nay and the other, but --

ARCH HORST: Maybe there's another means of egress already. Is there -- are there three means of egress, or are there two means of egress now? Excuse me --

DOUGLAS OKUN: Yeah. That's -

CONSTANTINE ALEXANDER: That's the answer?

ARCH HORST: Yeah.

ANDREA HICKEY: It is, okay. And neither of those are going away, right?

DOUGLAS OKUN: No.

CONSTANTINE ALEXANDER: Okay. As indicated, there are no letters either way in our files, so let's see to a vote on the variance, unless people want further discussion.

ANDREA HICKEY: No.

CONSTANTINE ALEXANDER: 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 as the ability to egress from the house at this side of the house is difficult, if not precipitous because of the topography of the land, and this is a
hardship that would run to whoever owns the structure, not just your current clients.

And the hardship is owing to the topography of the land, and especially affects the land, and not generally the district in which it's located, 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 all of these findings, the Chair moves that we grant the variance sought on the condition that the work proceeds in accordance with plans prepared by Douglas Okun and Associates -- we can just say we can't find it -- dated January 30, 2020, and the first page of which has been initialed by the Chair.

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

THE BOARD: Aye.

[ All vote YES ]

CONSTANTINE ALEXANDER: Five in favor, your variance has been granted. Let's turn to the special permit, which relates to the fact you want to install a sliding door to the landing in the rear of the house and install windows on the side of the house, and --
DOUGLAS OKUN: You can see the windows that are there.

CONSTANTINE ALEXANDER: Yeah. There's a lot more windows, really.

DOUGLAS OKUN: The what?

CONSTANTINE ALEXANDER: To what was there before, as I recall.

DOUGLAS OKUN: These are here.

CONSTANTINE ALEXANDER: Oh, okay. You're right. I'm sorry. I'm --

DOUGLAS OKUN: We want to replace them with windows that match the house.

CONSTANTINE ALEXANDER: Okay.

DOUGLAS OKUN: I think it will look better.

CONSTANTINE ALEXANDER: Questions from members of the Board? Nobody's here to give public testimony. There are no letters in our file.

The Chair moves that we -- I think we're ready for a vote for a special permit. The Chair moves that we make the following findings with regard to the special permit that's being sought:

That the requirements of the ordinance cannot be
met unless we grant the special permit.

That traffic generated or patterns in access or egress resulting from what is proposed will not cause congestion, hazard, or substantial change in established neighborhood character -- in fact, the relief being sought is rather modest and does not impact the neighborhood generally.

That no nuisance or hazard will -- the continued operation of or the development of adjacent uses, as permitted in the ordinance, will not be adversely affected by what is being proposed, and I think it speaks for itself.

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 generally, what is being proposed with regard to the special permit will not impair the integrity of the district or adjoining district, or otherwise derogate from the intent and purpose of this ordinance.

So on the basis of all of these findings, the Chair moves that we grant the special permit requested, again on the condition that the work proceed in accordance with the plans referred to with regard to the variance. All
those in favor, please say, "Aye."

THE BOARD: Aye.

[ All vote YES ]

CONSTANTINE ALEXANDER: Five in favor, relief granted.

COLLECTIVE: Thank you. And we're all done.

[ 8:52 p.m. End of Proceedings.]
CERTIFICATE

Commonwealth of Massachusetts
Middlesex, ss.

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

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

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

Notary Public

My commission expires:
August 6, 2021