

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, APRIL 11, 2019

7:00 p.m.

In

Senior Center

806 Massachusetts Avenue

First Floor

Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Brendan Sullivan, Vice Chair

Janet Green, Member

Andrea A. Hickey, Member

Jim Monteverde, Associate Member

Laura Warnick, Associate Member

Maria Pacheco, Zoning Secretary

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1 P R O C E E D I N G S

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3 (7:01 p.m.)

4 Sitting Members: Constantine Alexander, Brendan Sullivan,
5 Janet Green, Andrea A. Hickey
6 Jim Monteverde, and Laura Warnick

7 CONSTANTINE ALEXANDER: The Chair will call this
8 meeting of the Board of Zoning Appeals to order. And as is
9 our custom, we are going to start with the continued cases.
10 These are cases that we started at an earlier hearing and
11 for one reason or another didn't reach a decision and we are
12 hearing it again tonight. And then we'll go to our regular
13 agenda.

14 What I was about to say is besides this mic, which
15 is for allowing people to hear what those of us up front are
16 going to say, we are recording this hearing. And that mic
17 up there and the mics here with the fuzz on them are for the
18 purpose of the stenographer. So if you are going to speak,
19 I'd ask you to speak -- or the stenographers would ask you
20 to speak into that microphone or come closer and use one of
21 these microphones. That way we'll have an accurate
22 recording of this session.

1 Okay. And before I start to call the continued
2 cases, I am going to read a statement. "After notifying the
3 Chair, any person may make a video or audio recording of our
4 open sessions or may transmit the meeting through any medium
5 subject to reasonable requirements that the Chair may impose
6 as to the number, placement, and operation of equipment used
7 so as not to interfere with the conduct of the meeting. At
8 the beginning of the meeting, the Chair will inform other
9 attendees at that meeting that a recording is being made."

10 And I wish to advise those of you who are in the
11 audience that actually at this point at least three
12 recordings are being made; the stenographer, or this, and
13 two citizens of the City are recording. They have left
14 their recording devices upfront.

15 Is there anyone else planning to record or video
16 this meeting?

17 (No response.)

18 CONSTANTINE ALEXANDER: Okay. So I only have to
19 read this time.

20 With that, I am going to call the first continued
21 case.

22 * * * * *

1 (7:03 p.m.)

2 Sitting Members: Constantine Alexander, Brendan Sullivan,

3 Jim Monteverde, Laura Warnick

4 CONSTANTINE ALEXANDER: It's Case Number 017018,

5 1500 Cambridge Street.

6 Anyone here wish to be heard in this matter?

7 ATTORNEY SARAH RHATIGAN: Thank you for your good

8 timing. I am sorry that --

9 CONSTANTINE ALEXANDER: Your good timing.

10 ATTORNEY SARAH RHATIGAN: -- my client and I both

11 showed up just in the nick of time. All right.

12 CONSTANTINE ALEXANDER: Okay.

13 ATTORNEY SARAH RHATIGAN: The stenographer is not

14 where they usually are.

15 CONSTANTINE ALEXANDER: That's for the audience

16 and that's for the stenographer.

17 ANDREA HICKEY: Excuse me, Gus. I think Janet

18 Green might be on this case. I'm not sure we have the right

19 panel.

20 MARIA PACHECO: Yes.

21 CONSTANTINE ALEXANDER: You're right. Thank you.

22 MARIA PACHECO: Janet, that's --

1 CONSTANTINE ALEXANDER: Janet, I think you are on
2 this case.

3 ANDREA HICKEY: Yeah. That's Maria not me. Give
4 her credit.

5 Is she here?

6 CONSTANTINE ALEXANDER: I don't think we are going
7 to get to the merits of the case, but you should be on it.

8 Who is not going to be on this case?

9 MARIA PACHECO: Andrea.

10 ANDREA HICKEY: Oh, me?

11 CONSTANTINE ALEXANDER: Andrea.

12 ANDREA HICKEY: Okay.

13 CONSTANTINE ALEXANDER: Okay. As you know, this
14 case has had a long and tortured history, and we are not
15 going to hear the merits tonight, as you also know. So we
16 had said the last time that we are not going to continue
17 this case any longer and here we are having to continue the
18 case, so it's going to be requested.

19 Your turn to speak.

20 ATTORNEY ATTORNEY SARAH RHATIGAN: Thank you, Mr.
21 Chairman. Sarah Rhatigan from Trilogy Law, and I am here
22 representing the owner, Renie Realty. And Walter Hatfield

1 is here with me, who is representing the owner as well.

2 First, an apology to the Board. There was a
3 miscommunication with me and Mr. Hatfield about the changing
4 of the dates on the sign, the poster board. I thought he
5 had done it. He was travelling down to Florida and had an
6 extended visit down there. And we didn't realize that that
7 had happened until we received a call from Inspectional
8 Services the other day. So, first, we want to apologize
9 because we know that we are taking people's time and we
10 didn't -- it was inadvertent.

11 So what's happened? When we first filed the case,
12 as you know, we were heard on the merits, and there were
13 concerns about three units on the property and especially
14 with one of the neighbors right next door to us who had
15 expressed a lot of concern about that. We took that to
16 heart. We have been working hard on a plan to build two
17 units. That would be totally zoning compliant. And, in
18 fact, those plans were developed over a period of time.
19 They were -- the last requested continuance was February 14.

20 The plans have been prepared but had not yet been
21 reviewed by the Mid Cambridge Neighborhood Conservation
22 District Commission who had to review the project, which is

1 why we requested the last continuance until tonight. That
2 hearing was held on March 4 with the Neighborhood District
3 Commission, and it actually went very well. The abutter
4 from next door was present, and I am told -- I wasn't
5 actually at the hearing, but I am told that she was really
6 pleased with the revised plans.

7 They are plans that are as-of-right plans. They
8 have not yet been submitted to the Building Department for a
9 building permit. They are literally about to be submitted.
10 The architect had requested that we try to beg your
11 forgiveness to extend for a little longer just to make sure
12 that we are, in fact, doing an as-of-right plan. There have
13 been some technical things that have been sort of changing
14 in interpretation with the folks at Inspectional Services
15 such as light wells and head height on roof -- access to
16 roof areas, and for that reason -- that's really the sole
17 reason for requesting a further continuance.

18 CONSTANTINE ALEXANDER: So when --

19 ATTORNEY SARAH RHATIGAN: The new plans --

20 CONSTANTINE ALEXANDER: -- would you like it
21 continued to?

22 ATTORNEY SARAH RHATIGAN: -- are two units.

1 I wasn't sure when your -- when --

2 CONSTANTINE ALEXANDER: Well, let's start with
3 what you want and then we'll find out what --

4 ATTORNEY SARAH RHATIGAN: I think two weeks would
5 probably be sufficient.

6 CONSTANTINE ALEXANDER: You've got to remember
7 you've got to post a new sign. It would have to go up
8 tomorrow morning if you want to do the two weeks.

9 ATTORNEY SARAH RHATIGAN: Can you get up there
10 tomorrow morning? Sure. Yeah.

11 WALTER HATFIELD: We have to go to the fire
12 department anyway.

13 CONSTANTINE ALEXANDER: I'm sorry?

14 WALTER HATFIELD: I have to go to the fire
15 department anyway. I'll go down there.

16 BRENDAN SULLIVAN: Do you have to go back before
17 Mid Cambridge?

18 WALTER HATFIELD: No.

19 ATTORNEY SARAH RHATIGAN: No.

20 BRENDAN SULLIVAN: All right.

21 ATTORNEY SARAH RHATIGAN: No. So this is the set
22 of plans that Mid Cambridge has seen and approved. It's

1 just getting to the set that's sufficient for --

2 WALTER HATFIELD: We are in the process right now
3 with the Building Department. Everything is substantially
4 complete. I'm just at the point of dotting I's, crossing
5 T's. My understanding is from the architect that we are
6 zoning compliant. And, as Sarah said, at the last meeting
7 with the Mid Cambridge Historical, the abutter was pleased
8 with what we had done. So I don't expect to have any
9 issues; however, until I get a permit in my hand, I'm not
10 100 percent. But that was the goal.

11 CONSTANTINE ALEXANDER: If all goes well --

12 WALTER HATFIELD: The goal was to be compliant
13 with all zoning.

14 CONSTANTINE ALEXANDER: That's -- that was my --

15 WALTER HATFIELD: And that's what I -- I believe
16 that's the way it is. The purpose of the meeting is that
17 Sarah wanted to -- for us to apologize. I will apologize
18 myself. It was inadvertent. I have changed the thing two
19 or three times and it just -- I have been going back -- my
20 wife's in Florida for the winter, so I go back and forth,
21 and I just forgot.

22 But my feeling is that we should be okay, but we

1 wanted to reserve a spot. We will let you know if that's
2 not necessary. Given that I am going through Cambridge
3 Building Department, I can't give you an exact date when I
4 am going to be okay or not okay.

5 CONSTANTINE ALEXANDER: Well, that's what I said.
6 Pick a date. Two weeks I think is too close.

7 ATTORNEY SARAH RHATIGAN: I am starting to think
8 the same thing. I am wondering if a month --

9 WALTER HATFIELD: Or we could do -- if 30 days is
10 all right --

11 ATTORNEY ATTORNEY SARAH RHATIGAN: Yeah.

12 WALTER HATFIELD: -- we'll do 30 days.

13 CONSTANTINE ALEXANDER: that would be the first
14 one in May.

15 MARIA PACHECO: Do you want to do May 30?

16 BRENDAN SULLIVAN: May 16.

17 MARIA PACHECO: May 16 or May 30?

18 You may not get a permit by then.

19 Just letting you know.

20 ATTORNEY SARAH RHATIGAN: By the sixteenth you
21 might not?

22 MARIA PACHECO: Get a permit by the sixteenth of

1 May.

2 ATTORNEY SARAH RHATIGAN: If it hasn't been
3 submitted yet, but it's being submitted imminently. I do
4 think a month turnaround --

5 WALTER HATFIELD: This is going in as amended.

6 MARIA PACHECO: I would go two months. So I would
7 say June.

8 ATTORNEY SARAH RHATIGAN: You would say June?
9 Okay. So let's do June.

10 MARIA PACHECO: Let me just make sure.

11 CONSTANTINE ALEXANDER: What's the first week of
12 June?

13 MARIA PACHECO: We have June 13 or June 27.

14 CONSTANTINE ALEXANDER: Where are people's
15 calendars? Okay? Everybody is okay?

16 JANET GREEN: I can't --

17 CONSTANTINE ALEXANDER: Okay.

18 JANET GREEN: I can't do it on the thirteenth or
19 the twenty-seventh.

20 CONSTANTINE ALEXANDER: You can't do it on the
21 thirteenth, Janet?

22 JANET GREEN: No, I can't.

1 CONSTANTINE ALEXANDER: Okay. Then that's going
2 to be the --

3 ATTORNEY SARAH RHATIGAN: If you weren't here,
4 would there be enough members here to hear it on the
5 thirteenth?

6 CONSTANTINE ALEXANDER: Four.

7 BRENDAN SULLIVAN: Yeah, four.

8 CONSTANTINE ALEXANDER: Yeah, four, but you know
9 the risk associated with that.

10 ATTORNEY SARAH RHATIGAN: Right.

11 CONSTANTINE ALEXANDER: You need four votes. So
12 if there is five of us, you can get dissent. You'd still
13 get your relief. With only the four of us, it's got to be
14 unanimous. Any one person could kill it. So that's -- most
15 people don't like to have cases heard by only four members
16 of the board for that very reason, but it's your call.

17 JANET GREEN: I'm really sorry.

18 WALTER HATFIELD: Of May?

19 ATTORNEY SARAH RHATIGAN: June.

20 WALTER HATFIELD: Okay. Okay. All right.

21 ATTORNEY SARAH RHATIGAN: June 27 is -- I think
22 that's the date that you had recommended.

1 CONSTANTINE ALEXANDER: Let me make one other
2 point clear because this case has dragged on a bit. And if
3 you come back before us on June 27 to hear it on the merits,
4 it could cause you to have some problem with the Building
5 Department and their requiring some things that require a
6 Variance. If that is the case, I am going to require this
7 case be re-advertised. It's just dragged on too long, and I
8 want the public, the neighbors, to be aware of the case.

9 So if it's June 27 and you're all set, we'll just
10 obviously dismiss it and you can go figure out -- proceed
11 with the matter according to the plans that were approved by
12 the Building Department. But if you have some issues with
13 them and you have got to come back and get relief, we are
14 not going to hear the case on that date unless you can re-
15 advertise in time, excuse me, in time. Simply that. The
16 price you pay, if you will --

17 JANET GREEN: And you'll --

18 CONSTANTINE ALEXANDER: -- for having this case
19 drag on.

20 JANET GREEN: And they will be hearing with four
21 members.

22 CONSTANTINE ALEXANDER: I guess so.

1 ATTORNEY SARAH RHATIGAN: For June 27?

2 CONSTANTINE ALEXANDER: No. June 27?

3 ATTORNEY SARAH RHATIGAN: Oh, I thought you --

4 MARIA PACHECO: She can't make either date.

5 CONSTANTINE ALEXANDER: Oh, you can't make --

6 JANET GREEN: I can't come either date.

7 CONSTANTINE ALEXANDER: Oh, I'm sorry.

8 ATTORNEY SARAH RHATIGAN: Oh, either date.

9 CONSTANTINE ALEXANDER: I didn't know that.

10 JANET GREEN: Yeah.

11 ATTORNEY SARAH RHATIGAN: Okay.

12 JANET GREEN: I'm really sorry.

13 MARIA PACHECO: You might as well do the earlier

14 one.

15 CONSTANTINE ALEXANDER: Yeah. Exactly.

16 ATTORNEY SARAH RHATIGAN: We'll keep the June 27

17 date.

18 CONSTANTINE ALEXANDER: Keep the --

19 ATTORNEY ATTORNEY SARAH RHATIGAN: And we

20 understand that there will only be four members.

21 CONSTANTINE ALEXANDER: Okay. You could go the

22 thirteenth. It's up to you.

1 ATTORNEY SARAH RHATIGAN: Yeah.

2 CONSTANTINE ALEXANDER: I'm not trying to talk you
3 into it.

4 ATTORNEY SARAH RHATIGAN: I think we are going to
5 err on the side of the later date hoping that everything is
6 all wrapped up as opposed to further continuances.

7 CONSTANTINE ALEXANDER: Okay?

8 ATTORNEY SARAH RHATIGAN: Okay.

9 CONSTANTINE ALEXANDER: The Chair will take a
10 motion that we continue this case as a case heard until 7:00
11 p.m. on June 27 subject to the following condition: First,
12 a signing of waiver of time for decision.

13 You have already done that in your other cases.

14 Second, the posting sign must be -- a new posting
15 sign or a modification of what's there now must be up and
16 posted for the 14 days prior to June 27. And, lastly, to
17 the extent that you come before us on June 27 seeking
18 relief, the plans, dimensional form for that relief you are
19 seeking must be in our file no later than 5:00 p.m. on the
20 Monday before June 27. That's to allow us and members of
21 the City to review the plans in advance of the hearing.

22 All those in favor of continuing this case?

1 (Voting members raise hands unanimously)

2 CONSTANTINE ALEXANDER: Case continued.

3 ATTORNEY SARAH RHATIGAN: Thank you.

4 WILLIAM HATFIELD: Thank you.

5 CONSTANTINE ALEXANDER: June 27.

6 MARIA PACHECO: Sarah, can you sign another

7 waiver, please?

8 (Alexander, Sullivan, Monteverde, Warnick)

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1 (7:14 p.m.)

2 Sitting Members: Constantine Alexander, Brendan Sullivan,
3 Andrea A. Hickey, Jim Monteverde, and
4 Laura Warnick

5 CONSTANTINE ALEXANDER: The Chair will now call
6 Case Number 017068, 1407 Cambridge Street, Vellucci Plaza.

7 Anyone here wish to be heard on this matter?

8 OLYMPIA BOWKER: Yes. Thank you.

9 CONSTANTINE ALEXANDER: Good evening.

10 OLYMPIA BOWKER: Good evening, Chair and members
11 of the Board. Thank you for having us back. My name is
12 Olympia Bowker, and I represent John Pitkin, the petitioner
13 in this matter.

14 I believe you have received both -- more
15 information from the City Solicitor and myself, and I hope
16 you have had the chance to --

17 CONSTANTINE ALEXANDER: Yes.

18 OLYMPIA BOWKER: -- digest all of that.

19 CONSTANTINE ALEXANDER: And that's a good --
20 that's a cue for me.

21 OLYMPIA BOWKER: Okay.

22 CONSTANTINE ALEXANDER: Given the fact that you

1 have given -- and the City -- extensive written comments and
2 we had a very extensive hearing before, I would ask in the
3 interest of moving things along is that you confine your
4 comments to at least the principal points you want raised
5 and don't start from scratch all over again. I think you
6 could hope that our memories are good enough to remember
7 what happened the last time.

8 OLYMPIA BOWKER: Of course. So we'd just like to
9 reiterate that Vellucci Plaza is, indeed, a protected open
10 space district under the Cambridge Zoning By-Laws, which
11 subjects it to review under the Planning Board under Section
12 4.25, and we continue to assert that it is a -- the
13 construction constitutes a municipal service facility and is
14 subject to a Special Permit.

15 The Solicitor's arguments hinge on Vellucci Plaza
16 being a public way, and her letter concedes that it is not a
17 public way. It has not been relocated to go through
18 Vellucci Plaza. So any exceptions that may exist, which we
19 assert do not, would not apply in this instance. We, again,
20 request that the Board order work in Vellucci Plaza stopped
21 and all uses not allowed by right be prohibited.

22 There are a few housekeeping issues I'd like to

1 just make clear with the -- or clarify with the Board as
2 well. At our last hearing, we had continued to a time and
3 date certain, which is why we are back here.

4 CONSTANTINE ALEXANDER: Yeah. Sorry. Say it
5 again.

6 OLYMPIA BOWKER: Oh. At our last hearing --

7 CONSTANTINE ALEXANDER: Yeah.

8 OLYMPIA BOWKER: -- we continued to a time and
9 date certain, which is why we are here, but I did notice
10 that the waiver itself seems to waive the entire Section 15
11 100-day decision requirement, and that is -- we are just not
12 open to agreeing to an open-ended waiver of a statutory
13 decision. And I just want to confirm that that wasn't
14 intended by the waiver or make sure that we are all on the
15 same page on that issue.

16 CONSTANTINE ALEXANDER: I'm sorry. I'm just not
17 sure I'm getting what -- your point.

18 OLYMPIA BOWKER: Oh. Oh, okay. Let's see here.

19 CONSTANTINE ALEXANDER: The waiver of time, you
20 are referring to the waiver of time for a decision?

21 OLYMPIA BOWKER: Yes.

22 CONSTANTINE ALEXANDER: That's just to deal with

1 the statutory requirement, Massachusetts requirement, that
2 if we don't reach a decision within -- I'm thinking of how
3 many days.

4 OLYMPIA BOWKER: One hundred.

5 CONSTANTINE ALEXANDER: One hundred? Thank you.
6 The relief would be granted. And we didn't want to have
7 because of the continued case -- we do this all the time.
8 We didn't want to have inadvertent grant of relief, we want
9 to make the decision ourselves. And the waiver of time
10 is -- the waiver that you signed, it's just simply to that,
11 no other purpose.

12 OLYMPIA BOWKER: We understand that, Mr. Chairman;
13 however, the statutory requirement is 100 days from the date
14 of filing the appeal --

15 CONSTANTINE ALEXANDER: Right.

16 OLYMPIA BOWKER: -- which was filed on February 1.
17 One hundred days would bring us to -- I believe it's Sunday,
18 May 12. And as we are still within April, I just wanted to
19 confirm that we have not -- we are not agreeing to an
20 unlimited waiver to a date and time unknown for the Board to
21 make a decision. We are happy to discuss how much time the
22 Board would need, should you take a vote and need to draft a

1 decision.

2 CONSTANTINE ALEXANDER: Well, I would hope and I
3 plan to take a vote tonight. Then it takes some time for
4 the stenographer to produce this transcript. Then the
5 Inspectional Services Department actually writes up the
6 opinion based upon the transcript and what happens tonight.
7 And then that is filed, and then there is a 20-day appeal
8 period, as you know.

9 OLYMPIA BOWKER: Yes. We just want to make sure
10 that we have an idea of when -- to give the Board a
11 reasonable amount of time --

12 CONSTANTINE ALEXANDER: Right.

13 OLYMPIA BOWKER: -- to draft a decision and follow
14 those procedures but also so that we are aware of what that
15 timeframe may be.

16 CONSTANTINE ALEXANDER: I have never had this
17 question before. Do you have an idea how much time we are
18 going to need you think between now and the time for this --
19 oh, it's Nancy.

20 NANCY GLOWA: I would like to be heard on that --

21 CONSTANTINE ALEXANDER: Sure.

22 NANCY GLOWA: -- Mr. Chair, if that would be all

1 right.

2 CONSTANTINE ALEXANDER: This is Nancy Glowa, the
3 City Solicitor.

4 NANCY GLOWA: Thank you, Mr. Chair. Since I am
5 here at the request of the Board, I did want to address that
6 point. The waiver that was signed by the petitioner did not
7 have any termination date; and, therefore, I would suggest
8 to the Board that there is no termination date. That would
9 have had to be requested by the petitioner at the time she
10 signed the waiver. That was not requested; and, therefore,
11 it would not be appropriate for her to request the Board to
12 cut off the waiver that was open-ended at the time that she
13 signed it.

14 OLYMPIA BOWKER: And I would love to respond to
15 that as well. As I know is standard with procedures like
16 this, a lot of boards do have standard waiver forms that
17 they like to have people sign. And I actually drafted a
18 letter and sent it the day after to raise this issue with
19 the Board.

20 The Commissioner did respond saying this would be
21 something that I would have to take up directly with the
22 Board and that we could agree on the bounds of that initial

1 waiver. But it is not the intention of myself nor my client
2 to completely waive the 100-day statutory requirement and
3 leave this open to an infinite time period where it may be
4 decided.

5 CONSTANTINE ALEXANDER: I am not going to accept
6 that request. You signed a waiver. The waiver is
7 indefinite. We don't -- believe me. We don't sit around
8 and wait and six months, nine months from now issue an
9 opinion. We proceed as soon as the hearing is over. We
10 have a bunch of cases, as you well know, and we'll get our
11 decision out in due course. Whether it goes more than 100
12 days or not, I don't know. I simply don't know. But the
13 fact of the matter is we have a waiver and it stands as
14 signed.

15 OLYMPIA BOWKER: I understand your perspective.
16 I'd like to retain my objection on the record and --

17 CONSTANTINE ALEXANDER: Fine.

18 OLYMPIA BOWKER: -- we can continue.

19 CONSTANTINE ALEXANDER: That's fine.

20 OLYMPIA BOWKER: So on that note, our group does
21 ask that you do vote this evening, which it sounds like it
22 is your intention.

1 CONSTANTINE ALEXANDER: It is my intention
2 certainly, but we'll see as the evening goes on, yes.

3 OLYMPIA BOWKER: Wonderful. And I am available
4 here to answer any questions you may have.

5 CONSTANTINE ALEXANDER: Okay.

6 Thanks, Nancy.

7 One second.

8 Do you want to continue your statement or? It's
9 up to you. No, no. I have someone -- Bruce? Mr. Irving?

10 SAL INGLIMA: No, I was waiting for public.

11 CONSTANTINE ALEXANDER: You had your hand up.

12 SAL INGLIMA: Oh, is it public comment yet or not
13 yet?

14 CONSTANTINE ALEXANDER: We can't hear you.

15 AUDIENCE MEMBER: He asked if it's public comment.

16 BRENDAN SULLIVAN: Is it time for public comment.

17 CONSTANTINE ALEXANDER: Yeah. Not yet.

18 SAL INGLIMA: Okay. Sorry.

19 CONSTANTINE ALEXANDER: Not yet. You'll know.

20 I'll announce when -- the time for public comment. First,
21 the petitioner and the City, if it wishes, make their
22 presentations to us, and then we open it up for public

1 comment.

2 OLYMPIA BOWKER: I have concluded. Thank you.

3 CONSTANTINE ALEXANDER: Okay. Thank you.

4 Ranjit, do you have anything you want to add or
5 say?

6 RANJIT SINGANAYAGAM: No, I leave that to the --

7 CONSTANTINE ALEXANDER: Okay. Then I will open
8 the matter up for public comment.

9 Sir, you want to speak?

10 SAL INGLIMA: Yeah.

11 My name is Sal Inglima. I live at 1423 Cambridge
12 Street. I was flabbergasted that the trees were taken down
13 so precipitously. I'm not anti-development, but I feel like
14 mature trees are an important legacy. It constitutes part
15 of the composite culture of the area, of historic Cambridge.
16 And we are in an era now where walks in nature are even
17 being prescribed by doctors as palliative and remedial. And
18 I feel like this whole thing was pushed through so
19 precipitously that it makes me wonder about what's really
20 going on.

21 So plebiscite, in Latin, is decree of the common
22 people. What I saw when I moved to 1423 Cambridge was over

1 100 people turn out numerous times to try to delay what was
2 going to happen. So, again, I don't understand the
3 rationale between why this thing was rushed, why more input
4 wasn't taken. I feel like the way that it was proposed to
5 add bike lanes or better foot traffic, car traffic could
6 have been addressed other ways, and it just is shameful it
7 feels to me that those older trees were taken down and that
8 their value hasn't been seen. And for people in the
9 neighborhood, that's important.

10 So -- okay. Let me just check my thing here. So
11 the last point I want to make is that I feel like it's
12 profoundly inegalitarian because there is some demographics
13 that are not going to be biking, a miniscule amount of
14 certain demographics that are ever going to be biking no
15 matter how long Cambridge tries to foster that.

16 And for those people who don't have a tree in
17 their backyard, for me -- there is no grass or anything
18 behind our building at 1423 Cambridge -- that was a very
19 crucial thing. I get consumed and regurgitated by the T
20 every day commuting into Boston. It's nice to have some
21 connection to nature when I get back home. And there is no
22 accessibility to it now in that part of the city. Thank

1 you.

2 CONSTANTINE ALEXANDER: Thank you.

3 (Applause)

4 CONSTANTINE ALEXANDER: Anyone else who wishes to
5 be heard?

6 JOHN PITKIN: My name is John Pitkin. I live at
7 18 Fayette Street. I am one of the petitioners. I can add
8 little to Ms. Bowker's letter on the legal basis for the
9 appeal. It seems rock solid. I don't think there can
10 really be any question about it.

11 I don't think there can be any question about the
12 legal basis for the appeal. I do want to say something
13 about the lack of the process has meant for the
14 neighborhood. You heard Mr. Ingle talk about one of the
15 impacts of the project. The fact is we have been
16 asking -- the neighbors have been asking since November of
17 2017 for this hearing that has still not happened with the
18 Planning Board in that process. And the failure -- so this
19 is not just a legal matter. There is a real substance to it
20 that matters to people. It has deprived the neighborhood of
21 a fair hearing.

22 And the City Council should have had the benefit

1 of that hearing before it voted to authorize the project and
2 might still choose to consider in a few months when the
3 Planning Board review we are seeking is completed. These
4 considerations include the kinds of things that you just
5 heard from Mr. Inglima.

6 What is the actual safety situation at Inman
7 Square since the improvements were made in 2016? It has
8 been two years. The City hasn't disclosed that. And,
9 finally, what are the alternatives? How bad would it be to
10 have no build? Those are the kinds of things that would
11 come out in the process.

12 So the City Manager said in January of 2018 that
13 it was important to get this project right. We agree. It
14 cannot be right if the law is not followed. It's a big
15 enough project that it's worth taking a few months to get it
16 right and follow the law. Thank you.

17 CONSTANTINE ALEXANDER: Thank you.

18 (Applause)

19 CONSTANTINE ALEXANDER: Anyone else who wishes to
20 be heard?

21 Again, you know, we've heard -- I would ask that
22 we don't repeat things that you have heard already, it's in

1 our record, just to move the evening up along.

2 Thanks, John. I am going to put you on the
3 payroll.

4 MEGAN BROOKE: Thank you. My name is Megan
5 Brooke. I live at 103 Inman Street, and I spoke the last
6 time. You were so courteous as to ask me additional
7 questions, and I want to thank you again for that.

8 I just want to observe to the Board that while you
9 have been deliberating and seeking more input from the City,
10 the City's Public Works or its contractors have been digging
11 up more of Vellucci Plaza. And I don't understand how long
12 this process here is going to take or why the City, the
13 Traffic Department, has the right to proceed as if this is
14 not happening. Thank you.

15 CONSTANTINE ALEXANDER: Thank you.

16 (Applause)

17 CONSTANTINE ALEXANDER: Anyone else who wishes to
18 be heard?

19 MARIE SACCOCCIO: Good evening. I am Marie
20 Saccoccio, 55 Otis Street in Cambridge, and I have been
21 working along with the Friends of Inman Square in following
22 the case. The legal ramifications are incredible. I mean,

1 what we have here is an Article 97 protected park and
2 suddenly the City turns around and says, well, we can put a
3 roadway through it. So the onus is really on you folks to
4 have the City take a second look at what they are doing
5 because it sets a very dangerous precedent. If you can do
6 it here without any kind of public process then we can do it
7 to any public park here.

8 I also want you to take a look around the room and
9 notice that there is a lot of gray hair here. And perhaps
10 we are not the cycling community overall. There has been no
11 consideration for the fact that we have a lot of elderly
12 among our population. We have disabled people. They use
13 the park. They love the park. They are not going to
14 benefit by anything in here. I just hope that you will rule
15 in favor of the petitioner so that this could have a
16 process, people can participate, and we can do a better job.
17 Thank you.

18 CONSTANTINE ALEXANDER: Thank you.

19 (Applause)

20 CONSTANTINE ALEXANDER: Go ahead. No, no, no.

21 I'm not calling you back. I just want to make an
22 observation.

1 People need to understand we are -- our powers are
2 limited. We are not your City Council. We have basically
3 unlimited discretion within many very strong boundaries. We
4 have an ordinance, a zoning ordinance. We have to interpret
5 that. We -- and if the Ordinance says something and we
6 believe it says something, we enforce it. If the Ordinance
7 does not say, even though you folks might feel that the
8 public should have been much more involved, that's just the
9 way it is. You might -- well, I'll get into this later.
10 Your recourse is not to this Board. And we are a
11 narrow -- or a legalistic board with narrow authority and
12 narrow powers, and that's -- our job is to try to stay
13 within those powers. You have to understand that.

14 No thoughts? No?

15 Anyone else who wishes to speak?

16 Sir. And, again, don't repeat things that we have
17 heard last time and have been covered by the memo from
18 the -- your counsel.

19 CURT ROGERS: Curt Rogers from 8 Austin Park. I
20 actually haven't been at the previous meeting, so I don't
21 know what's been said, but I --

22 CONSTANTINE ALEXANDER: All right.

1 CURT ROGERS: -- I would be echoing basically the
2 sentiments that the woman before me about the precedent. I
3 actually have a great deal of respect for this Board. I
4 look to this Board to protect my interests in the city. And
5 while I realize that one may think the Ordinances are
6 somewhat black and white, clearly there can be differences
7 of interpretation, as this vote may well show us, and I
8 would just want to put my voice out there as urging you to
9 not allow such a dangerous precedent to be set. Thank you.

10 CONSTANTINE ALEXANDER: Thank you. Thank you.

11 (Applause)

12 CONSTANTINE ALEXANDER: As always, thank you for
13 taking the time to come down as concerned citizens. We do
14 appreciate that.

15 Anyone else? Yeah.

16 SHARON DEVOS: Good evening. Sharon DeVos, Antrim
17 Street. I am really concerned that the City has not gone
18 through the normal process, which would be to go before the
19 Planning Board. This is a big project. Somerville has
20 major construction going on in Union Square, Ball Square,
21 still Beacon Street, and now we have this major project.
22 Already traffic is so slowed.

1 The other really big problem is we have major
2 safety issues. We have a plan that has bicycle tracks on
3 this same level as pedestrians. We have two hospitals in
4 close proximity. We have ambulances going. We have got two
5 firehouses. I know that there is a lot of concern on the
6 part of people who work at the pediatric clinic that's right
7 there. There are at least six preschools in the vicinity
8 where these two- and three-year-olds walk through there all
9 the time.

10 And, unfortunately, because normal process did not
11 take place where there would have been Planning Board
12 hearings and professionals who work for City staff would
13 have had an opportunity to carefully look at the plans and
14 ask questions of the Traffic Department and Public Works as
15 to how are you going to manage when there are all these
16 other construction projects that are not finished, how are
17 you going to handle safety issues?

18 Because we have broken water mains, we have trees
19 coming down because the gas company that would be involved
20 in this project has caused a very old tree to come down. I
21 mean, there are very serious safety issues, health and
22 safety issues, that have not been addressed. People bring

1 it up in the public meetings, but we haven't had a public
2 meeting in over a year. Yeah, there are these little
3 sidebar meetings, but there is no opportunity to ask
4 questions and get answers.

5 I'm just -- I am really shocked that a city with
6 the reputation of Cambridge goes ahead with these projects
7 without following its own process. I don't understand why
8 this has happened. And, by the way, three of the
9 senior -- the most senior city councilors voted against this
10 based on disruption to the businesses, safety issues, and
11 concerns for people in the neighborhood. And,
12 unfortunately, the Planning Department was not able to hear
13 from them either.

14 CONSTANTINE ALEXANDER: Thank you.

15 (Applause)

16 CONSTANTINE ALEXANDER: Anyone else? Sir, way in
17 the back. I said sir. I am sorry.

18 ATTORNEY ALICE WISEBURG: That's okay.

19 CONSTANTINE ALEXANDER: Sometimes I -- I
20 apologize.

21 ATTORNEY ALICE WISEBURG: That's okay.

22 So my name is Alice Wiseburg. I also live on

1 Antrim Street, and I am relatively new to this process. I
2 haven't been able to make many of the meetings.

3 So I am Alice Wiseburg. I live on Antrim Street.
4 I have not been able to make many of these meetings due to
5 conflicts. I am an attorney. I have a lot of white hair,
6 and I am a cyclist, and I am horribly troubled by the
7 process of what's happened, and I think it has really
8 undercut certainly my faith in how things work in the City
9 of Cambridge. I have been here since 2011.

10 It does feel like this is being railroaded
11 through, and there is certainly a very viable claim being
12 made to have the work be ongoing, which makes it very hard,
13 some of which is irreparable, the cutting of the trees.
14 What we are going to be going through as a neighborhood, my
15 street, Antrim Street, I think is going to be basically
16 ruined by this process, by having so many cars speed down
17 our street. I am quite convinced that someone is going to
18 be hurt or killed. We have a school at the end of our
19 street. I don't know what's being considered as far as
20 mitigation of the traffic. I know there is some talk of it.

21 But I think the fact that this has been pushed
22 through in a way that does not at all feel transparent

1 certainly makes me question what is happening and why so
2 quickly. And as a cyclist, I am all about bicycle safety,
3 but the amount of disruption that's happening since the very
4 unfortunate death of that cyclist, the way that traffic has
5 been rerouted and the way that tempers are flaring because
6 of the extra time, I don't know if anybody has looked at
7 what the additional carbon footprint is from all of this
8 rerouting. I'm not suggesting that somebody dig into that,
9 I just -- I find it really that things are progressing at a
10 pace and in a way that does not instill faith in the
11 process, and I think that's really unfortunate.

12 CONSTANTINE ALEXANDER: Thank you.

13 ATTORNEY ALICE WISEBURG: Thank you.

14 (Applause)

15 CONSTANTINE ALEXANDER: Anyone else who wishes to
16 be heard? Okay. Apparently no one else does.

17 Yes, ma'am.

18 You have to come forward.

19 WENDY WOODFIELD: Excuse me. I barely got here
20 tonight. You can see I have wet hair. I can't understand
21 from last time and this time --

22 THE REPORTER: Excuse me. Can you please provide

1 your first and last name?

2 WENDY WOODFIELD: Oh. My name is Wendy Woodfield,
3 and I live on 395 Broadway. Excuse me.

4 I don't understand from last meeting and this
5 meeting why we don't have city councilors here if it matters
6 so much to the people.

7 CONSTANTINE ALEXANDER: -- the answer to that --

8 WENDY WOODFIELD: If they cannot make the decision
9 and you can't make the decision, what you are saying is more
10 or less what I am hearing, where does that leave the people?

11 CONSTANTINE ALEXANDER: We -- let me just clarify.
12 We make a decision, and we will tonight, but the decision,
13 the boundaries of our decision are circumscribed. The City
14 Council has unbound -- more or less unbounded authority to
15 do what it wishes to do. We can only work within our
16 ordinance, the zoning ordinance, and only can do what the
17 Ordinance allows us to do, how we interpret it.

18 So to be clear for the whole audience, it's not a
19 matter of we can do whatever we want. We can't. The City
20 Council can --

21 WENDY WOODFIELD: I --

22 CONSTANTINE ALEXANDER: -- we can't.

1 WENDY WOODFIELD: I think there are always more
2 than one way to interpret a law.

3 CONSTANTINE ALEXANDER: We are going to get to
4 that --

5 WENDY WOODFIELD: Okay.

6 CONSTANTINE ALEXANDER: -- before the evening is
7 over. Thank you.

8 (Applause)

9 CONSTANTINE ALEXANDER: Anyone else? No one else?

10 We are in receipt of two -- since the last
11 hearing -- two letters, both of which are in favor of
12 denying the appeal. One is very long, and the other is not
13 as long. I would just -- I think I am just going to
14 identify the individuals who sent the letters. I can read
15 them into the -- read them if people would like, but, as I
16 said, I gave you the punch line already. They are in
17 support of the decision -- well, they would have us deny the
18 petition, the seeking of relief. And one is from a Susan
19 Markowitz, M-a-r-k-o-w-i-t-z, who resides at 20 Oak Street,
20 and the other is from Richard Krushnic, K-r-u-s-h-n-i-c.

21 SHARON DEVOS: Her husband.

22 AUDIENCE MEMBER: Yeah. They are husband and

1 wife.

2 SHARON DEVOS: They are married, yeah.

3 CONSTANTINE ALEXANDER: Oh, okay. I can see now
4 20 Oak Street as well, so I gather they -- there's a
5 relationship there at least anyway.

6 Okay. Now, as I said, they are in support of the
7 decision of a commissioner, and there we are.

8 SHARON DEVOS: Were those the only two people
9 who --

10 CONSTANTINE ALEXANDER: These are the only two
11 since we had the hearing last. I'd have to go -- I don't
12 recall when we --

13 AUDIENCE MEMBER: Okay. So you are --

14 CONSTANTINE ALEXANDER: -- before the --

15 AUDIENCE MEMBER: When we send letters by e-mail,
16 it doesn't count? Things sent by e-mail don't count?

17 CONSTANTINE ALEXANDER: Say it again, please?

18 JIM MONTEVERDE: I think he said by e-mail doesn't
19 count?

20 MARIA PACHECO: They can be sent by e-mail.

21 CONSTANTINE ALEXANDER: Yeah. Yeah. Anyway it's
22 communicated to us, coming here, a letter, an e-mail.

1 Phones don't work. Phone calls don't work. We need
2 something in writing.

3 With that, I am going to close public testimony,
4 and I think it's time for us to have our discussion
5 and -- us being this Board -- and reach a decision.

6 Anyone wish to go first? Having had to go first,
7 I'll defer to anybody else. Okay. I have given a lot of
8 thought to this and to the extent that I -- but I don't
9 usually do, I put my thoughts down in writing so I can get
10 it complete and accurate. Maybe not correct but complete
11 and accurate. And let me just read what I have written.
12 And these reflect my thoughts about this case.

13 Most of the discussion that has taken place at our
14 hearing has resolved around the wisdom, or lack thereof, of
15 the proposed public way relocation at Inman Square and the
16 process that has and has not been followed in arriving at
17 this relocation decision. But the issues this board has to
18 resolve are narrow and legalistic, does Section 4.25 of our
19 zoning ordinance require a hearing before the Planning Board
20 with regard to the change to Vellucci park resulting from
21 the proposed road relocation and does Section 4.33.F of our
22 zoning ordinance require a Special Permit from our board for

1 this project. The commissioner of the Inspectional Services
2 department says no, and I agree with him.

3 Section 4.25 relied upon by the petitioners deals
4 with changes to open spaces in open space districts
5 designated by our zoning ordinance but not all changes. Let
6 me quote from the memorandum prepared by the petitioner's
7 very able counsel that accompanied the petitioner's
8 petition. Quote, "The Ordinance does not explicitly mention
9 roadways as prohibited in open space districts, but the
10 prohibition of driveways in public open space districts by
11 extension implies that a roadway is not an open space
12 development; therefore, it is a non-open space development."

13 Note the words, quote, "by extension implies,"
14 hardly a compelling and strong statement, and the
15 application of this implied extension would require us to
16 equate a driveway to a public roadway. Very clearly, a
17 driveway is not the same as a public roadway. So I find it
18 difficult to find that Section 4.25 applies to the situation
19 before us.

20 Let's continue the analysis. The City Council is
21 responsible for the management of the City of Cambridge, and
22 one of its most important responsibilities is the layout,

1 relocation, and alteration of public ways. This is not an
2 easy task, and often the discharge of this responsibility is
3 met with controversy and challenges from those directly and
4 immediately affected by the proposed action, as is the case
5 with the proposed public roadway relocation at Inman Square.

6 The petitioners would have us find that the City
7 Council through Section 4.25 of our zoning ordinance
8 intended that its determination to be subject to, really
9 limited by a zoning ordinance it adopted and that this
10 ordinance implies not explicitly states that this is so by
11 reference to driveways.

12 In short, it is the petitioner's position that the
13 City Council intended that its responsibilities regarding
14 roadways be subject to a Planning Board hearing by an
15 ordinance it enacted dealing with land use, primarily
16 private land use throughout the city.

17 It seems to me that this position turns the
18 process on its head, requiring that the discharge of a
19 primary responsibility of the City Council be first subject
20 to a hearing, hearing by persons -- by a board appointed by
21 the City Council. This could be so if our zoning ordinance
22 is abundantly specific that this is so, but it is not, as I

1 have pointed out.

2 The petitioner's argument is based on inference to
3 language that is not directly in point to the issue before
4 us. I believe our ordinance must be quite specific before I
5 would require the City Council to hold a Planning Board
6 hearing with regard to do what it proposes to do involving
7 Vellucci Park. I believe that a fair reading of our zoning
8 ordinance does not require that and permits the City Council
9 to proceed without Planning Board involvement.

10 And let me point out, as the petitioner's counsel
11 acknowledges, that the City Council did proceed with the
12 input of others. The proposed public way relocation has
13 received approval for removal of public shade trees, a
14 certificate of appropriateness by the Mid Cambridge
15 Conservation District Commission, and approval for a whole
16 new petition by the City Council to the state legislature
17 for reuse of land protected by Article 97 of the state
18 constitution.

19 It is true that the City Council did not seek a
20 review by the Planning Board possibly because it was advised
21 by the City Solicitor that such a review was not required.
22 This does not mean that the City Council did not hold public

1 hearings regarding the project. In fact, there is testimony
2 at our prior hearing that the City did hold at least one
3 public hearing concerning the project, a hearing that
4 petitioners apparently found unsatisfactory.

5 Whether the City Council should have requested a
6 hearing before the Planning Board was a decision it made and
7 had the right to make. It chose not to. The important
8 point is that the City Council did not proceed without
9 holding hearings by others before making its decision.

10 The petitioners also assert that the proposed
11 public roadway relocation in Inman Square constitutes a
12 municipal services facility as defined by our Zoning By-law
13 and, therefore, requires a Special Permit from our board
14 pursuant to Section 4.33.F of our zoning ordinance, which
15 the City has not obtained or even sought.

16 But I believe the Commissioner's decision on this
17 question is entirely correct. Let me quote from his letter.
18 Quote, "The laying out, relocation, or use of a public way
19 does not fall under the definition of municipal service
20 facility, which is defined as the use of land" -- let me
21 repeat -- "the use of land or structures by the City of
22 Cambridge or other municipality for maintenance operations,

1 public utilities, Public Works, and similar functions.

2 A municipal service facility is the use of land or
3 structures by the City or other municipality whereas based
4 on the plain meaning of public way the proposed street
5 location is the use of land by the public for travel. Any
6 maintenance operations, public utilities, or Public Work
7 projects within a public way or for the purposes of
8 maintaining the public way or are incidental or accessory to
9 the use of the public way for public travel.

10 Let me be clear that my views and maybe the views
11 of my fellow board members and, for all I know, the private
12 view of the commissioner are not an endorsement of any
13 proposed street layout at Inman Square. Rather, they deal
14 with the process that must be followed with regard to street
15 layouts.

16 In short, the petitioners are speaking to the
17 wrong audience. It is the City Council to which they needed
18 to direct their concerns and objections. And if these
19 concerns and objections were not addressed to their
20 satisfaction, their recourse was, and is, to seek to throw
21 the rascals out. This is the process that is required, not
22 an appeal to our zoning board. And most strenuously, let me

1 be more than clear that my reference to rascals is entirely
2 figurative and should in no way be taken literally. Those
3 are my views.

4 SARAH MAE BERMAN: Mr. Alexander, you misstated
5 one thing in your discussion.

6 CONSTANTINE ALEXANDER: Excuse me, ma'am.

7 SARAH MAE BERMAN: You said --

8 CONSTANTINE ALEXANDER: You are out of order.

9 SARAH MAE BERMAN: You said that there was a
10 hearing before the Mid Cambridge Neighborhood Conservation
11 District Commission on this issue.

12 AUDIENCE MEMBER: And he did not.

13 SARAH MAE BERMAN: It wasn't -- he did.

14 CONSTANTINE ALEXANDER: I didn't say that.

15 What I quoted was directly from the petitioner's
16 application. So if there is a mistake there, don't look at
17 me, look at your counsel. Okay? Enough.

18 Anyway. Those are my views. Does anyone else
19 wish to speak?

20 JIM MONTEVERDE: Yeah.

21 CONSTANTINE ALEXANDER: Go ahead.

22 MEGAN BROOKE: I have a question.

1 CONSTANTINE ALEXANDER: Public testimony is over,
2 ma'am.

3 MEGAN BROOKE: This is not testimony. I have a
4 question. Would you like to give me an answer? Is the
5 planning --

6 THE REPORTER: Can you please give your first and
7 last name?

8 MEGAN BROOKE: Yes. My name is Megan Brooke, and
9 I just wonder if the Board is aware that there will be
10 driveways through the open space which will remain once this
11 project is done, driveways that will cross open space,
12 right-of-ways belonging to a restaurant and a health clinic.
13 Does the planning -- I mean, the zoning board understand
14 this?

15 CONSTANTINE ALEXANDER: And we understand what was
16 brought to our attention. This is the first time I have
17 heard anything about these driveways. And it was not in
18 your counsel's petition, was not in your counsel's
19 statement, and it was not brought up before, and that's the
20 end of it.

21 MEGAN BROOKE: I beg your pardon.

22 CONSTANTINE ALEXANDER: That's the end of it.

1 Jim?

2 JIM MONTEVERDE: In a much simple manner than the
3 Chair, but I wanted to thank the counsel for their
4 presentation and also the City Solicitor for the input that
5 they have provided to all of us. It was extremely helpful.

6 And after reading through it all -- and I do think
7 it really falls on a knife edge, a very fine definition, but
8 --

9 That I do not find that the zoning section 4.25 is
10 really applicable to this, and, therefore, I support the
11 Commissioner's position, and I would not vote to agree with
12 the appeal.

13 CONSTANTINE ALEXANDER: Thank you, Jim.

14 Anyone else wish to speak?

15 BRENDAN SULLIVAN: No, I would concur with the --

16 CONSTANTINE ALEXANDER: You've got to just --

17 BRENDAN SULLIVAN: I would concur with the
18 conclusion.

19 CONSTANTINE ALEXANDER: Are we ready for a vote?

20 The Chair moves that we grant -- thank you. The
21 Chair moves that we grant the petitioner's appeal and
22 overrule the decision of the Commissioner -- or the

1 Inspectional -- Building Commissioner.

2 All those in favor of such action, please say,

3 "Aye." No? No one in favor?

4 Obviously, the motion fails. The appeal is
5 denied. Our record should so why we did deny it. I would
6 suggest that between what I said and what Jim said should be
7 sufficient unless people want to add or subtract from what
8 was said.

9 ANDREA HICKEY: I would only add that the City
10 Council was really the forum at which these issues should
11 have been raised not the Board of Zoning Appeals.

12 CONSTANTINE ALEXANDER: Thank you.

13 The case is over.

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1 (8:00 p.m.)

2 Sitting Members: Constantine Alexander, Brendan Sullivan,
3 Janet Green, Andrea A. Hickey,
4 and Laura Warnick

5 CONSTANTINE ALEXANDER: We'll now turn to our
6 regular agenda. There were two other cases, continued
7 cases, yet. They both involve 74 Oxford Street. And that I
8 haven't addressed the first case we are going to hear
9 tonight also involves 74 Oxford Street. I suggest -- and,
10 basically, tonight's cases, the latest iteration of what is
11 being proposed to be done to this property, and I would
12 suggest we continue -- we take up the continued cases if we
13 have to take them up after we hear the case on the agenda
14 for tonight.

15 So with that, I am going call Case Number 017090,
16 74 Oxford Street.

17 ATTORNEY SEAN HOPE: Good evening, Mr. Chairman
18 and members of the Board. For the record, Attorney Sean
19 Hope, Hope Legal Law Offices in Cambridge. I am here
20 tonight on behalf of the petitioner, 74 Oxford Street, LLC.
21 We have the manager of the LLC, Mr. William Senne, and we
22 have project architect Mr. Stephen --

1 STEPHEN HISERODT: Hiserodt.

2 ATTORNEY SEAN HOPE: -- Hiserodt.

3 So this is an application requesting a Variance
4 and Special Permit relief to reuse a nonconforming building
5 that had five dwelling units including also an additional
6 four SROs, or single-room occupancy, dwellings historically
7 into a four-unit development that is bringing the property
8 into greater conformance of the Ordinance.

9 So, procedurally, I'd just like to spell out what
10 the Variances are and Special Permits. So for the Variance,
11 we are seeking relief for a side yard setback, FAR, and
12 building height. And let me just qualify the building
13 height. So the building height is not changing. The
14 proposal has a lower level garden level living space. And
15 so to make those spaces more comfortable and more light and
16 air, we have extended patios that are off that -- those
17 decks.

18 As an operation of zoning, when you change the
19 grade, it has a function of changing the allowable height.
20 So although the height is not changing, by the function of
21 having these large window wells or aerial ways, it's
22 changing the height. So the height is not changing, but we

1 are still requesting for relief.

2 In terms of Special Permits, we are requesting a
3 basement exemption of a GFA, also opening and windows on a
4 nonconforming façade and, lastly, the parking and driveway
5 within the side yard setback. So those are all the elements
6 of relief.

7 As the Chair mentioned, there were
8 three -- several cases in advance of this one. I would say
9 because of the sensitive nature of the property and where
10 it's located there was significant neighborhood outreach.
11 The first opportunity was there was five dwelling units in
12 those four SROs. And so the petitioner's first plan was to
13 convert that into nine dwelling units.

14 Now, the idea of an SRO when the petitioner
15 purchased the property, he didn't realize that because of
16 the lack of separate kitchens and bathrooms that these were
17 actually SROs and not nine dwelling units. So his initial
18 intention was to take the number of dwelling units, keep the
19 dwelling units the same and to develop the property. When
20 he went with Inspectional Services and they determined that
21 there were illegal five dwelling units and the others were
22 these nonconforming SRO-type dwellings, so he didn't have

1 the full nine dwelling units.

2 Then there was a series of proposals, some of
3 which conformed to zoning but required a full demolition of
4 the building. They were going to -- based on the
5 replacement structures, even though they were compliant with
6 zoning, there was strong neighborhood push back.

7 Through the Historical Commission, they went
8 through several iterations of the plan and ended up
9 attempting to reuse a plan with a modest addition to keep
10 the significance of the building intact. The Cambridge
11 Historical Commission found the building significant, which
12 means that certain changes they would have to permit or they
13 wouldn't be allowed to be able to add or make those
14 demolitions happen.

15 The approval of the proposal, the petitioner also
16 went to the Agassiz Baldwin Neighborhood Council in advance
17 of this meeting to again show the presentation to the larger
18 community and the community group, and again there was
19 strong support. So I think it's appropriate now maybe to
20 walk through the proposal and then we can identify what are
21 some of the elements of relief.

22 CONSTANTINE ALEXANDER: I just would -- before you

1 do that, I just would sort of clarify. You say strong
2 support. Not unanimous but support by any means. And there
3 is opposition by letters and perhaps we are going to hear
4 comments. So I want the record to be clear. This is not
5 something that the neighborhood is standing on its feet and
6 cheering for. Okay?

7 ATTORNEY SEAN HOPE: Understood, but I also
8 think -- and you'll see in the letters themselves -- more of
9 a nuance. I think the initial proposal was unanimously
10 rejected by the neighborhood, and so we have gained more
11 support as we have modified the proposal. And even at the
12 last hearing, we had a proposal which is substantially
13 similar, but then again we revised it and modified it to try
14 to listen to the feedback that we received. But to the
15 Chair's point, there was wasn't unanimous approval.

16 I will start with --

17 The property is on the corner of Oxford and
18 Wendell. You can see this dashed red line is the outline of
19 the existing -- The dashed red line represents the outline
20 of the existing house. In order to preserve the two facades
21 facing Oxford and Wendell, we situated the addition over in
22 this left side yard setback. The building now would be

1 divided into three three-level condos and one basement-level
2 condo. We have added a couple of brick spaces in this --

3 This is an existing parking space in that area
4 there.

5 CONSTANTINE ALEXANDER: And then there are three
6 parking spaces there, one of which is too close to the lot
7 line, which is part of the relief you are seeking and
8 something I want to return to, at least myself. I have a
9 great deal of problems with that parking arrangement,
10 particularly is its impact on the person whose land borders
11 where that parking, which I guess is only three-and-a-half
12 feet from the lot line.

13 ATTORNEY SEAN HOPE: It's three-and-a-half and
14 then it --

15 WILLIAM SENNE: It's three-and-a-half, yeah.

16 ATTORNEY SEAN HOPE: -- expands a little bit, but
17 it's less than five.

18 WILLIAM SENNE: The history of that, we originally
19 had a parking space in a conforming arrangement along here,
20 and it was requested by the neighborhood group --

21 CONSTANTINE ALEXANDER: Keep an eye, they're
22 probably here.

1 WILLIAM SENNE: It was requested by the
2 neighborhood group to relocate this to the side yard so it
3 didn't sit in front of the house. So, I mean, there is an
4 as-of-right solution for that problem, but it was generally
5 considered a better option to put it over here. Not by all,
6 of course.

7 The setback Variance that we are asking for is
8 related to this side yard. The existing building is
9 nonconforming at present, and we are extending that
10 nonconforming facade. We -- all the parts of the addition
11 are actually set behind the original facade.

12 To not make the situation too much worse, we have
13 also these two window wells, which are extensions on the
14 nonconforming facade. That's part of the reason for our
15 Special Permit. The openings here and here require the
16 Special Permit for new openings in a nonconforming facade.

17 CONSTANTINE ALEXANDER: Did you talk about the
18 building overall? Talk a little bit about -- or maybe Sean
19 wants to do that -- about the basement area that you are
20 seeking a Special Permit for. How many square feet is that?

21 WILLIAM SENNE: It's roughly 2,000 square feet.

22 CONSTANTINE ALEXANDER: Two-thousand square feet.

1 WILLIAM SENNE: Yeah.

2 CONSTANTINE ALEXANDER: And this is going to be an
3 adjunct to the apartment above it?

4 WILLIAM SENNE: No, it is all --

5 AUDIENCE MEMBER: No, it's a separate --

6 WILLIAM SENNE: -- one single --

7 CONSTANTINE ALEXANDER: It's going to be a
8 completely separate apartment.

9 WILLIAM SENNE: Yeah.

10 ATTORNEY SEAN HOPE: And just for the Board, too,
11 so the site allows for four units. So we are keeping that
12 compliant and we are adding the parking spaces as well to
13 have the one for one parking issue.

14 CONSTANTINE ALEXANDER: Well, you are not going to
15 have one for one parking because you have got four parking
16 spaces for five units.

17 WILLIAM SENNE: Four units.

18 CONSTANTINE ALEXANDER: I'm sorry. I'm a little
19 confused. I'm just thinking about --

20 JANET GREEN: Yeah. How many --

21 CONSTANTINE ALEXANDER: -- which apartments --

22 JANET GREEN: -- units are there?

1 CONSTANTINE ALEXANDER: Yeah.

2 ATTORNEY SEAN HOPE: There are four units.

3 JANET GREEN: And that's all the units there are
4 going to be?

5 ATTORNEY SEAN HOPE: Yeah.

6 JANET GREEN: There's not anything else? There is
7 four units?

8 CONSTANTINE ALEXANDER: How big are the units?
9 What's the range of the size?

10 ATTORNEY SEAN HOPE: They are roughly 2,000, 2250
11 each.

12 CONSTANTINE ALEXANDER: They are all 2,000.

13 ATTORNEY SEAN HOPE: Yeah.

14 CONSTANTINE ALEXANDER: All right.

15 ATTORNEY SEAN HOPE: The basement space and the
16 reason for the height Variance is this window well and then
17 the series of scattered window wells around the perimeter
18 that just provide the required egress, code-required egress.
19 We actually had a few more, but due to neighbor concerns, we
20 started pulling back on those intrusions.

21 CONSTANTINE ALEXANDER: I'm sorry. How high is
22 the basement height? How high was the height in the

1 basement?

2 ATTORNEY SEAN HOPE: The original height, or?

3 CONSTANTINE ALEXANDER: Yeah.

4 ATTORNEY SEAN HOPE: The original height was about
5 eight feet.

6 CONSTANTINE ALEXANDER: I'm sorry. Eight feet?

7 ATTORNEY SEAN HOPE: Eight feet, yeah.

8 LAURA WARNICK: And what is it proposed to be?

9 CONSTANTINE ALEXANDER: Yeah.

10 ATTORNEY SEAN HOPE: It'll stay at about that, so.

11 CONSTANTINE ALEXANDER: Why are you seeking zoning
12 relief for that?

13 ATTORNEY SEAN HOPE: To exempt the basement. So
14 by utilizing the basement as living space -- so one of the
15 things that hasn't shown I think is important is actually
16 the addition with respect to -- we're just looking at the
17 floor plan.

18 CONSTANTINE ALEXANDER: Yeah.

19 ATTORNEY SEAN HOPE: So to make the project work,
20 there is an addition. This is the section of the addition.
21 So to do that addition, we are increasing the GFA.

22 CONSTANTINE ALEXANDER: Yeah.

1 ATTORNEY SEAN HOPE: So to increase the GFA as
2 well as utilize the basement, we had to -- we are seeking a
3 basement exemption.

4 CONSTANTINE ALEXANDER: You are just trying to
5 manipulate -- I don't mean to be sarcastic -- manipulate the
6 numbers to make them look better. You are nonconforming
7 now. You are going to be not as much nonconforming if we
8 give you the Special Permit. But you're still -- it's
9 just -- it's a matter of juggling the numbers.

10 ATTORNEY SEAN HOPE: Yeah. So the building is
11 nonconforming as it is.

12 CONSTANTINE ALEXANDER: Yeah.

13 ATTORNEY SEAN HOPE: And in order to make this
14 program work, we needed the addition, and we have the
15 addition --

16 CONSTANTINE ALEXANDER: Yeah. Understood.

17 ATTORNEY SEAN HOPE: -- 1800 square feet. And
18 then the basement exemption as well allows it to be less
19 nonconforming.

20 CONSTANTINE ALEXANDER: That's all.

21 ATTORNEY SEAN HOPE: That's right.

22 CONSTANTINE ALEXANDER: It's still nonconforming.

1 ATTORNEY SEAN HOPE: Yeah. And I think the point
2 is that the basement height being eight feet was already
3 there, as you pointed out, so it was already included as
4 grossable area. So we were just -- essentially, to be able
5 to have the addition to get the floor plates to work for
6 those four units --

7 CONSTANTINE ALEXANDER: And that basement unit is
8 going to be a self-contained residential unit.

9 ATTORNEY SEAN HOPE: That's right. And so the
10 aerial ways, the --

11 CONSTANTINE ALEXANDER: How do you get into it?
12 How are you -- I'm sorry.

13 ATTORNEY SEAN HOPE: Yeah.

14 CONSTANTINE ALEXANDER: How will you get into the
15 basement area?

16 ATTORNEY SEAN HOPE: It's easier this way. The
17 main entrance will be through this courtyard.

18 CONSTANTINE ALEXANDER: So you go through the
19 front door and go down --

20 ATTORNEY SEAN HOPE: Yeah, you will.

21 CONSTANTINE ALEXANDER: Okay.

22 ATTORNEY SEAN HOPE: And then there is a second --

1 CONSTANTINE ALEXANDER: Yeah. Yeah.

2 ATTORNEY SEAN HOPE: -- access right there.

3 CONSTANTINE ALEXANDER: Okay.

4 ATTORNEY SEAN HOPE: Any questions?

5 ANDREA HICKEY: Can you show me where the parking
6 is now, not as proposed but where historically has parking
7 been on the lot?

8 ATTORNEY SEAN HOPE: I don't actually have -- I
9 don't have that enlarged for you.

10 ANDREA HICKEY: Maybe you could just point it out.

11 CONSTANTINE ALEXANDER: Yeah. You can just give
12 us -- sketch it out.

13 ATTORNEY SEAN HOPE: At present, there is a
14 driveway that runs all the way to the back here, all the way
15 to the back of this zone. It's not wide enough for two
16 cars, actually. It only has the width -- no, it's wide
17 enough for two but not for three. So there is two cars here
18 and then one in that zone. So for nine units, the original
19 provided parking was only three cars.

20 CONSTANTINE ALEXANDER: Quite often -- and Mr.
21 Hope has done this -- people come in and seek zoning relief
22 for having less parking than is required by our ordinance.

1 You are struggling to not seek that and you want your
2 four -- your four units. I don't know how big those cars
3 are that you have drawn on there, but these days SUVs are
4 like small trucks. Are you really going to get -- to be
5 able to get three on there? And what's it going to look
6 like to people who go up and down Oxford Street? It's going
7 to look like a parking lot. You are going to have three
8 cars in the front, effectively, in the front of the
9 building. And one of those is too close to the lot line by
10 our zoning ordinance and may have impact on whatever
11 shrubbery or greenery there is on the lot line.

12 ANDREA HICKEY: And, excuse me, I also think where
13 you are showing the proposed three parking spaces on the
14 Oxford Street side that the car closest to the house is too
15 close under our ordinance.

16 CONSTANTINE ALEXANDER: Ten feet it should be.

17 ANDREA HICKEY: Is it ten feet?

18 CONSTANTINE ALEXANDER: I assume --

19 WILLIAM SENNE: -- there is an existing parking
20 space there and driveway there. So it would be -- fall into
21 a grandfather condition.

22 (Crosstalk)

1 ATTORNEY SEAN HOPE: So, one, on the site plan in
2 the packet you have, the parking space is ten feet. So part
3 of the position of the parking really has to do with
4 preserving the existing building. So there was a four-unit
5 plan that met zoning, was zoning compliant where you were
6 going to achieve some of the things where you could tuck the
7 parking in-between and behind buildings.

8 So part of this nonconforming structure that we
9 have here almost relegates where the parking would go. So
10 we tried our best to have the eight-and-a-half by
11 eighteen-foot parking space. Right? And so to be able to
12 have the dimensionally-required parking space as well as to
13 have this in an area that's out of the front yard setback,
14 this really became the most practical way because, also,
15 this is with the existing curb cut.

16 CONSTANTINE ALEXANDER: That assumes you
17 want -- you are going to have three parking spaces. What I
18 am trying to suggest is you are going to have two parking
19 spaces there. The cars can be where the two are right now
20 closest to the center entrance or you can move them over a
21 little bit, but you would eliminate the need for a setback
22 relief for the parking over the five feet.

1 ATTORNEY SEAN HOPE: Understood. And I think part
2 of it is -- and you are probably referencing there is an
3 abutter who has expressed concern --

4 CONSTANTINE ALEXANDER: Yes.

5 ATTORNEY SEAN HOPE: -- over the trees that are on
6 her property in this side yard setback. I would say, one,
7 the petitioner took that to heart. They hired an arborist,
8 who has a letter, and we have consulted with him that the
9 idea of putting this parking here is not going to negatively
10 impact it. And I am going let the petitioner speak to that.
11 But we have reviewed it, took those concerns seriously.

12 The other thing is while you have a direct abutter
13 who may want to protect some trees and move the parking
14 away, when you don't have compliant parking, we know that
15 there is going to be additional cars and those cars will
16 spill on the street. So oftentimes there is some tension
17 between a direct abutter who would welcome the car next to
18 them and the overall community who is saying, hey, I want
19 you to continue parking on the site.

20 So I think they took that into account. Frankly,
21 I think that the larger neighborhood didn't express those
22 same concerns, and so we were encouraged to have compliant

1 parking. This is a large structure. It's likely going to
2 be families in it. It was nine units before, it's four
3 units now. So on an 8,000-square-foot lot, you should be
4 able to contain your parking. And we are two feet away on
5 this side.

6 I think it's interesting also to note that the
7 concern about the trees and the shrubs are actually trees
8 and the shrubs that are on the petitioner's property. So
9 this is not a complaint saying, hey, you are going to affect
10 my tree. Now, I am not putting words into the -- they may
11 be also concerned, but the concern that was expressed was
12 about these trees that are on petitioner's property.

13 The petitioner took those concerns to heart, hired
14 an arborist, is going to have an arborist monitor the
15 construction while this is going on. And the building
16 construction is here, so this is really about putting in the
17 requirement for some kind of drivable surface.

18 We believe -- the petitioner believes that these
19 trees to the extent they reasonably can will be protected by
20 having a licensed arborist come and monitor the construction
21 of the driveway. But, again, I think the idea for two feet
22 to have a car permanently on the street is just not the

1 feedback that we heard.

2 ANDREA HICKEY: I am still not understanding.
3 Where the three parking spaces are shown in the front, the
4 one on the right closest to the structure, that one, that
5 seems very close to the structure to me. Are you telling me
6 that's ten feet from the structure?

7 ATTORNEY SEAN HOPE: No. So it's ten feet from
8 the --

9 WILLIAM SENNE: That's actually ten feet from a
10 window.

11 CONSTANTINE ALEXANDER: Ten feet, that means you
12 are going to park in the front yard. That's all that ten
13 feet means.

14 ATTORNEY SEAN HOPE: That's exactly.

15 CONSTANTINE ALEXANDER: If they were parking less
16 than ten feet, they would have a problem with needing a
17 Variance for front-yard parking.

18 ANDREA HICKEY: All right. But -- so you are
19 suggesting, then, that it is compliant in terms of its
20 distance from the structure?

21 ATTORNEY SEAN HOPE: Yes. So this -- what is
22 this, Steve? This is --

1 STEPHEN HISERODT: It's a porch.

2 ATTORNEY SEAN HOPE: It's a porch.

3 CONSTANTINE ALEXANDER: Yeah.

4 ANDREA HICKEY: Right. That counts.

5 WILLIAM SENNE: It's not distance from the
6 structure, from a window, an openable window is the --

7 ANDREA HICKEY: So where is the window?

8 WILLIAM SENNE: We have a doorway here and that is
9 it.

10 ANDREA HICKEY: Which one had the sidewalk on the
11 bay window, the bay window right in front, the front
12 bay -- right there.

13 ATTORNEY SEAN HOPE: There.

14 ANDREA HICKEY: Right next to the --

15 ATTORNEY SEAN HOPE: That's --

16 ANDREA HICKEY: Right next to --

17 ATTORNEY SEAN HOPE: That's well over ten feet
18 away.

19 CONSTANTINE ALEXANDER: I would also point out, by
20 the way, if you are -- to Andrea's point, if you have a
21 problem with the ten foot to the structure, you ain't going
22 to get your building permit from the Inspectional Services

1 Department.

2 WILLIAM SENNE: Right.

3 CONSTANTINE ALEXANDER: You'll have to come back
4 before us, so.

5 ANDREA HICKEY: All right.

6 CONSTANTINE ALEXANDER: To some extent, I am
7 relying on the Inspectional Services Department to make sure
8 that they are not parking too close to the structure.

9 ANDREA HICKEY: And in any of your plans does it
10 show the actual dimensions of the parking spaces?

11 ATTORNEY SEAN HOPE: So in the packet --

12 CONSTANTINE ALEXANDER: That's my -- while you're
13 looking, that's my point, too, Andrea. I just don't believe
14 that parking layout that's on paper.

15 ATTORNEY SEAN HOPE: Those spaces are --

16 CONSTANTINE ALEXANDER: It's nice, a nice drawing.

17 ATTORNEY SEAN HOPE: No, they are actually eight
18 foot --

19 CONSTANTINE ALEXANDER: Maybe three Mini Coopers
20 you've got parked there.

21 ATTORNEY SEAN HOPE: No, they're eight-foot-six
22 wide by eighteen feet long.

1 CONSTANTINE ALEXANDER: I'm sorry?

2 ANDREA HICKEY: Why are there are no dimensions?

3 ATTORNEY SEAN HOPE: Eight-foot-six wide --

4 ANDREA HICKEY: There are no dimensions, though.

5 ATTORNEY SEAN HOPE: I could produce some
6 dimensions if you like.

7 ANDREA HICKEY: Well, unless I have missed
8 something, and perhaps I have, but what I am looking at, I
9 don't see any dimensions.

10 ATTORNEY SEAN HOPE: So oftentimes we don't put
11 the dimensions on these big display boards because, frankly,
12 you can't read them from here, but in the packet -- this is
13 what the Board has in front of it. I just want to make
14 sure. Because part of it was --

15 ANDREA HICKEY: I am not seeing anything yet.

16 ATTORNEY SEAN HOPE: Yeah.

17 WILLIAM SENNE: We don't always define those
18 things when we know we are conforming. I mean, it's not --

19 ATTORNEY SEAN HOPE: I think --

20 CONSTANTINE ALEXANDER: You're right. The point
21 is, though, in this -- and this is a different kind of a
22 project. You've got three cars side by side ending up only

1 three feet from the property line. That's a problem. To me
2 it's a problem. You know?

3 And I am astounded. Sure, you come down to us all
4 the time looking for parking relief less than what's
5 required by ordinance. Now you are telling us we want to
6 comply with the Ordinance, we are going to squeeze these
7 three cars in.

8 This is a commercial decision. You are looking to
9 offer the properties with parking, on-site parking, for
10 everybody who buys a unit, all four units. I understand
11 that. But I also understand the zoning issues and the
12 concerns on the neighbor who abuts that property from this
13 kind of parking layout. I can't vote for the relief you are
14 seeking regarding parking -- setback parking relief.

15 LAURA WARNICK: So right now your plans are
16 showing the driveway eight feet from the bay window.

17 CONSTANTINE ALEXANDER: Eight feet from the bay
18 window?

19 LAURA WARNICK: Yeah, from that to -- from
20 that -- the corner of the bay window to the driveway is
21 eight. You put seven-foot-four plus two foot one seven, so
22 that's nine-foot-five.

1 ATTORNEY SEAN HOPE: We can adjust that. That's a
2 building code issue not a zoning issue.

3 LAURA WARNICK: Well, you just have to make the
4 driveway -- if you shift the driveway to the left, it gets
5 worse.

6 CONSTANTINE ALEXANDER: Yeah. You eliminate a
7 car. That's what you do. That's what you are doing.

8 ATTORNEY SEAN HOPE: It is also a grandfather
9 condition. It's a grandfathered condition. There is a
10 parking space there now the same distance away from those
11 windows.

12 CONSTANTINE ALEXANDER: You have to get a
13 concurrent from our Board but that's all. And you are not
14 seeking that tonight.

15 ATTORNEY SEAN HOPE: No. That's not --

16 CONSTANTINE ALEXANDER: So that's a problem.

17 LAURA WARNICK: It's not -- and your drawings
18 don't show the driveway being where it is now. Your
19 proposed location is further to the right, if the -- if your
20 little deck, if your little front step stoop there is the
21 same as -- it's a little bit changed I think, so I can't
22 quite compare it to the existing condition. But the

1 driveway certainly is not --

2 CONSTANTINE ALEXANDER: What I think what you are
3 hearing is you are not going to get parking relief with
4 regard -- that Special Permit for this, for your setback.

5 ATTORNEY SEAN HOPE: The only thing I would say is
6 when we went to the neighborhood, we didn't necessarily hear
7 that's -- and all I'm saying is if we are making the trade-
8 off because, you're right. We have come in sometimes asking
9 for Special Permits and the Board has granted those in
10 appropriate cases. I just want to make sure that we are not
11 satisfying one neighbor in exchange for a larger --

12 CONSTANTINE ALEXANDER: You are only satisfying
13 the Board of Zoning Appeals.

14 ATTORNEY SEAN HOPE: Right. That's very true.

15 And I think my point was that the reason why you
16 see this here it wasn't about necessarily cramming spaces.
17 It's funny because when you can achieve almost chief
18 compliance, you always want to do it. I think if we
19 evaluated one for the benefit of a project and the building
20 that the two-foot waiver that we were seeking by a Special
21 Permit was more appropriate than having less parking. But
22 if the Board is concerned not only about this parking space

1 but also about the parking orientation in general, we hear
2 that.

3 CONSTANTINE ALEXANDER: I hope you do.
4 Keep going.

5 ATTORNEY SEAN HOPE: So that wasn't the basis of
6 the Special Permit. I do think that the driveway itself and
7 the parking -- so if we dimension these spaces -- so the
8 other thing is we are going to go back to the drawing board
9 because we do believe that we need to try to be in
10 compliance with the Code.

11 And so it sounds like the issue is a five-foot
12 setback. I'm just trying to get some feedback so that if we
13 were able to meet this five-foot setback and make sure that
14 this is compliant and getting the certification of that, we
15 believe that the project is better with four parking spaces
16 to service four units. But if we weren't seeking --

17 CONSTANTINE ALEXANDER: You are absolutely right,
18 Sean. But my observation is that you could have done this
19 with five foot you would have done it in terms of reason why
20 you are coming before us with this plan.

21 ATTORNEY SEAN HOPE: It's surely -- because of the
22 level of process that we went through to get here today, I

1 think even if we could come up with a clever way that could
2 be undoing some of the things. I mean, remember, this was
3 significant building found by the Historical. So even the
4 addition and everything that we have done had to have been
5 approved, and we worked closely in tandem with them.

6 I think Steve's point about a compliant parking
7 space also that was directly in front of the building, I
8 think for many reasons people find objectionable. So
9 sometimes the as-of-right solution is one that doesn't work
10 for a historic building or for design rationale.

11 I do think that the two-foot relief -- I guess
12 it's even less than two feet. If these trees were proven to
13 be protected, would that still be an issue? I mean, I
14 think -- because I do believe that we could prove to the
15 Board and maybe to the general audience that we could manage
16 this parking in a way that would preserve -- reasonably
17 preserve, you can't promise everything -- but could
18 reasonably -- a likelihood of success in preserving these
19 trees.

20 So it's like if the trees are protected and we
21 figure out how to solve this distance, this configuration to
22 me still is the only way we can achieve four parking spaces.

1 And I don't think it's just about money. Obviously, it also
2 is the benefit of a large unit. And when you have a large
3 unit and you have a place for parking, I would hope that we
4 could figure out a way to satisfy that. I think the --

5 CONSTANTINE ALEXANDER: I mean -- yes. All right.
6 Thank you.

7 I'll open questions from the Board on this plan.

8 I'll open the matter up for public testimony. Is
9 there anyone here wishing to be heard on this matter?
10 Apparently not.

11 JOEL BARD: Yes.

12 CONSTANTINE ALEXANDER: Oh, I'm sorry, sir. I
13 didn't see you.

14 JOEL BARD: Thank you.

15 Mr. Chairman and members of the Board, good
16 evening.

17 So, Mr. Chairman, you asked the question --

18 THE REPORTER: Please provide your first and last
19 name.

20 JOEL BARD: I'm sorry.

21 CONSTANTINE ALEXANDER: Your name.

22 JOEL BARD: Of course, yeah. My name is Joel

1 Bard. I live at 51 Wendell Street, and I am an abutter to
2 an abutter. So this property is at the corner, of course,
3 of Oxford and Wendell, and on Wendell Street there is one
4 building next to it. Some of the residents are here. And
5 then I am the building next to that.

6 And I am a long-time resident of the neighborhood,
7 very active in the neighborhood. I actually incorporated
8 the Agassiz Neighborhood Council somewhat over 40 years ago.

9 So, Mr. Chair, I'll start with this, that you
10 asked earlier, was the neighborhood standing on its feet
11 applauding for this proposal. And I think we can say nearly
12 yes.

13 CONSTANTINE ALEXANDER: Good.

14 JOEL BARD: So the history begins with, as you
15 heard a little bit, this is a structure that's become very
16 rundown over the years. It was partly some apartments, it
17 was partly some rooming houses, some single-room occupancy
18 and so forth, a variety of uses, and certainly not a hazard
19 to the neighborhood but not an amenity.

20 And then the house got flipped a couple of times,
21 and then it was purchased, and the first proposal was to
22 tear down the structure and to build four contemporary

1 structures containing five units. And so there was a huge
2 neighborhood outcry. We sought a demolition delay. The
3 Historical Commission was very much working with us. Many
4 of us showed up for a Historical Commission hearing sometime
5 last summer, and the Commission did vote demo delay.

6 And my day and night job, actually, is doing land
7 use legal work, and I work with boards like this, and I have
8 to say that this is one of the few really total successes of
9 the demolition-delay process. Because during the
10 demolition-delay period, the neighbors met with the
11 developer and talked by phone, sent e-mails and so forth,
12 and it's come around to the proposal that you are seeing.
13 So the macro picture is that the building has been saved,
14 assuming that the relief is granted.

15 And so that's an enormous victory. And we
16 learned -- I'm actually very pleased to see Charlie Sullivan
17 here, the executive director of the Historical Commission.
18 Charlie tells me it's a rare appearance for Charlie here, so
19 we are pleased to have him.

20 But I think signifies the significance of this
21 turnaround and the demolition-delay process working. So, of
22 course, you are getting, appropriately, into the mechanics

1 of how to make this work. But our big picture certainly is
2 to keep the building.

3 And, in addition, so it turns out we learned in
4 this process thanks to the research done by the Historical
5 Commission that on the other side of Mass Ave on Walker
6 Street is a near twin to this building, which, as luck would
7 have it, was restored. And Charlie can tell us just how
8 long ago, but it looks like perhaps 15 or so years ago,
9 beautifully restored. And we have talked to the developer
10 about restoring this building to that quality.

11 And, actually, Billy Sunday was good enough to
12 walk with me around the Leslie properties next door. And
13 Leslie did a terrific job of restoring some buildings on
14 Oxford Street across from the Baldwin School in the recent
15 past, and I said this is the quality of finish that we'd
16 like to see, and Billy has said that he would finish it to
17 that quality.

18 So on a macro scale, those are really the big
19 issues. And there are many of us here. You have gotten a
20 number of letters, as the Chair alluded to. This has been
21 advertised and continued a few times, but through each
22 iteration you have received now about I'd say a dozen to 15

1 e-mails and letters.

2 In addition, we did have a meeting, as was alluded
3 to by counsel I believe a few minutes ago, the Agassiz
4 Baldwin Neighborhood Council met just last week and we
5 had -- and I didn't an exact count but I'd say 21, 22
6 people. And I do believe the vote was unanimous. And the
7 developer showed up as well as the architect -- unanimous in
8 support of this proposal.

9 Now, there is an abutter that you are going to
10 hear from who does have concerns about the trees abutting
11 the driveway, and the abutters in the back are concerned
12 about the survival of two very large trees. The trees along
13 the driveway are fairly small but obviously important but
14 two I'd say 50-foot high trees between the buildings, that's
15 all very tight around there. And that's been an ongoing
16 concern that we have been discussing with the developer as
17 well and making sure that all appropriate precautions be
18 taken during the construction period and after to see to it
19 that the trees survive.

20 And I'll get to the legal issues now. The last
21 couple of times I have been here it's been in opposition to
22 proposals; one, the Dunkin' Donuts, the Chair might

1 remember, on Mass Ave a couple years ago and so

2 far -- but --

3 CONSTANTINE ALEXANDER: I remember it very well,
4 as a matter of fact.

5 JOEL BARD: Yeah. And so we are wholeheartedly in
6 support. And putting on my legal hat, I don't want to
7 diminish for a second the size of -- the significance of the
8 Variances being requested. But in the tight quarters that
9 we are working with here, this is really what needs to
10 happen to make a project like this work. And, obviously,
11 parking inevitably in Cambridge becomes one of the key
12 issues where the rubber hits the road. Pardon the bad pun.

13 But despite the significance of these Variances
14 from a legal and zoning perspective, the neighborhood is
15 hardly in support, and we urge the members of the Board to
16 give at least four, if not all five -- of your votes for the
17 Variance. And Special Permit, I should say. Thank you.

18 CONSTANTINE ALEXANDER: Thank you.

19 LAURA WARNICK: Just a question for you. In terms
20 of the -- or at least your perception of the neighborhood's
21 perception about on-street parking versus having a dedicated
22 parking space, do you feel that having additional on-street

1 parking in that area would be challenging?

2 JOEL BARD: Well, it would be. I should also
3 point out that -- I mean, I think you know the location.

4 You forgot something, John.

5 CONSTANTINE ALEXANDER: I think he left it here.

6 JOEL BARD: It's across the street. I mean across
7 the street and kind of catty-corner from the Baldwin School.
8 And so, obviously, every morning there is a lot of demand
9 for those parking spaces and, of course, the buses pulling
10 in and out.

11 So we always assumed that there would be four
12 parking spaces. Because they referred earlier to originally
13 looking at a larger number of units. And so -- and,
14 clearly, there were not going to be nine or eight spaces
15 there, so there was going to be more demand to park on the
16 streets. So, yes, it has been a neighborhood concern that
17 there be at least a parking space for each unit.

18 CONSTANTINE ALEXANDER: What was the parking
19 situation before when there was the four apartments -- or,
20 how many, five, and the four rooming house?

21 JOEL BARD: Well, if you look on the plans on the
22 Wendell Street side, they are only showing one parking

1 space.

2 CONSTANTINE ALEXANDER: Yeah. Yeah.

3 JOEL BARD: And there had been two or three cars
4 parked there. I mean, you know, I would walk or bike by it
5 every day. And so where -- and you can see how it's paved
6 today, but there is enough room. So there were two spaces
7 stacked, if you will, one in front of the other.

8 LAURA WARNICK: There is a diagram in there that
9 shows it.

10 JOEL BARD: And then there is another space right
11 next to it. So, historically, there have been two or three
12 cars parked on the Wendell Street side. And, honestly, on
13 the Oxford Street side, I didn't pay as close attention, but
14 you'll see -- actually, I found as you were asking towards
15 the back of that set --

16 CONSTANTINE ALEXANDER: Yeah. Laura just pointed
17 that out to me.

18 JOEL BARD: -- and found --

19 LAURA WARNICK: Yes.

20 JOEL BARD: -- there's a lot of parking.

21 Now, on the Oxford Street side, it's narrower by
22 the street, but then it opens up in back. There had been

1 for many years a pretty dilapidated garage there that was
2 torn down, and so there was -- informally, there was clearly
3 a lot more than four parking spaces there.

4 CONSTANTINE ALEXANDER: Thank you.

5 JOEL BARD: Thank you.

6 CONSTANTINE ALEXANDER: Could I just make a
7 comment -- thank you very much -- is that I don't think you
8 heard any comment -- those of you in the audience -- any
9 concerns or comments about saving the structure. The
10 issues -- and the structure is significant. The Historical
11 has signed off on it. And so --

12 I know. They'll have a chance to speak, but, I
13 mean, I just want to point out is that so far at least we
14 have been focusing on the parking issues on Oxford Street
15 and not the whether we are going to deny the project in its
16 entirety.

17 JOEL BARD: Right. And if I could address that
18 briefly. So, I mean, clearly that's our objective, and I
19 hope the Board's objective. But, of course, the devil is
20 going to be in the details as to how to make it work.

21 CONSTANTINE ALEXANDER: All right.

22 JOEL BARD: So --

1 CONSTANTINE ALEXANDER: Okay.

2 JOEL BARD: Yeah.

3 CONSTANTINE ALEXANDER: Thank you.

4 BRENDAN SULLIVAN: Can I see the folder just for a
5 second?

6 CONSTANTINE ALEXANDER: You want to see the file?

7 BRENDAN SULLIVAN: The file, yeah.

8 CONSTANTINE ALEXANDER: What, the plans?

9 BRENDAN SULLIVAN: No, no. That's -- just this.

10 CONSTANTINE ALEXANDER: Sir.

11 FRED MEYER: My name is Fred Meyer, M-e-y-e-r. I
12 am the current moderator of the Agassiz Neighborhood
13 Council, which Joel founded many decades ago, and I'd like
14 to second what he says but with a few footnotes and
15 amplifications that may be helpful to the Board.

16 It is true that we had several discussion on this
17 two meetings. I invited the developer three times. He was
18 unable to come the first two times but did graciously come
19 the third time. There is -- there was concern expressed at
20 this third meeting that the developer take great care and
21 have the arborist in charge on two areas.

22 The tree in back of the property is about 55 feet

1 tall. There's actually two of them, and they are very, very
2 close to the building. One of the drawings, I don't know
3 whether they were brought here today -- show the tree root
4 zones as well as the canopy zones. So it is extremely
5 important that the arborist supervise construction and use
6 what's called air cutting, which cuts the roots neatly
7 instead of digging.

8 And the other concern that was expressed at the
9 meeting was permeable parking services. And one of the
10 people in the audience brought that discussion to a close by
11 saying that in Nantucket where she has another house they
12 have green parking which is just grass. You don't have to
13 dig down under the tree roots.

14 And the neighbor is especially concerned about
15 those two trees because she planted them. And she didn't
16 know because the lot line wasn't as clear on the site as it
17 is from the survey, she thought they were on her land. They
18 are, in fact, just over the line on his.

19 But I think there is a feeling that just as the
20 City has passed a tree removal moratorium, along with that,
21 I think it's a message I'd say respectfully to your board to
22 make sure the trees aren't murdered if they are not --

1 CONSTANTINE ALEXANDER: Let me just interrupt you,
2 sir. Trees are very important, grass, shrubbery.

3 FRED MEYER: Yeah.

4 CONSTANTINE ALEXANDER: They are not a zoning
5 issue. We do not get into preserving trees and the like --

6 FRED MEYER: Yeah.

7 CONSTANTINE ALEXANDER: -- or preserving --

8 FRED MEYER: So they can't.

9 CONSTANTINE ALEXANDER: Let me finish, please.

10 FRED MEYER: Yes. Sure.

11 CONSTANTINE ALEXANDER: Because simply the
12 Inspectional Services Department, are not arbors. They'd be
13 all their time mediating between disputes --

14 FRED MEYER: Right.

15 CONSTANTINE ALEXANDER: -- as to whether this tree
16 should have been saved, you did this wrong or that wrong. I
17 am not minimizing the concern. That should be addressed in
18 a private contract between the developer and whoever is
19 affected. And the enforcement, should there be a dispute,
20 be in the courts and per the contract.

21 But we are not going to -- if we grant relief, we
22 are not going to impose --

1 FRED MEYER: Sure.

2 CONSTANTINE ALEXANDER: I am opposed to any
3 conditions regarding saving trees and maintaining trees,
4 doing this, doing that.

5 FRED MEYER: Sure.

6 CONSTANTINE ALEXANDER: We are going to restrict
7 it to the setbacks. And the setbacks have an indirect
8 impact obviously --

9 FRED MEYER: Yeah.

10 CONSTANTINE ALEXANDER: -- on the greenery. But
11 let's not get into the trees.

12 FRED MEYER: No. I --

13 CONSTANTINE ALEXANDER: It's important, but do it
14 by private contract because it's not a zoning issue.

15 FRED MEYER: Okay. I am not a lawyer, so if this
16 question is out of order don't hesitate to tell me. Can it
17 be a condition of your Variance that such a contract be
18 reached?

19 CONSTANTINE ALEXANDER: No.

20 FRED MEYER: It cannot.

21 CONSTANTINE ALEXANDER: He should have reached his
22 contract with the developer before now. This case has been

1 around for --

2 FRED MEYER: Yes. I understand.

3 CONSTANTINE ALEXANDER: And I advised informally
4 some of these neighbors -- so just what I am saying right
5 now, you better get it in writing because we're not -- if we
6 grant relief --

7 FRED MEYER: Yeah. Well, I trust -- personally, I
8 trust Mr. Senne. So I am personally --

9 CONSTANTINE ALEXANDER: That's fine.

10 FRED MEYER: -- satisfied.

11 CONSTANTINE ALEXANDER: I just want you to know.

12 FRED MEYER: Yeah.

13 CONSTANTINE ALEXANDER: We can't deal with that.

14 FRED MEYER: Right.

15 Now, on the issue that the Board newly
16 raised -- and I want to stress this was not discussed at the
17 council, so I am now speaking just as an individual and not
18 from counsel. But speaking as a real estate broker and
19 appraiser since '63 and '79, those licenses, in my
20 experience, people who buy basement apartments don't have
21 cars. If you -- a basement apartment is a big -- they sell
22 for much less. And it's an economy purchase.

1 So were the Board concerned about the parking on
2 that side, if it restricted the parking to three, I do not
3 think -- it would be a sacrifice to the developer but not a
4 big one because the likelihood of a basement buyer having a
5 car I would say is one chance out of ten in my marked
6 judgment. Hope that's helpful.

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

9 Ma'am.

10 BEVERLY REIFMAN: Yes. Hi. My name is Beverly
11 Reifman. I live at 47 Wendell, which is the abutting house
12 on the Wendell Street side. And, sorry, I really want to
13 disagree with you about the number of parking spaces, and I
14 really want to urge the Board to work with the developer on
15 having four parking spaces.

16 It is getting more and more difficult to park on
17 Wendell Street. I live in a three-family house. My husband
18 and I are aging. There are two families with small
19 children. It's almost impossible to find a parking space.
20 We have to go around the corner. I parked on another street
21 yesterday completely. And I just want to urge you to work
22 with the developer to have four parking spaces. I think

1 it's really crucial to the community.

2 Between Leslie University, the Baldwin School,
3 Harvard Square, the divinity school, there are so many
4 people who don't live in the neighborhood who park on
5 Wendell Street and Oxford Street and Sacramento Street. So
6 thank you.

7 CONSTANTINE ALEXANDER: Thank you.

8 Taking -- I thought another hand up. Ma'am? So
9 you, please.

10 LYNNE REISS: I have a question and then I am
11 going to make some general comments. I am Lynne Reiss. I
12 am the abutter on 76 Oxford Street. I have lived there 40
13 years. Yes, I planted the trees and then found out that
14 they don't belong to me because of the new survey. I don't
15 care who owns the trees. I just want them to live.

16 THE REPORTER: Name, please.

17 LYNNE REISS: Lynne Reiss, R-e-i-s-s.

18 THE REPORTER: Thank you.

19 LYNNE REISS: Thank you.

20 So question first. It occurred to me that the
21 garbage and trash collection cans at the property line is
22 very close to my property. I am a nonconforming property.

1 I am hoping the garbage and trash cans are not under my
2 bedroom windows. Is that part of your design, part of your
3 plans? Should it be?

4 JOEL BARD: So we have worked out a -- this is a
5 very preliminary landscape plan. You can see the location
6 of the garbage, and that location, it's something down in
7 this area here, another one here, and there is nothing
8 planned for along that area.

9 LYNNE REISS: Thank you.

10 JOEL BARD: We have more work to do on that, but
11 we can make sure that we are not skipping anything right
12 here.

13 LYNNE REISS: Okay. I want to express great
14 appreciation for the design. I really do support that.
15 It's sensitively done. I like it. Personally, it's a loss
16 because that's my southern exposure. I am losing sun light,
17 but the overall scheme is good, and I want to support it
18 because it's good. So I want to say that.

19 The parking, that concerns me a lot. It looks to
20 me like a parking lot. It's three-and-a-half feet from my
21 property line. It comes right up to the tree trunks. So
22 for all those reasons, I don't like that third space next to

1 my property.

2 My personal experience parking on the street is
3 that when school drops off and picks up, it is a problem.
4 In the evening, it's not a problem unless there is a PTA
5 meeting. It hasn't been. The history of the parking, there
6 hasn't been a lot of people parking in the driveway over the
7 years incidentally. The people who -- we live walking
8 distance between Harvard Square and Porter Square, ten
9 minutes either way.

10 I have a two-family and I rent two apartments.
11 And sometimes there is one car or two cars with six people
12 living in those, six unrelated people but friends living in
13 those apartments. So I just want to share that experience
14 of what it's like on the street. It's not fun, it's not 100
15 percent, but it's not impossible except during drop-off and
16 pick-up when you have to go somewhere else. That's my
17 personal experience. I don't -- you know, I don't counter
18 anybody else's, but that's my personal experience.

19 Mr. Harrendo (phonetic) was kind enough to offer
20 Grasscrete as a surface for parking, which would help make
21 it a little bit greener. I don't know if that has to be
22 written in in order to be binding. That's a question I have

1 for you.

2 CONSTANTINE ALEXANDER: What did you refer? We
3 could write it in should we choose like the tree-saving
4 provision. But what did you call it? I'm sorry.

5 LYNNE REISS: Grasscrete.

6 CONSTANTINE ALEXANDER: Grasscrete?

7 LYNNE REISS: It looks like a latticework. He can
8 explain it better than me. I was just introduced to the
9 concept.

10 CONSTANTINE ALEXANDER: As long as he knows what
11 it is and you know what it is, okay. I don't need to know.
12 Grasscrete.

13 LYNNE REISS: But it allows -- it's like a
14 latticework, so the grass grows in the spaces. It's
15 visually less -- it's more pleasant both in terms of the
16 reflection off the pavement, the heat, the climate effects,
17 and the esthetic part.

18 It's -- so my question is is that something you
19 could write into the plans?

20 CONSTANTINE ALEXANDER: We could write it in,
21 yeah. We could, yes. I'm not -- the petitioner might have
22 something to say about it and they may have objections to

1 it. We've got -- may debate it, but I believe we would have
2 the authority, should we chose, to write that into the
3 decision.

4 LYNNE REISS: Okay. I assume that wouldn't be a
5 problem for you, but I'm asking.

6 WILLIAM SENNE: It wouldn't be a problem.

7 CONSTANTINE ALEXANDER: Then we'll write it into
8 the decision, whatever decision we render.

9 LYNNE REISS: Okay. Okay.

10 BRENDAN SULLIVAN: The simplest thing is to have
11 the architect markup the drawing where that material is
12 going to be used.

13 CONSTANTINE ALEXANDER: Well, we can say -- we can
14 have all the driveways, on Wendell Street as well as on
15 Oxford. Would that be a problem? Otherwise, you're right.
16 We'd have to mark it up.

17 WILLIAM SENNE: I'm not sure it's a good idea
18 to --

19 CONSTANTINE ALEXANDER: Say it again? I'm sorry.

20 WILLIAM SENNE: I don't think it's a good idea to
21 use it on the entire surface.

22 CONSTANTINE ALEXANDER: Would you put it on the

1 entire service on the Oxford Street side?

2 WILLIAM SENNE: No, I don't think so.

3 CONSTANTINE ALEXANDER: Well, then we get -- then
4 we do have an issue as to how we are going to order it into
5 the plans.

6 WILLIAM SENNE: Yeah. We could --

7 LYNNE REISS: May I ask why?

8 JANET GREEN: Do you mean the whole surface of the
9 driveway or do you mean the whole surface of the lot?

10 WILLIAM SENNE: The driveway.

11 JANET GREEN: Oh. You referred to the --

12 LAURA WARNICK: There are some challenges with the
13 material in terms of, you know, snow in the wintertime.
14 It's not -- it's got pros and cons to it.

15 CONSTANTINE ALEXANDER: While we are continuing
16 the discussion, why don't you mark up or give us your
17 thoughts at some point as to where you would put the grass.

18 LAURA WARNICK: Or other alternative given the --

19 CONSTANTINE ALEXANDER: Yeah. Yeah.

20 LAURA WARNICK: Given the discussion this evening.

21 WILLIAM SENNE: There is a lot of different
22 materials now that they have. Grasscrete is sort of the

1 original at the beginning of that idea.

2 There are a lot of options now that are not
3 necessarily the Grasscrete products but that will encourage
4 a lot more intrusion into --

5 LAURA WARNICK: Could I just get a clarification
6 on the curb cut. Is the curb cut just the two cars wide?

7 WILLIAM SENNE: It's not even two cars wide.

8 LAURA WARNICK: Okay. So the intent is that that
9 third lane doesn't -- there's no -- the curb cut is narrower
10 than the --

11 WILLIAM SENNE Yes. That --

12 LAURA WARNICK: -- width. Okay. Okay. That's --

13 WILLIAM SENNE: This back-up distance, this is
14 only a requirement of zoning, the backup space, the
15 enumerated space required by the zoning.

16 LAURA WARNICK: Yeah. So that might be something
17 we can manipulate a little bit to help the neighbor.

18 WILLIAM SENNE: Yes.

19 CONSTANTINE ALEXANDER: Actually, the City Council
20 makes the decision on the curb cut.

21 LAURA WARNICK: Then --

22 CONSTANTINE ALEXANDER: We don't --

1 WILLIAM SENNE: So the curb will --

2 CONSTANTINE ALEXANDER: Yeah, but if you want to
3 broaden it.

4 LAURA WARNICK: No, no. I'm saying as they have
5 done, they've got a narrower -- the curb cut is not as wide
6 as the entire paved area, which I think is a good thing.
7 And I think that you are saying that perhaps the left-hand
8 driveway could be reduced --

9 WILLIAM SENNE: Yes.

10 LAURA WARNICK: -- from the --

11 WILLIAM SENNE: This zone right here will probably
12 never get used.

13 LAURA WARNICK: Yeah. So if it --

14 WILLIAM SENNE: So --

15 LAURA WARNICK: That might help the neighbor --

16 WILLIAM SENNE: Right.

17 LAURA WARNICK: -- if there was more green at
18 that --

19 WILLIAM SENNE: Exactly.

20 LAURA WARNICK: To my mind, the perception from
21 the street would be nicer also.

22 WILLIAM SENNE: Yeah.

1 CONSTANTINE ALEXANDER: Yeah.

2 WILLIAM SENNE: It would soften it up.

3 LYNNE REISS: The previous drawing had a curve
4 resembling the current driveway not as -- it's extended
5 toward me but there was a curve. This drawing eliminated
6 that curve. But, again, that's the problem with having the
7 left-hand parking space. If there is two parking spaces,
8 then the two cars can fit at the curb cut as it exists.

9 BRENDAN SULLIVAN: If I can chime in. I would
10 have hoped and thought that with enough time that we had
11 from the original hearing through tonight that all of these
12 issues would have been fleshed out so that we would have had
13 a fairly clean piece of paper in front of us.

14 CONSTANTINE ALEXANDER: Yes.

15 BRENDAN SULLIVAN: Because we are starting to
16 design this thing on the fly piece by piece, and I just
17 don't know if it's ready. Or that if we could, maybe a
18 suggestion is to have you who have questions and other input
19 to go into the back room, hash it out, let us go on with the
20 agenda and possibly come back tonight and say we either have
21 agreed this is what it is or we have agreed to disagree.
22 But I think that we are going to spend another hour and a

1 half here piece by piece designing this project.

2 LYNNE REISS: I finished with my concerns, if that
3 helps. I'm not going on. My only thing is I like the
4 design. I think they are doing a good job. I have specific
5 problems with the parking issues. Thank you.

6 ANDREA HICKEY: Could I ask you a question? If
7 you had to choose between three cars abutting your lot or
8 one of those cars being on the street, how would you reply
9 to that?

10 LYNNE REISS: I would put one of the cars on the
11 street.

12 ANDREA HICKEY: Thank you.

13 CONSTANTINE ALEXANDER: No, sir, you have already
14 spoken.

15 AUDIENCE MEMBER: Right.

16 CONSTANTINE ALEXANDER: Yeah. Just wait, please.

17 AUDIENCE MEMBER: Okay. I'd be happy to wait.

18 CONSTANTINE ALEXANDER: So so far we have -- I
19 know. I see that, but I just want to summarize where we
20 are. We have issues about the parking, the three spaces
21 being too close to the lot line or -- and we have issues
22 about the surface of the parking lot, Grasscrete.

1 Did I get it right?

2 LYNNE REISS: Mm-hm.

3 CONSTANTINE ALEXANDER: And where exactly it would
4 be on that parking area. Those are the two that are still
5 on the table that may, to Brendan's point, may require some
6 further discussion offline at least because we are not going
7 to approve without these issues getting resolved, at least
8 to our satisfaction. There may be more if you want to
9 continue the discussion. I just want to summarize where we
10 are right now. Okay?

11 Sir, you wanted to speak.

12 CHARLES SULLIVAN: Mr. Chair, I am Charles
13 Sullivan. I am director of the Cambridge Historical
14 Commission.

15 CONSTANTINE ALEXANDER: All right.

16 CHARLES SULLIVAN: You heard several people say
17 that the Commission found this house to be significant.
18 They did, in fact, oppose the demolition delay. The
19 Commission has also initiated a landmark designation study.
20 The Commission is currently protecting the building while it
21 prepares a recommendation to the City Council which will go
22 in sometime this summer. The project that you are seeing

1 will need a certificate of appropriateness from the
2 Commission, but it's consistent with what the Commission has
3 already seen, and I am confident that they would approve it.

4 This is a -- the building is a key stone of the
5 neighborhood. It's one of the most prominent buildings in
6 the Agezzi area going up Oxford Street. We have seen an
7 example, a pristine example of how this building appeared
8 when it was originally constructed. It will return to that,
9 and the Commission is committed to preserving the building
10 and asked me to come tonight in support of the relief that's
11 been requested.

12 CONSTANTINE ALEXANDER: Thank you. Thank you for
13 taking the time to come down, and thank you for all the good
14 work you do for our city.

15 CHARLES SULLIVAN: Thank you, sir.

16 CONSTANTINE ALEXANDER: We appreciate that.

17 And I think as you have heard, I don't think
18 there's any quarrel with the building itself, all right,
19 preserving it. The quarrel -- or if that's the right
20 word -- relates around the parking and how it's going to fit
21 the parking, period. That does not affect the building, per
22 se.

1 Anyway. Sir, you wanted to speak? No, it was a
2 person behind you.

3 PAUL LIVINTON: My name is Paul Livinton. I live
4 at 47 Wendell, so I am a direct abutter. I was already sort
5 of introduced by my wife. I am one of the elderly people in
6 the neighborhood.

7 And I want to emphasize that we have had many
8 meetings with the developer, Mr. Senne, starting with
9 whatever is going to be demolished. And so I am reiterating
10 what Joel Bard said, which is that the majority of the
11 abutters and neighbors really approve of this plan.

12 And we were concerned, as you suggested, Mr.
13 Chair, they were concerned that the four parking spaces on
14 the property is when someone buys one of those spaces, of
15 course they are going to want to be able to park out in the
16 street because we don't have a driveway. In our
17 triple-decker, we don't have a driveway, so we are all on
18 the street with our three cars, and it's become increasingly
19 difficult to park there. So I want to state that.

20 And it's not clear to me what falls within your
21 bailiwick in terms of making a decision about the parking.
22 Because you made some mention about what Inspectional

1 Services would look at certain spaces.

2 CONSTANTINE ALEXANDER: Let me try --

3 PAUL LIVINTON: So --

4 CONSTANTINE ALEXANDER: I'll try to explain it for
5 you.

6 PAUL LIVINTON: Please.

7 CONSTANTINE ALEXANDER: The zoning ordinance
8 requires, first of all, unless we grant relief one parking
9 space, off-street parking, for every dwelling unit. But it
10 also has rather dimensional requirements about the parking
11 areas. You can't be parking in the front yard, which they
12 are not planning to do. That's defined by our zoning
13 ordinance. You can't -- you've got to be so many feet from
14 the house or windows from the house, ten feet. You've got
15 to be at least five feet from the property line. And that's
16 what we have been talking about, those issues.

17 PAUL LIVINTON: So the property line means
18 abutters on --

19 CONSTANTINE ALEXANDER: On every side.

20 PAUL LIVINTON: Okay.

21 CONSTANTINE ALEXANDER: The driveway -- if you
22 have a driveway, you've got to be at least five feet from

1 the property line on all four sides, if you will.

2 PAUL LIVINTON: But you seem to be softening that
3 in some ways by talking about the nature of the parking on
4 that space, so I was a bit confused. In other words, if
5 there were these grass bricks that you could park on.

6 That's --

7 CONSTANTINE ALEXANDER: The issue with regard to
8 the parking that some of us are expressing is there's too
9 much parking on -- in this area. It's going to be too
10 tight, and there could be problems, drainage or otherwise,
11 that would affect the trees and other plantings on nearby
12 properties.

13 So the suggestion we heard was if the parking area
14 was paved with Grasscrete, that perhaps the environmental
15 problems will be diminished, and that's what we are talking
16 about.

17 PAUL LIVINTON: I see. So if the environmental
18 issues were diminished, then that issue of the five feet is
19 not --

20 CONSTANTINE ALEXANDER: Not necessarily.

21 PAUL LIVINTON: -- doesn't override --

22 CONSTANTINE ALEXANDER: We might decide to give it

1 relief from the five feet because of the Grasscrete.

2 PAUL LIVINTON: Okay.

3 CONSTANTINE ALEXANDER: But we don't have to, and
4 we may not, or we may say Grasscrete and you've still got to
5 comply with the five feet.

6 PAUL LIVINTON: I see. All right. Thank you.

7 CONSTANTINE ALEXANDER: Thank you.

8 Anyone else? Going once, going twice.

9 You wanted to speak?

10 DAVE LAMAN: So I'm Dave Laman, 53 Wendell Street,
11 so two doors down, three doors down.

12 At the neighborhood meeting the other night, we
13 discussed many of these issues; the number of parking places
14 and where they would go, and, you know, various abutters
15 objected to this, that, and the other. But the overall
16 sense of the meeting and the vote was taken that this plan
17 was better than the alternative plan of the four modern
18 structures and five units.

19 And at some point, Mr. Senne, who been very
20 gracious in listening to us and taking into account all of
21 the different discussions we have had and he has
22 accommodated all of our issues, that at some point if this

1 design is not approved, he is going to go back to the other
2 plan, which is conforming.

3 CONSTANTINE ALEXANDER: Let me just stop you right
4 there. I mean, first of all, if you go back to the other
5 plan, I suspect he'll need zoning. Maybe not. The point is
6 none of us are saying we want to disapprove the structure.
7 I haven't -- you haven't heard that. We are talking about
8 some of the parking and the other ancillary issues. So put
9 your mind at rest. We are not talking about ordering him
10 not to be able to do what he wants for the Variance. We are
11 talking about setbacks for parking and the number of parking
12 spaces. Okay?

13 DAVE LAMAN: Okay. Thank you.

14 CONSTANTINE ALEXANDER: Thank you.

15 Anyone else? Last one. Go ahead.

16 JOEL BARD: So thank you, Mr. Chairman. Again,
17 Joel Bard. So I just -- I want to do two things. One is
18 there are a number of neighbors here, and with your
19 permission I'd like to ask that the neighbors who are in
20 support of this plan simply stand so you can get a head
21 count, if you will, an indication.

22 CONSTANTINE ALEXANDER: You can, but I've got to

1 point out to you that zoning is not a democracy.

2 JOEL BARD: Oh, I understand.

3 CONSTANTINE ALEXANDER: It's not a matter of
4 majority vote. Okay?

5 JOEL BARD: I totally understand that, but I
6 just -- and then I am going to make a final point. But if
7 those people who --

8 CONSTANTINE ALEXANDER: I don't think that's
9 relevant.

10 JOEL BARD: Okay. Well, there are quite a number
11 of people here from the neighborhood.

12 CONSTANTINE ALEXANDER: Understood.

13 JOEL BARD: And that would build on my final
14 point. And in part it's -- I was impelled to stand up again
15 from Mr. Sullivan's suggestion that we go in the back room
16 because we could spend hours in the back room. I mean, as
17 was just alluded to, we had a neighborhood meeting last
18 week, and the vote was unanimous in support of this plan.
19 Nonetheless, the immediate abutter on Oxford Street that you
20 heard from has ongoing concerns. And I think they are not
21 going to be resolved by us getting in a room because, you
22 know, we essentially go round and round.

1 I think -- and I am not sure how the Board is
2 going to choose to deal with it, but our intention certainly
3 is to continue to meet with the developer and
4 ultimately -- I mean, the plan you see is conforming in all
5 respects except where they are seeking relief.
6 Whether -- well, exactly, but the point is it's called out.
7 I mean, they are nonconforming conditions that will be --

8 BRENDAN SULLIVAN: It conforms in all aspects
9 except where it doesn't.

10 JOEL BARD: Well, exactly, but that is called out
11 for your --

12 BRENDAN SULLIVAN: We understand. We get it.
13 Thank you.

14 CONSTANTINE ALEXANDER: -- responsibilities.
15 Thank you.

16 JOEL BARD: Yeah. Exactly. But, I mean, so our
17 sitting down and discussing is going to go round and round.
18 The point is --

19 BRENDAN SULLIVAN: Right.

20 JOEL BARD: -- the neighborhood did sign off on
21 this parking plan on the particular conditions with the
22 expectation that we will work with the developer to make

1 sure that the -- that every effort is made to see to it that
2 the trees are not harmed not only -- particularly in
3 construction and then on an ongoing basis with the best
4 materials that would work on-site. But I did want to just
5 emphasize that the neighborhood has met, discussed, and
6 unanimously voted to support the plan.

7 CONSTANTINE ALEXANDER: We've got the message loud
8 and clear.

9 BRENDAN SULLIVAN: Yeah. Thank you.

10 CONSTANTINE ALEXANDER: Not the first time.

11 JOEL BARD: Okay.

12 CONSTANTINE ALEXANDER: Anyone else wish to speak?
13 No one else? I think we can close public testimony.

14 ATTORNEY SEAN HOPE: Yeah. Mr. Chair, and
15 respectful of the Board's time, I think he helped narrow
16 down the issue. So the issue really is the driveway and the
17 parking adjacent to direct --

18 CONSTANTINE ALEXANDER: And the composition of
19 the --

20 ATTORNEY SEAN HOPE: And the composition.

21 So the petitioner has already said that he is
22 willing to do the Grasscrete. I think that that is a

1 reasonable measure that would appease one and soften the
2 hardscape, but I also think it has the advantage of
3 hopefully protecting the trees in a way that the hard
4 surface -- part of the hard surface, when you dig down and
5 the foundation under the hardscape is what oftentimes
6 impacts the root system.

7 So the petitioner has said he would use the
8 Grasscrete. I think Mr. Sullivan's suggestion that we could
9 mark up a plan to show where that would be. I think there
10 is a concern -- the reason why I'm not using all the whole
11 space is that they are plowing and other things that the
12 Grasscrete unfortunately gets -- it doesn't maintain very
13 well, but I think that's a sensitive edge. It's only a
14 portion of the parking driveway. So I think without going
15 into the back room if the Board was -- that might resolve
16 the issue.

17 CONSTANTINE ALEXANDER: I think it moves the ball
18 further toward the goal post. I still have problems with
19 three feet from the property line. The Grasscrete helps,
20 but it doesn't solve the problem. Just speaking only for
21 myself, it doesn't solve the problem for me.

22 LYNNE REISS: You just said what I was going to

1 say.

2 CONSTANTINE ALEXANDER: Unless you -- I'm sorry?

3 LYNNE REISS: You just said what I was going to

4 say.

5 CONSTANTINE ALEXANDER: Okay. Thank you.

6 ANDREA HICKEY: I just had one question. Can you

7 run through for me very quickly why there are no setback

8 issues with the one parking space on the Wendell Street

9 side?

10 ATTORNEY SEAN HOPE: Yeah. So this was a

11 preexisting parking space, and that was -- so that was why

12 that was there.

13 ANDREA HICKEY: Understood. Thank you.

14 CONSTANTINE ALEXANDER: I am going to close public

15 testimony at this point.

16 Are we ready for a discussion in the board and

17 ultimately a vote?

18 ANDREA HICKEY: Discussion.

19 CONSTANTINE ALEXANDER: I think I'll start. Or

20 you go ahead.

21 ANDREA HICKEY: I think you and I are in the same

22 place. I am troubled by the three parking spaces so close

1 to the lot line. And, at the moment, I can't say that I'd
2 support that.

3 CONSTANTINE ALEXANDER: I feel the same way, as
4 I've said too many times already.

5 Anyone else wish to comment?

6 (Crosstalk)

7 LAURA WARNICK: Yeah. I think that you could fit
8 three cars in there if the -- adhered with
9 existing -- similar to the way the parking works now in the
10 existing condition so that at its widest it would fit three
11 cars and at its narrowest it would be the width of the curb
12 cut and then have a slope, you know, an angle towards the
13 wider part from the narrower part, and that would provide a
14 much larger green buffer towards your neighbor and
15 save -- easily protect at least one of the trees if not
16 more. And I think that might -- it would look better from
17 the street and provide more green buffer.

18 WILLIAM SENNE: We have worked out in that space a
19 series of gradient schemes and so forth that just didn't
20 quite reach the actual dimensional requirements. This was
21 the closest thing that we could get. I mean, there
22 are -- if we didn't have to deal with the backup space

1 required, it's actually very easy for somebody to turn as
2 they are backing out of the driveway towards the curb cut
3 and not have paved about 100 square feet in zone, but zoning
4 does not allow for people who can actually drive.

5 CONSTANTINE ALEXANDER: Right.

6 BRENDAN SULLIVAN: Well, to me there's sort of two
7 forces of nature at work here, form and function. The form
8 is what you see, obviously, and you said that it would be
9 unsightly to see three cars there. It would appear to be a
10 parking lot.

11 The function is, though, on street cleaning days,
12 on snow plowing days, and so on and so forth when everybody
13 else is riding around trying to find a place to park their
14 car, that off-street parking is very desirable and very
15 welcomed for other people in the neighborhood. I know in
16 the neighborhood -- and the perfect example is that there
17 seems to be every time we wake up there are more cars being
18 parked. Street cleaning days, it's a who can get a spot.
19 Okay? And, again, snowplowing, yadda yadda, on and on and
20 on.

21 The other force, obviously, is the marketing end
22 of it, and a unit with a designated parking space has more

1 value than one that does not. So there is two competing
2 forces here. Personally, I would opt for the parking space.

3 CONSTANTINE ALEXANDER: Okay.

4 Janet? Okay.

5 JANET GREEN: Okay. Thank you.

6 So I actually feel in favor of the parking spaces,
7 too. And I do feel it's a difficult, a difficult balance,
8 but on balance, I think -- and the reason that we have
9 Variances for this is that there are different situations.
10 And this seems to me to be a different situation. And I
11 think getting the cars off the street, mitigation as much as
12 you can as far as the surface of the driveway and making
13 sure the trees are all right is important, but I don't find
14 a problem with the cars there.

15 CONSTANTINE ALEXANDER: Okay. I think we have all
16 spoken. I think we should proceed to a vote. There'll be
17 three votes; one on the Variance, one on the Special Permit
18 excluding the parking because it's the issue, and the third
19 will be the Special Permit as it relates to parking.

20 Question?

21 ATTORNEY SEAN HOPE: Yes. So if the Board decided
22 to not grant the Special Permit for the parking --

1 CONSTANTINE ALEXANDER: Yeah.

2 ATTORNEY SEAN HOPE: That would have the effect of
3 eliminating that parking space --

4 CONSTANTINE ALEXANDER: Unless you can figure a
5 way to do -- it would be five feet from the property line
6 and get your three parking spaces.

7 ATTORNEY SEAN HOPE: I guess the question is so if
8 you voted against it but you voted for the other relief but
9 not the parking space --

10 CONSTANTINE ALEXANDER: Right.

11 ATTORNEY SEAN HOPE: You would sign the plans as
12 of that day so that we wouldn't -- would we be able to then
13 come up with an alternative plan without coming back?
14 Because, typically, when the Board approves --

15 CONSTANTINE ALEXANDER: If you need a
16 special -- if you can do it -- I'm sorry to --

17 ATTORNEY SEAN HOPE: No, but I --

18 CONSTANTINE ALEXANDER: If you can come up with
19 another plan that eliminates the need for zoning relief,
20 fine. Obviously, we -- it's no concern to us. But if the
21 new plan also requires zoning relief of a different sort,
22 then you've got the issue about a repetitive petition that

1 you're aware of.

2 Because for the benefit of those who are not
3 lawyers, if we deny relief, a person cannot come back before
4 our board seeking that relief for two years unless they come
5 back with something that -- substantially different, I
6 forget what the words are, and we have to go through a
7 process where the board decides and the Planning Board
8 decides it's substantially different. Then we will take up
9 this substantially-different plan.

10 So --

11 JANET GREEN: Could they actually do -- I mean, we
12 were talking about going in the back room, we are talking
13 about other people going in, but if they went in the back
14 room and saw if they could figure out something that would
15 satisfy this, i.e. only having three parking spaces or
16 something like that, could that then get included in
17 tonight?

18 CONSTANTINE ALEXANDER: If they want to try and
19 the neighbors want to sit down --

20 LAURA WARNICK: Not with neighbor just --

21 JANET GREEN: Well, not with the neighbors, just
22 these --

1 CONSTANTINE ALEXANDER: The three?

2 JANET GREEN: Yeah, just the three of them.

3 CONSTANTINE ALEXANDER: Do you want to continue?

4 We can continue -- not continue, take a recess for this
5 case, hear other cases, and you can come back and you'll get
6 a chance to think about it and talk about it among
7 yourselves.

8 WILLIAM SENNE: Is the adjustment to the paving
9 surface, is that --

10 CONSTANTINE ALEXANDER: I'm sorry. Again, you've
11 got to --

12 WILLIAM SENNE: Will adjusting the paving surface
13 as we discussed before sway --

14 CONSTANTINE ALEXANDER: For my vote, no.

15 WILLIAM SENNE: Okay.

16 CONSTANTINE ALEXANDER: It's good, but.

17 WILLIAM SENNE: I just wanted to clarify.

18 ANDREA HICKEY: From -- not from me --

19 WILLIAM SENNE: Not from you?

20 ANDREA HICKEY: -- either. Yeah.

21 And you need four votes for --

22 CONSTANTINE ALEXANDER: Yeah, it needs four votes.

1 So if Andrea and I vote as we're just talking, you are not
2 going to get relief from parking.

3 ATTORNEY SEAN HOPE: So I think the idea is if the
4 paving surfaces is not going to move the two dissenters, we
5 have looked at the configuration often enough. I don't
6 think we are going to be able to figure out a four parking
7 scenario that doesn't require relief.

8 CONSTANTINE ALEXANDER: Well, then we're back
9 where we started.

10 JANET GREEN: And you won't do three or something
11 like that.

12 CONSTANTINE ALEXANDER: You want to take our
13 votes?

14 Unless there is any further discussion, I am going
15 to make some motions.

16 ATTORNEY SEAN HOPE: Yeah. I just -- for the
17 benefit of the petitioner, I just want to understand the
18 implication. So if you vote on the Special Permit and you
19 deny this Special Permit, the project can still be built but
20 you would not be able to have -- this is a question. You
21 wouldn't be able to have that fourth parking spot. You'd be
22 essentially --

1 CONSTANTINE ALEXANDER: You would be able to have
2 whatever parking you can have that's not closer than the
3 parking area.

4 ATTORNEY SEAN HOPE: Right.

5 (Crosstalk)

6 CONSTANTINE ALEXANDER: You can do -- go ahead
7 with your project.

8 ANDREA HICKEY: Right.

9 CONSTANTINE ALEXANDER: Like I said before, this
10 is just an -- it's important --

11 ATTORNEY SEAN HOPE: Yeah.

12 CONSTANTINE ALEXANDER: Ancillary. We are not
13 talking about the concept of the structure.

14 ATTORNEY SEAN HOPE: Right. So -- and I think we
15 wouldn't be able to get a building permit to build four
16 units because we wouldn't have --

17 CONSTANTINE ALEXANDER: You'll have to come back.
18 That's the point. You have to come back and get relief, a
19 Special Permit to reduce the number of parking units,
20 parking spaces to four even though you are going to have
21 five units. No, it would be four.

22 JANET GREEN: It would be three.

1 CONSTANTINE ALEXANDER: Yeah. I'm sorry.

2 ANDREA HICKEY: Three from four.

3 CONSTANTINE ALEXANDER: -- three.

4 ATTORNEY SEAN HOPE: Would that be considered an
5 alternate petition?

6 CONSTANTINE ALEXANDER: Yeah. That would be a
7 separate petition.

8 ATTORNEY SEAN HOPE: Right.

9 CONSTANTINE ALEXANDER: But it would limited to
10 that, you would have the right to do the structure, and you
11 would have the right to the basement space, et cetera.

12 ATTORNEY SEAN HOPE: We would have to come to the
13 process.

14 CONSTANTINE ALEXANDER: Exactly. It's a different
15 relief.

16 WILLIAM SENNE: If I might, I really haven't said
17 very much tonight, but I feel like it's worth saying. I
18 think that what, you know, what the Board is suggesting
19 right now is that the Board has a preference for
20 three -- for only three spaces on the site for a four-unit
21 project, which is consistent with one neighbor.

22 The Ordinance does require one parking space off-

1 site per unit, and we have every other neighbor preferring
2 that. So I do think it's sort of an awkward thing to be --

3 CONSTANTINE ALEXANDER: Let me respond to that.

4 THE REPORTER: Can you first please provide your
5 name?

6 WILLIAM SENNE: William Senne.

7 CONSTANTINE ALEXANDER: -- and Mr. Hope has done
8 it a number of times, people coming in and seeking relief on
9 parking. I have to have three parking spaces, I only have
10 two. And there's a Special Permit process for that. And
11 the City has encouraged us to not -- to make parking more
12 difficult so that people may not use their cars as much.
13 That's the philosophy. Right or wrong, that's the
14 philosophy.

15 But it's not an unusual situation for us to hear a
16 case where someone comes and wants relief from having to
17 have one parking space for every dwelling unit. So this is
18 not unusual. We are not trying to penalize you or doing
19 some that's unusual.

20 WILLIAM SENNE: If I could rebut that a little
21 bit. I do not think that having a parking space for that
22 unit is a market question or a marketability question for

1 this unit. It is the result of many months and many
2 meetings with the neighborhood that overwhelmingly prefers
3 to have one parking space per unit.

4 CONSTANTINE ALEXANDER: All right. Thank you for
5 your comment.

6 Now we are ready to a vote, a vote. Okay. Let's
7 start with the Variance. The Chairman will make the
8 following finding with regard to the Variances being sought
9 that a literal enforcement of provisions of the Ordinance
10 would involve a substantial hardship, such hardship being
11 this is an older structure that requires some modification
12 to convert it to housing that doesn't -- of a sort that is
13 contemplated by the petitioner. And this would be true of
14 anything who wants, excuse me, to develop this property.

15 The hardship is owing to the -- basically the
16 shape of the lot and the fact this is already a
17 nonconforming structure so that any relief requires zoning
18 relief and the relief may be granted without substantial
19 detriment to the public good or nullifying or substantially
20 derogating from the intent and purpose of the Ordinance.

21 In this regard, the Chair would take into account
22 and this Board takes into account the support of the

1 Cambridge Historical Commission about preserving a
2 historical structure, that there is neighborhood support
3 with regard to the structure unanimously. The neighborhood
4 support it would seem with regard to the structure itself
5 and the Variances all relate to the structure.

6 So on the basis of these findings, the Chair moves
7 we grant the Variance being sought -- where are the
8 plans -- subject -- yeah. Thank you -- on the condition
9 that the work proceed in accordance with plans prepared by
10 Boyes Watson Architects, the first page which has been
11 initialled by the Chair and which has been dated -- it looks
12 like February 11 of this year.

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

14 Five in favor. The Variance has been granted.

15 (Alexander, Sullivan, Green, Monteverde, Warnick)

16

17 CONSTANTINE ALEXANDER: Let's turn to the Special
18 Permits. Here we go. I'll get it yet.

19 Can I borrow your -- thank you.

20 The Chair moves to make the following findings
21 with regard to the Special Permit being requested regarding
22 exemption of basement-level gross floor area and relocating

1 and creating new openings on the nonconforming -- on a
2 nonconforming face, just those two items.

3 With regard to these requests of Special Permits,
4 the Chair moves to make the following findings: That the
5 requirements of the Ordinance cannot be met without the
6 Special Permit being sought; that traffic generated or
7 patterns of access or egress resulting from this relief they
8 are seeking will not cause congestion, hazard, or
9 substantial change in established neighborhood character;
10 that the continued operation or development of adjacent uses
11 as permitted in the zoning ordinance would not be adversely
12 affected by what is being proposed; no nuisance or hazard
13 will be created to the detriment of the health, safety,
14 and/or welfare of the occupant, other proposed use or the
15 citizens of the city; and that generally what is being
16 proposed with regard to these Special Permits will not
17 impair the integrity of the district or adjoining district
18 or otherwise derogate the intent and purpose of the
19 Ordinance.

20 And with regard to all these items that we have
21 been talking about is taking basement space which is already
22 buildable and just, if you will, and just getting this

1 Special Permit to make the numbers with regard to the
2 Variance appear better, which is fine. And that the regard
3 to the openings that are being requested, that there's been
4 no impact on the neighborhood as witnessed by the testimony
5 that we have received.

6 So on the basis of all these findings, the Board
7 moves to grant the Special Permit requested on the condition
8 that the work proceed in accordance with the very same plans
9 identified with regard to the Variance.

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

11 Five in favor. That Special Permit's been
12 granted.

13 (Alexander, Sullivan, Green, Monteverde, Warnick)

14

15 CONSTANTINE ALEXANDER: Now let's turn to the
16 Special Permit with regard to the -- I want to get the
17 words. With regard to the parking driveway setback
18 requirements, the Chair moves that we make the following
19 findings with regard to these items: That the requirements
20 of the Ordinance cannot be met unless we grant the Special
21 Permit regarding parking; that traffic generated or patterns
22 of access or egress will not cause congestion, hazard, or

1 substantial change in established neighborhood character;
2 that the continued operation or development of adjacent uses
3 as permitted in the Ordinance will not be adversely affected
4 by the nature of what are proposed; that no nuisance or
5 hazard will be created to the detriment of the health,
6 safety, and welfare of the occupant of the proposed use or
7 the citizens of the city; and that generally what is being
8 proposed with regard to these parking setbacks will not
9 impair the integrity of the district or adjoining district
10 or otherwise delegate the intent and purpose of the source.

11 So on the basis of all of these findings, the
12 Chair moves that we grant the Special Permit regarding
13 parking setbacks again on the conditions that were received
14 in accordance with the plans identified in connection with
15 the granting of the Variance.

16 All those in favor of approving this Special
17 Permit, please say, "Aye." Three in favor.

18 Opposed? Two opposed. You need four for relief.
19 The relief has been denied for the Special Permit for
20 parking.

21 And, for the record, Andrea and I, we have to
22 specify why we voted against, and I would suggest that we

1 voted against because it's going to have an adverse effect
2 on adjacent uses permitted by the Ordinance if we allow the
3 three -- the parking too close to the side lot line and that
4 there will be -- well, it's mainly that. It's the impact on
5 the adjacent uses that will result from the parking being
6 too close to the lot line and potentially at least adversely
7 affecting the greenery on that lot line.

8 You want to --

9 ANDREA HICKEY: No. I concur.

10 CONSTANTINE ALEXANDER: Well, all those in favor
11 on that? Two in favor. The case is over.

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1 CONSTANTINE ALEXANDER: Very briefly, with your
2 permission, Mr. Hope, I am going to take the two continued
3 cases collectively, a general call.

4 The Chair will call Case Number 017044 and 017057,
5 both of which involve 74 Oxford Street.

6 Do I assume I have a motion to withdraw? Okay.
7 All those in favor of accepting the request of withdrawal?

8 Five in favor. Withdrawn.

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1 CONSTANTINE ALEXANDER: Excuse me. We're going
2 to -- I want to -- before we leave the room, we are going to
3 have further discussion on one aspect of this case, the 74
4 Oxford Street.

5 The Chair had indicated that -- thank you -- of
6 the two continued cases that the petitioner was going to
7 withdraw both of those cases. The petitioner has requested
8 not to withdraw one of the two continued cases. So -- and
9 that's the original one that was brought, which was the one
10 that convert a nonconforming multi-family dwelling
11 containing five dwelling units and four border units into a
12 nine-unit development. They want to preserve their rights
13 with regard to that. Now, that doesn't mean we are going to
14 grant relief, but -- on this proposal, but they have a right
15 to continue it. We'll do it for a month from now, on May
16 16.

17 Did I get it right?

18 MARIA PACHECO: Yeah. I'm a little lost here. Is
19 this the first initial case from 2018?

20 WILLIAM SENNE: Yes.

21 MARIA PACHECO: The 017044.

22 CONSTANTINE ALEXANDER: Yeah.

1 MARIA PACHECO: Okay.

2 CONSTANTINE ALEXANDER: Do we have room on the
3 sixteenth?

4 MARIA PACHECO: Yeah.

5 CONSTANTINE ALEXANDER: Okay. The Chair moves
6 that -- well, first of all, we accept the request -- we
7 voted already. The Chair moves that we request the
8 proffered withdrawal of the application regarding the number
9 017044.

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

11 Five in favor. So that case is live.

12 Now we've got a continuance, which you are not
13 ready to do tonight, obviously.

14 So the Chair moves that we continue this case as a
15 case not heard until 7:00 p.m. on May 16, subject to the
16 following conditions: One, that you sign a waiver of time
17 for decision. You've done that already, so that's taken
18 care of. Two, that the posting sign, which you have
19 maintained, must be modified or new one obtained to reflect
20 the new date, May 16, and the new time, 7:00 p.m. And
21 that's got to be maintained for the 14 days prior to the May
22 16 hearing.

1 And, last, to the extent that you want to submit
2 or plan to submit revised plans with regard to this project
3 from that which has already been filed, that these plans and
4 any modified dimensional form must be in our files no later
5 than 5:00 p.m. on the Monday before May 16.

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

7 Five in favor, so that case is alive.

8 WILLIAM SENNE: Thank you.

9 CONSTANTINE ALEXANDER: And the other case, you
10 have your appeal rights. Whatever you want to do.

11 WILLIAM SENNE: Okay.

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1 (9:27 p.m.)

2 Sitting Members: Constantine Alexander, Brendan Sullivan,
3 Janet Green, Andrea A. Hickey,
4 and Laura Warnick

5 CONSTANTINE ALEXANDER: All right. The Chair will
6 call Case Number 017084, 45 Francis Avenue.

7 Anyone here want to speak on that?

8 ALEXANDRA OFFIONG: Yes.

9 PHILIP CHEN: Yes, please.

10 CONSTANTINE ALEXANDER: Welcome again. Thank you.
11 You've been here before. You know the drill.

12 ALEXANDRA OFFIONG: Yes, we do.

13 Good evening.

14 CONSTANTINE ALEXANDER: Good evening.

15 ALEXANDRA OFFIONG: My name is Alexandra Offiong.

16 I am here on behalf of Harvard University, Harvard
17 Divinity School, and we are here to seek the Board's
18 approval for the renewal of Andover Hall.

19 We have prepared a handout which mirrors our
20 zoning application but has some different information that
21 we were hoping to quickly go through just to provide a brief
22 summary of the project, if we could.

1 PHILIP CHEN: My name is Philip Chen. I am the
2 principal with Ann Beha Architects, and we are the
3 architects for the project.

4 ALEXANDRA OFFIONG: Okay. So the project at
5 Andover Hall is largely a renovation, but it also includes a
6 small two-story addition that will result in a net gain of
7 approximately 3,279 square feet of gross floor area.

8 So the intent of this project is to breathe new
9 life into a turn-of-the-century academic building that will
10 allow it to serve our twenty-first century divinity
11 educational needs while preserving its historic integrity.
12 So how are we going to do that? It's going to be through
13 providing enhanced teaching and student life spaces, through
14 addressing different maintenance requirements, and through
15 making it more sustainable and more energy efficient.

16 So to facilitate this project, we will require
17 zoning relief in two areas. One is that we will require
18 relief for FAR. We are seeking a minor Variance to increase
19 the FAR from .89 to .90. That's a one-percent increase.
20 And, also, the building, Andover Hall, built in 1911
21 originally is a nonconforming building, so we are seeking
22 relief under Article 8.

1 In the past months, Harvard has appeared at
2 multiple meetings with the Agassiz Baldwin Neighborhood
3 Council to discuss the project. We have also consulted with
4 various City departments including Historical Community
5 Development, Public Works, and Inspectional Services.

6 So to going to the handout, we just want to orient
7 you. The project is at the Divinity School, which is in the
8 northeast corner of Harvard's campus in Cambridge. You can
9 go to the next page. So zooming in, Andover Hall you can
10 see is in the context of the Harvard Divinity School campus,
11 which is outlined with the green hatched outline. So
12 Andover Hall is truly the central building on the campus.
13 It's both programmatically central as the center of teaching
14 and student life, and it's also locationally central.

15 So the approach to this project, it began with the
16 university's campus planning principals, which all of our
17 projects at Harvard begin with. That really seeked to
18 promote a coherent and sustainable and inspiring campus.
19 And over the past two decades, the Harvard Divinity School
20 has done a lot of excellent projects, renovation projects
21 that have proven to be -- they've been an excellent steward
22 of their campus. Most notably, there's been a significant

1 landscape transformation. What was once a 200-car surface
2 parking garage -- a parking lot, excuse me, is now a lush
3 campus green with 120 new trees. And so that's sort of the
4 context within which we sit for this project. You can go to
5 the next one.

6 So Harvard Divinity School was founded over 200
7 years ago. And the original mission was one that was -- it
8 was a Christian non-denominational school that trained men
9 for ministry. Flash to today, the mission has evolved quite
10 significantly. Now it has a global and multi-faith
11 perspective along with its Christian heritage. It trains
12 students for a much broader intellectual leadership
13 professional service and ministry. And, finally, it has a
14 different learning style that's much more collaborative, and
15 it requires a lot more broad interactions.

16 So what we are trying to do is bring the building
17 to meet the mission, to bring it -- to address actually two
18 key objectives. One is with the programmatic. Currently,
19 the building does not -- it's inadequate to meet the current
20 mission, and there are unmet programmatic needs, which
21 include a multi-faith space, it includes common spaces. We
22 need enhanced teaching spaces as well as a multi-purpose

1 space.

2 Additionally, the building originally built in
3 1911 has never been comprehensively renovated, and there is
4 significant deferred maintenance. So part of the project is
5 also about introducing new fire protections, updated
6 building systems, repairing the envelope, et cetera. So
7 those are the two key objectives.

8 So when we think about those programmatic
9 requirements, we ask why do they have to be, why must they
10 be in Andover Hall. So Andover Hall since the Divinity
11 School acquired the building in 1930 --

12 PHILIP CHEN: Five.

13 ALEXANDRA OFFIONG: -- five, thank you, it has
14 been the center of teaching and student life, and it remains
15 that today. And those programmatic elements must be in
16 them. To serve the purpose, they have to be in the center
17 of student life.

18 I am going to hand it over to Philip to take you
19 through the specifics of the project.

20 PHILIP CHEN: So as Alexandra first stated, the
21 project really begins with the renewal of Andover Hall. And
22 so we will be dealing with a lot of deferred maintenance,

1 restoration of the exterior, as well as many historic
2 interiors and the building systems renewal for
3 sustainability and to meet new requirements.

4 So how do we do this? Well, the first thing that
5 we did is we looked at the existing building and were able
6 to maximize the utilization of the existing historic
7 building. We were able to do that really with three ways.
8 The first is to move some of the library collections off-
9 site. So we were able to gain some space by moving
10 collections off-site in a much larger strategic initiative
11 in terms of maximizing the library use there.

12 The second thing we did was with the special
13 collections that are remaining on-site we are able to use
14 compound storage. So we are able to, you know, store more
15 collections in a smaller amount of space. And the third
16 thing that we were able to do is take a look at some of the
17 existing mechanical spaces, new efficient equipment able to
18 maximize the use of mechanical space. So in doing -- in
19 those three things, we're able to free up about 16,000
20 square feet in the existing building itself. So that goes a
21 long way to accommodating this new program.

22 And then when I look at the site plan, what we

1 were able to do is take advantage of an existing, which I'll
2 show you, an existing addition that was made in 2000. So
3 the location of this increase of space happens -- it's
4 replacing the addition that was made in 2000 -- of 2001. So
5 by freeing up all the space inside the building, by taking
6 advantage of the location of the pre-- you know, the
7 addition that was made in 2000, we're able to accommodate
8 this new program in this space.

9 Now, this space is advantageous because it's also
10 at the center of the building, the center of all the
11 functions. It also makes the least impact to the historic
12 elevations of the building and makes the least impact of the
13 neighborhood. It's not able to be seen from Francis Avenue,
14 and there is a 250-foot setback from Museum Street. And you
15 can see on this page here where the outline of the existing
16 building is, that's the addition, the 2000 addition and
17 where the new addition is.

18 And so you can see on here, on this page, what the
19 2001 addition looks like. So this new addition will take
20 the place of that. And what you see in this rendering is
21 that this new addition will contain the multi-purpose space
22 on the upper level. And on the ground level, which you

1 enter from the terrace, will be the new commons. It's also
2 really going to become the front door for Andover Hall. It
3 will be completely accessible. So there will be a new front
4 door accessible to Andover Hall. And if you look at the
5 full page rendering here, then you see this addition in
6 context. Along with this project, this addition project,
7 there will also be an enhanced landscape.

8 And so continuing the work that has been done by
9 HDS in the past, this green space will be not only
10 preserved, it will be enhanced. So you can see here in this
11 tree-planting plan that we are going to be adding 27 new
12 trees around the Andover campus not only here in this new
13 terrace which leads to the entrance but all really around
14 the Andover Hall campus.

15 And you can see also in this plan that we are
16 going to be increasing the diversity species on trees. And
17 you can see here they are, you know, cedar of Lebanon.
18 There is different -- you know, gingko, sassafras. So we
19 are also -- not only are we going to be adding 27 more
20 trees, we are going to be increasing the number of species
21 and diversity on the site.

22 ALEXANDRA OFFIONG: So to get back to the zoning

1 request, as I mentioned before, there are two areas of
2 relief with the FAR. Again, it's going from a .89 to a .90.
3 It's in a residence A2 district, which is located within the
4 institutional overlay district.

5 You can see there's some thumbnail sketches here
6 that show that there are several areas within the building
7 where there are net new areas of GFA within the envelope.
8 Tonight we focused on the small addition. That actually
9 goes a little bit outside of the envelope. But, overall,
10 the net gain is about 3200 square feet. And then, secondly,
11 as I mentioned, it's also a nonconforming building.

12 So in conclusion, we just wanted to remind the
13 Board that there are tremendous positive outcomes with the
14 project, that, first and foremost, it will really support
15 the intellectual life of the school and the university, and
16 it also will provide a new community space that we host
17 programs regularly that are free, open to the public, and
18 address very important issues for the world.

19 From a building perspective, this is a project
20 that requires a minimal footprint. It improves the facade
21 design. It invests in a historic building, and it results
22 in an improved landscape and in a more sustainable building.

1 So we hope you agree.

2 CONSTANTINE ALEXANDER: Thank you.

3 Questions from members of the Board?

4 LAURA WARNICK: I think this is a really nice
5 addition. I just have really tiny questions because I can't
6 read the writing on the print.

7 I just have really tiny questions. I'm looking
8 at page 11, the section through the proposed and the -- I
9 don't know if they are dormer-type construction or what
10 exactly is proposed along the roof -- along the --

11 PHILIP CHEN: Of the addition?

12 LAURA WARNICK: Of the addition.

13 PHILIP CHEN: That's the existing roof behind
14 there.

15 LAURA WARNICK: There are two red boxes circled in
16 the little sketch here.

17 PHILIP CHEN: Oh, oh. Sorry, sorry.

18 LAURA WARNICK: And of this section.

19 PHILIP CHEN: So one is for an elevator. One is
20 for an elevator overrun, and the other one is for a new
21 mechanical room. And so we are moving these existing sky
22 lights here, and it is behind the addition. You don't see

1 it in the perspective, but there will be two.

2 LAURA WARNICK: And are they higher than
3 the -- they are higher than the roof of the new addition; is
4 that right?

5 PHILIP CHEN: They are higher. They are at
6 the -- the addition, if you look at that photo, the addition
7 doesn't go up to the level of the existing roof. It's below
8 35 feet.

9 LAURA WARNICK: I'm looking at the proposed.

10 PHILIP CHEN: Right.

11 LAURA WARNICK: Yeah.

12 PHILIP CHEN: Yeah. The proposed does not go up
13 to the level --

14 LAURA WARNICK: Okay.

15 PHILIP CHEN: -- of the existing roof.

16 LAURA WARNICK: Okay.

17 PHILIP CHEN: So those new dormers are on the
18 existing roof. So they are above the addition.

19 LAURA WARNICK: Okay. Okay. I see.

20 JANET GREEN: So the back of the building is going
21 to become the front door?

22 PHILIP CHEN: Well, it is, in fact, right now, as

1 Alexandra pointed out, this is the central building on the
2 campus' building. So in reality, a lot of the students and
3 faculty that are coming from Divinity Hall come around this
4 side through the campus green. So this will become the -- I
5 think the most by the HDS community the most-used entrance.

6 ALEXANDRA OFFIONG: But we should note that the
7 other entrances are remaining, so there will still be other
8 entry points from the north and the east and the south. So
9 we --

10 JANET GREEN: I was thinking of people who weren't
11 the students, but so many people come from programs from
12 there and they come and they park and they walk right up to
13 the front of the building.

14 PHILIP CHEN: Yes. And that entrance will remain.
15 Right now we are preserving the historic entrance from
16 Francis Avenue. There is also a historic entrance from this
17 campus green. We are creating a new accessible entrance
18 from the south and this new accessible entrance here. So
19 there will also be an accessible entrance from the north.

20 So what we are trying to do is provide
21 accessibility all around. But we do think that this will be
22 the major entrance to the building. It's also where the

1 commons are. This is where the large multi-purpose space
2 is. People who come to classrooms will probably also use
3 this entrance.

4 JANET GREEN: The reason I ask about all the
5 people who come down looking for the entrance is because I
6 live on that street and --

7 PHILIP CHEN: On Francis?

8 JANET GREEN: Yeah. So I see the people who come
9 there, and there are so many of them. And to have the front
10 door in the back, it seems to me you are going to -- this is
11 just a non-question about this, but you are going to need a
12 lot of signage.

13 PHILIP CHEN: Signage, yes.

14 JANET GREEN: Yeah.

15 PHILIP CHEN: Yes. Definitely.

16 ALEXANDRA OFFIONG: Conforming signage.

17 JANET GREEN: Yeah, right. Good point.

18 CONSTANTINE ALEXANDER: Anyone else have any
19 comments at this point?

20 JANET GREEN: No.

21 CONSTANTINE ALEXANDER: I'll open the matter up to
22 public testimony. Does anyone here wish to be heard on this

1 matter?

2 Sir.

3 FRED MEYER: Fred Meyer, 83 Hammond. We had a
4 meeting of the Agassiz Neighborhood Council. No objection
5 whatsoever to the building. As you can imagine, there was a
6 lot of concern about a tree that had to be removed, but
7 Harvard removed it for good reason. They had an excellent
8 arborist who certified it was in very weak condition.

9 I'd like to answer this lady's concern about why
10 the back door. It's a historic reason. Harvard did not
11 build this building. It was built by an independent
12 institution that's the first graduate school in the nation,
13 Andover Theological Seminary. And it deliberately faced the
14 building away from Harvard because it was a congregational
15 institution that was suspicious of the growing unitarian
16 influence at Harvard. So it was literally turning its back
17 entrance to Harvard. So Harvard after it bought the
18 building preserved it quite beautifully, but the students
19 now think of the front entrance as what will, in fact, will
20 become the main entrance now. So that's the reason.

21 I have to tell you one other historic fact that
22 might interest you. When Andover built that building, there

1 are two wings. And the two wings are a two-story structure
2 above a basement structure. And those are exact copies of
3 the Puritan Chapel at the University of Cambridge, which is
4 where Massachusetts and Connecticut began. It was a
5 monastery in -- before the Church of England era and after
6 the Henry the VIII and the change to the Church of England,
7 the monastery that outlawed the monasteries. So they were
8 falling into ruin.

9 And the Puritan leader of the university of
10 Cambridge said we will take this building and make the
11 dining room into our chapel. And the Puritans liked a
12 simple room like a dining room. At the same time, a
13 magnificent Anglican cathedral was built, but the Puritans
14 didn't want that. So that's the reason.

15 And the other benefit of this building is related
16 to this because the original Andover Hall had just a little
17 wing that turned the corner at the back, and it was all
18 granite. This later addition is, frankly, quite ugly, and
19 this is an improvement that unifies the building. But it's
20 a very interesting story.

21 And one other angle, Andover Theological Seminary
22 moved, and that's why it sold the building. It moved to

1 Newton to merge with a Baptist seminary becoming Andover
2 Newton. It now has moved to Yale where it is an independent
3 institution. But it is expected that eventually the two
4 will totally merge. And when that happens, Harvard remains
5 the oldest college, but my university, Yale, becomes the
6 oldest university in the country. Because Harvard
7 originally granted only a BA degree to its ministers, and
8 this was the first graduate degree.

9 I still live two blocks from this building. I was
10 a student at Divinity School myself for a couple years in
11 the 1960s.

12 CONSTANTINE ALEXANDER: Thank you.

13 FRED MEYER: This is a marvelous improvement.

14 CONSTANTINE ALEXANDER: Thank you.

15 Anyone else who wishes to be heard on this matter?
16 Apparently not.

17 We have many, many letters of support including
18 one I have to point out from the Director of Religious and
19 Spiritual Life at Amherst College. So not exactly an
20 abutter but, nevertheless, someone who is in support.

21 I will close public testimony. I didn't see any
22 letters of opposition, I should point out.

1 So are you ready for a vote?

2 ANDREA WARNICK: Yes.

3 CONSTANTINE ALEXANDER: The Chair moves that we
4 make the following findings with regard to the Variances
5 being sought: That a literal enforcement of the provisions
6 of the Ordinance would involve a substantial hardship. The
7 hardship being is that this is a campus and a structure and
8 the subject of this Variance request that's been around for
9 many, many years. It's presumably going to be around for
10 many, many more years. And if they are going to be able to
11 maintain contemporary educational rapport and an
12 environment, a project of this sort is entirely necessary.

13 But the hardship is owing to the fact this is
14 already a nonconforming structure, so any modification
15 requires zoning relief and that substantial relief may be
16 granted without substantial detriment to the public good or
17 nullifying or substantially derogating the intent and
18 purpose of the Ordinance. This regard is -- this project
19 will allow the Divinity School to thrive as it works toward
20 its next century of existence and is a necessary step in the
21 progress of the school and the maintaining an adequate
22 environment toward the course offerings.

1 So on the basis of all these findings, the Chair
2 moves to grant the Variance requested on the condition that
3 the work proceed in accordance with materials and title the
4 Andover Hall Renewal Project for Harvard Divinity School
5 dated April 2019, the first page of which has been
6 initialled by the Chair.

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

8 Five in favor. The Variance granted.

9 ALEXANDRA OFFIONG: Thank you very much.

10 ANDREA HICKEY: Thank you.

11 * * * * *

12 CONSTANTINE ALEXANDER: We are going to take a
13 brief recess, very brief, and then we are going to start
14 again.

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1 (9:56 p.m.)

2 Sitting Members: Constantine Alexander, Brendan Sullivan,
3 Janet Green, Andrea A. Hickey,
4 and Laura Warnick

5 CONSTANTINE ALEXANDER: Are you ready to proceed?

6 BOARD MEMBER: Yes.

7 CONSTANTINE ALEXANDER: Okay. The Chair will call
8 Case Number 017087, 1350 Massachusetts Avenue.

9 Anyone here wish to be heard on this matter?

10 ART KREIGER: Yes, we do wish to be heard.

11 CONSTANTINE ALEXANDER: All things being equal,
12 I'd rather see you at Symphony Hall than here.

13 ART KREIGER: Me, too.

14 CONSTANTINE ALEXANDER: We bumped into each other
15 at Symphony Hall on Sunday night.

16 JANET GREEN: Oh, is that right?

17 ART KREIGER: Me, too, but if -- I hope this is
18 less eventful than The Rite of Spring.

19 Good evening, members of the Board. Art Kreiger
20 from Anderson & Kreiger representing AT&T. With me is
21 Daniel Accard, site acquisition for AT&T, on two matters
22 that we are here on tonight. 1350 Mass Avenue is the one

1 that you have just called. Both of them are just equipment
2 upgrades on large buildings in nonresidential neighborhoods.
3 1350 Mass Ave you probably know. You may know them both,
4 but that one is particularly prominent. It's right outside
5 of Harvard Square. It's where the alum panel is. It's the
6 student center.

7 CONSTANTINE ALEXANDER: Why don't you hit the
8 photo simulation. It's the most important part of the
9 presentation I think, so.

10 ART KREIGER: I thought I would wait 30 seconds
11 before getting there, but at this time of night let's go
12 right there.

13 CONSTANTINE ALEXANDER: I'm sorry.

14 ART KREIGER: Let's go right to the photo sims.
15 You have them in front of you.

16 CONSTANTINE ALEXANDER: We have the file copy. Do
17 you have any extras with you?

18 ART KREIGER: I don't have a bunch of extras
19 tonight.

20 JANET GREEN: Oh, my goodness.

21 BRENDAN SULLIVAN: I've seen them.

22 CONSTANTINE ALEXANDER: I've seen them, too.

1 Anybody want to borrow mine or the file?

2 JANET GREEN: No.

3 ART KREIGER: Okay. All right.

4 CONSTANTINE ALEXANDER: Okay. We are all set.

5 ART KREIGER: All right. Well, these photo sims,
6 they are -- typically, there is an index page which shows
7 you the -- it shows you the locations from where the
8 simulations are taken.

9 Essentially, what this is about is there are
10 antennas on the facade of that building, which is the
11 highest building in the area. Harvard would like to get
12 the -- AT&T wants to upgrade the equipment, but in the
13 meantime Harvard wants to get the equipment off the facade.
14 It's just renovated the buildings. It thinks it would be
15 better for the integrity of the facade over time to put them
16 on the roof unenclosed to maintain a slimmer profile. And
17 because the building is higher than the surrounding
18 buildings, they are less visible there than on the facade.

19 So the photo sims show seven locations from
20 different sides in and out -- in and around Harvard Square.
21 And, as usual, they are not visible from certain locations,
22 minimally visible from the others. I don't know if you

1 would want --

2 CONSTANTINE ALEXANDER: Did you appear before the
3 Planning Board? Did you go --

4 ART KREIGER: This was not referred to the
5 Planning Board.

6 CONSTANTINE ALEXANDER: I'm sorry?

7 ART KREIGER: This was not -- did not go before
8 the Planning Board, neither this one nor the other one
9 you'll hear after have been before the Planning Board.

10 CONSTANTINE ALEXANDER: I didn't see any letters
11 in our file from the Planning Board. That was the reason I
12 asked.

13 ART KREIGER: No. That is why.

14 The one letter in your file that you do have,
15 which was filed today, was a letter from Susan Massey
16 (phonetic), also site acquisition, just not covering
17 tonight's hearing, relaying Harvard's request to get these
18 off the facade and put them up on the roof. Harvard was
19 requesting exactly what was done.

20 So you have this letter. I do have extra copies
21 of that. That was --

22 CONSTANTINE ALEXANDER: Why don't you give me that

1 one --

2 ART KREIGER: That was just submitted today.

3 MARIA PACHECO: It should be in there, Gus.

4 CONSTANTINE ALEXANDER: It's in there?

5 MARIA PACHECO: I think so.

6 CONSTANTINE ALEXANDER: It's already in there.

7 ART KREIGER: It should be, but I'm happy to --

8 CONSTANTINE ALEXANDER: Okay. I must have missed
9 it. Go ahead.

10 ART KREIGER: Okay. And we have e-mails from
11 Harvard, actually, expressing those preferences that were
12 then embodied in the letter. But if you are curious, you
13 know, whether the letter -- the basis of the letter, we have
14 e-mails from Harvard saying would you please supplement your
15 request by pointing out this, this, and this about our
16 position here. So that's what we have done.

17 If you don't all have the photo sims in front of
18 you, there's not much point in my walking through them in
19 detail, but, again, it's minimal changes.

20 CONSTANTINE ALEXANDER: We have all seen them, and
21 I think we all --

22 ART KREIGER: Yeah. It's --

1 CONSTANTINE ALEXANDER: -- agree with that --

2 ART KREIGER: Okay.

3 CONSTANTINE ALEXANDER: -- that conclusion, so.

4 ART KREIGER: So the usual two forms of relief we
5 are seeking in the alternative, which I am sure will be
6 subject to the usual condition that we have discussed, the
7 two forms of relief are the Special Permit and the Section
8 6409 finding that this is the -- that these are installable
9 as-of-right under federal law.

10 CONSTANTINE ALEXANDER: Okay. Questions from
11 members of the Board?

12 BOARD MEMBER: No.

13 CONSTANTINE ALEXANDER: Open the matter up for
14 public testimony. Is there anyone here wishing to be heard
15 on this matter?

16 Apparently not. Except for the letter you
17 referred to from Harvard making the request, there is no
18 correspondence in our file, no Planning Board memos or any
19 communication.

20 ART KREIGER: Just to clarify, the letter is from
21 AT&T's consultant --

22 CONSTANTINE ALEXANDER: Oh, I'm sorry.

1 ART KREIGER: -- reflecting Harvard's e-mails --

2 CONSTANTINE ALEXANDER: Okay.

3 ART KREIGER: -- its request.

4 CONSTANTINE ALEXANDER: I stand corrected. Thank
5 you.

6 So I'll close public testimony.

7 Are we ready for a vote?

8 BOARD MEMBER: Yes.

9 CONSTANTINE ALEXANDER: Okay. The Chair moves to
10 make the following findings. With regard to the relief
11 being sought, that the requirements of our orders cannot be
12 met unless we grant you this Special Permit, that traffic
13 generated or patterns of access and egress resulting from
14 what you are proposing will not cause congestion, hazard, or
15 a substantial change in established neighborhood character;
16 that the continued operation or development of adjacent uses
17 as permitted by our ordinance will not be adversely affected
18 by what is proposed; no nuisance or hazard will be created
19 to the detriment of the health, safety, and/or welfare of
20 the occupant of the proposed use or of the citizens of the
21 city; and that generally what is being proposed will not
22 impair the integrity of the district or adjoining districts

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

3 And with regard to all of these findings, the
4 Chair would note that this is the modification. The work
5 being proposed is very modest in nature. It is supported by
6 the owner of the building, Harvard University, and it will
7 improve communication, telecommunication for customers of
8 the petitioner.

9 Further, the Board also finds that the
10 modification of its existing telecommunication facility at
11 the site proposed by the petitioner does not substantially
12 change the physical dimensions of the existing wireless
13 tower or bay station at such facility within the meaning of
14 Section 6409(a) of the Middle Class Tax Relief and Job
15 Creation Act of 2012, also known as the Spectrum Act.

16 So based on these findings, the Chair moves that
17 the petitioner be granted the Special Permit it is seeking
18 subject to the following conditions: That the work proceed
19 in accordance with -- one, that the work proceed in
20 accordance with the plans submitted by the petitioner,
21 initialled by the Chair.

22 And that's in your package, and I have initialled

1 those.

2 ART KREIGER: Thank you.

3 CONSTANTINE ALEXANDER: Two, that upon completion
4 of the work, the physical appearance and visual impact of
5 the proposed work will be consistent with the photo
6 simulation submitted by the petitioner and initialled by the
7 Chair.

8 Again, I've done that.

9 Three, that the petitioner shall at all times
10 maintain the proposed work so that its physical appearance
11 and visual impact will remain consistent with the photo
12 simulations previously referred to; four, that should the
13 petitioner cease to utilize the equipment approved tonight
14 for a continuous period of six months or more, it shall
15 promptly thereafter remove such equipment and restore the
16 building on which it is located to its prior condition and
17 appearance to the extent reasonably practicable; and, five,
18 that the petitioner is in compliance with and will continue
19 to comply with in all respects the conditions imposed by
20 this Board with regard to previous Special Permits granted
21 to the petitioner with regard to the site in question.

22 And then we have our long set of further

1 hearing -- conditions regarding frequency waives. We have
2 got usual -- I can incorporate what was done in the past.

3 Do I have to read them into the record now?

4 ART KREIGER: You may incorporate them, and I'll
5 note my objection for the record --

6 CONSTANTINE ALEXANDER: And you are --

7 ART KREIGER: -- as usual.

8 CONSTANTINE ALEXANDER: Your objection will also
9 be incorporated as well.

10 ART KREIGER: Thank you.

11 CONSTANTINE ALEXANDER: All those in favor of
12 granting relief for this space say, "Aye."

13 Five in favor. Special Permit granted.

14 ART KREIGER: Thank you.

15 CONSTANTINE ALEXANDER: You are welcome.

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1 CONSTANTINE ALEXANDER: Okay. What's the other
2 case you have before us tonight?

3 BOARD MEMBER: Just skip down one I think.

4 ART KREIGER: Portland Street. It's --

5 CONSTANTINE ALEXANDER: Let's do that now
6 because -- everybody go back and forth.

7 ART KREIGER: Well, I just wasn't sure if you were
8 doing that.

9 CONSTANTINE ALEXANDER: No, no. Let's do it now.

10 ART KREIGER: Okay.

11 BOARD MEMBER: Which one is it?

12 (9:56 p.m.)

13 Sitting Members: Constantine Alexander, Brendan Sullivan,
14 Janet Green, Andrea A. Hickey,
15 and Laura Warnick

16 CONSTANTINE ALEXANDER: The Chair will call Case
17 Number 017082, 198 Broadway, also known as 141 Portland
18 Street.

19 ART KREIGER: Good evening again. Art Kreiger
20 from Anderson & Kreiger for AT&T; Dan Accard, site
21 acquisition with me. The owner of that property is Kendall
22 Square Realty. You've got Exhibit 1B on that.

1 Nonresidential neighborhood upgrade, even less intrusive
2 than the Mass Ave one we just did.

3 So turning to the photo sims, there are actually
4 insets in the photo sim pages that show the proposed
5 conditions because on the street view you can't tell the
6 difference. You can't find the change.

7 CONSTANTINE ALEXANDER: Right.

8 ART KREIGER: There are small antennas that are in
9 the various insets at location one. Some of them, they are
10 not visible from anywhere. Again, location four, a very
11 small inset. The exact equipment Dan can explain probably
12 better than I can if you need to. It's either new antennas
13 or radio head receivers or something that I don't think you
14 need the details of, but you are welcome to ask if you like.

15 The same two forms of relief are what we are
16 requesting. We think all the same conditions obtain. And
17 I'll leave it at that, unless you have questions.

18 CONSTANTINE ALEXANDER: Questions?

19 I'll open the matter up for public testimony.
20 Anyone here wish to be heard on this matter?

21 No one wishes to be heard, and I don't believe we
22 have any letters in our file. No, we don't. No Planning

1 Board communications since you did not appear before the
2 Planning Board.

3 ART KREIGER: Right.

4 CONSTANTINE ALEXANDER: Ready for a vote?

5 BOARD MEMBER: Yes.

6 CONSTANTINE ALEXANDER: The Chair moves to make
7 the following findings with regards to the relief being
8 sought; that the requirements of the Ordinance cannot be met
9 unless we grant you the Special Permit you are seeking; that
10 traffic generated or patterns of access or egress resulting
11 from what you are proposing will not cause congestion,
12 hazard, or substantial change in established neighborhood
13 character; that the continued operation of or development
14 of -- continued operation of or the development of adjacent
15 uses as permitted under the zoning ordinance will not be
16 adversely affected by the nature of the proposed use; no
17 nuisance or hazard will be created to the detriment of the
18 health, safety, and/or welfare of the occupant of the
19 proposed use or the citizens of the city; and that generally
20 what is being proposed will not impair the integrity of the
21 district or adjoining district or otherwise derogate the
22 intent and purpose of this ordinance.

1 With regard to all of these proposed findings, the
2 Chair would note that the relief being sought is extremely
3 modest in nature, particularly in terms of its visual impact
4 on the surrounding properties. It's not virtually
5 invisible, but it's very, very not visible at all. I don't
6 know if it's not very good language.

7 ART KREIGER: Inconspicuous maybe.

8 CONSTANTINE ALEXANDER: Further, the Chair moves
9 that we find that the modification of its existing
10 telecommunication facility at the site proposed by the
11 petitioner does not substantially change the physical
12 dimensions of the existing wireless tower or bay station at
13 such facility within the meaning of Section 6409(a) of the
14 Middle Class Tax Relief and Job Creation Act of 2012, also
15 known as the Spectrum Act.

16 So based on these findings, the Chair moves we
17 grant the petitioner the Special Permit it is seeking
18 subject to the following conditions: That the work proceed
19 in accordance with the plans submitted by the petitioner and
20 initialled by the Chair; that upon completion of the work,
21 the physical appearance and visual impact of the proposed
22 work will be consistent with the photo simulation submitted

1 by the petitioner and initialled by the Chair; that the
2 petitioner shall at all times maintain the proposed work so
3 that its physical appearance and visual impact will remain
4 consistent with the photo simulations previously referred
5 to; four, that should the petitioner cease to utilize the
6 equipment approved tonight for a continuous period of six
7 months or more, it shall promptly thereafter remove such
8 equipment and restore the building on which it is located to
9 its prior condition and appearance to the extent reasonably
10 practicable; and, five, that the petitioner is in compliance
11 with and will continue to comply with in all respects the
12 conditions imposed by this Board with regard to previous
13 Special Permits granted to the petitioner with regard to the
14 site in question.

15 And the next is the usual Spectrum Act stuff which
16 you will let me --

17 ART KREIGER: Yes.

18 CONSTANTINE ALEXANDER: -- incorporate, and I will
19 incorporate your standard objections.

20 ART KREIGER: Thank you.

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

1 (Aye.)

2 ART KREIGER: Thank you very much.

3 Can I also -- you made the requisite finding for
4 the Section 6409 relief that it's inconspicuous and doesn't
5 change the visual appearance, but I don't know that you
6 actually voted on that relief.

7 CONSTANTINE ALEXANDER: No, it's part -- I'm
8 sorry. I meant that to be part of all the other conditions.
9 When we voted --

10 ART KREIGER: Okay.

11 CONSTANTINE ALEXANDER: -- I recited that after
12 the standard conditions and then we took a vote.

13 ART KREIGER: Okay. So you consider you have
14 granted both forms of relief in both cases. Thank you very
15 much.

16 CONSTANTINE ALEXANDER: Thank you very much.

17 ART KREIGER: Thanks for all your patience with
18 everyone tonight.

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1 (10:10 p.m.)

2 Sitting Members: Constantine Alexander, Brendan Sullivan,
3 Janet Green, Andrea A. Hickey,
4 and Laura Warnick

5 CONSTANTINE ALEXANDER: The Chair will call Case
6 Number 017088, 22 Athens Street.

7 Anyone here wish to be heard in this matter?

8 ATTORNEY SARAH RHATIGAN: Good evening.

9 CONSTANTINE ALEXANDER: Good evening.

10 ATTORNEY SARAH RHATIGAN: Sarah Rhatigan, Trilogy
11 Law for the petitioners. And with us is -- Peter, can I
12 just say your name for the record? Peter Quin.

13 PETER QUIN: Peter Quin, Peter Quin Architects.

14 ATTORNEY SARAH RHATIGAN: This is Rebecca Price,
15 one of the owners, and Cara McKenna. And Rebecca Price's
16 name, I think you have the spelling as the petitioner owner,
17 and then Cara McKenna, the last name is spelled
18 M-c-K-e-n-n-a.

19 Correct?

20 And Cara with a C.

21 THE REPORTER: So your name is Sarah?

22 ATTORNEY SARAH RHATIGAN: My name is Sarah

1 Rhatigan.

2 THE REPORTER: And then?

3 REBECCA PRICE: Rebecca.

4 ATTORNEY SARAH RHATIGAN: This is Rebecca Price.

5 THE REPORTER: And then Peter?

6 PETER QUIN: Quin, Q-u-i-n.

7 ATTORNEY SARAH RHATIGAN: We are all set. Thank
8 you, members of the Board, for hearing our case this evening
9 and --

10 CONSTANTINE ALEXANDER: We had no choice.

11 ATTORNEY SARAH RHATIGAN: I know you don't have a
12 choice. I was looking for caffeine in the senior center and
13 didn't -- we came up short. And, of course, 1369 is closed
14 at this hour, but we'll do our best.

15 So we were discussing my client's history of
16 looking for a home in Cambridge, and they described that
17 their house hunt began in -- 2014 I think you said?

18 REBECCA PRICE: Yeah.

19 ATTORNEY SARAH RHATIGAN: Three-and-a-half years,
20 multiple bids. It took about nine months to actually close
21 on the purchase of this home. So, you know, we think we
22 should have a hardship just for purchasing a home in

1 Cambridge that would be suitable to live in.

2 The home that is the subject of this Variance
3 request at 22 Athens Street is located in a very nice
4 neighborhood just off of Harvard Square. I know that you
5 often drive by these homes before these hearings, so you
6 probably had a chance to see what condition the house is in.

7 CONSTANTINE ALEXANDER: Yeah.

8 ATTORNEY SARAH RHATIGAN: It's an interesting
9 house. Like historically, it's kind of neat-looking
10 although it's obviously in really terrible shape, and it's
11 been described as uninhabitable.

12 It's a two-unit home in a C1 district, and the
13 petitioners really want to maintain two units in the
14 building, but they do want to have a home that's kind of a
15 reasonable size for their family. The interesting thing
16 about the two units as they exist now, as you see the house
17 from Athens Street, it looks as if maybe it's a
18 side-by-side, you know, right/left apartment situation, but
19 it's actually -- the two entrances that you see are one
20 unit, and then the two entrances that are at the back of the
21 house or off the side of the terrace are the other unit. So
22 it's kind of like a house that's split in half the wrong

1 way, if you will. But the main issue is really the living
2 space. So the petitioners want to live in the first and
3 second floor, and they want to maintain an apartment.

4 CONSTANTINE ALEXANDER: Is there now a two-family?

5 ATTORNEY SARAH RHATIGAN: It's a two-family now.

6 Exactly. Yeah.

7 And so the work involves digging out the basement
8 a bit to have some ample head height, installing large
9 enough windows to allow some real light to what's a garden
10 level or a basement apartment, and also creating a new
11 access way to the basement apartment. That involves if you
12 are on Athens Street essentially steps down to enter
13 underneath the porch to the first-level entry.

14 So what one of the aspects of the zoning -- this
15 really affects two reasons for needing Variance relief. One
16 is that we understand that the Inspectional Services has
17 been treating retaining walls for window wells that are
18 larger than just the bare minimum size of three-by-three as
19 parts of the structure. And under that interpretation, the
20 retaining walls at the front of the house will be further
21 encroaching into the setback.

22 So, currently, the house sits back I think it's

1 11-and-a-half feet, something like that, 11 -- yeah, 11-and-
2 a-half feet back from the street. And the house is not
3 coming out any further. It's just that the window well
4 retaining walls will be within that setback with nice
5 landscaping and look quite beautiful.

6 The other issue from a zoning perspective that the
7 new entryway creates is that there is new floor area created
8 by the sunken area entrance is underneath the porch. And
9 because it's over four feet in height, it gets counted
10 towards floor area. I think there may be a small -- the
11 floor area that we are talking about is I think it's like 38
12 square feet of additional --

13 CONSTANTINE ALEXANDER: Additional.

14 ATTORNEY SARAH RHATIGAN: -- square feet.

15 CONSTANTINE ALEXANDER: Your form is 38 square
16 feet?

17 ATTORNEY SARAH RHATIGAN: Yeah. So it's very de
18 minimis.

19 The other changes -- two areas of change, one is
20 on the roof. The petitioners are putting the HVAC systems
21 up on the roof, and they'd like to have a full staircase up
22 to access the roof so that it's just easier to maintain and

1 to get up on that roof. They'd also like to have a roof
2 deck up there. The roof deck because it's at the second
3 floor, it doesn't count towards --

4 CONSTANTINE ALEXANDER: Yeah.

5 ATTORNEY SARAH RHATIGAN: -- floor area. It's
6 cited back from the front setbacks and the side setbacks
7 such that it's -- the roof deck itself is conforming.
8 Again, the Inspectional Services interpretation of the head
9 house potentially could be considered a feature that
10 requires a Variance, which is why we have called it out in
11 the application. My interpretation would be that it would
12 fall under an exemption for height because it's a -- sorry,
13 I should know this, this ordinance provision by heart, but
14 it's an appurtenance for mechanical --

15 PETER QUIN: Access.

16 ATTORNEY SARAH RHATIGAN: -- access. Thank you.

17 And I do have the particular ordinance cite in my
18 description for you, which I can't read without my glasses.
19 But, again, we call it out to the Board because we are
20 requesting the Variance for the other aspects of this work.
21 So to the extent that you agree that a Variance is required,
22 we are requesting that.

1 The third aspect of change that requires a
2 Variance is the changes to the location of the parking. So
3 for decades and decades there has been this very rudimentary
4 parking area at the what I call the back porch. And I think
5 we can see them on these photos. Let's see. I think you
6 can see it in -- sorry. The picture is a little dark here,
7 but you can see there is sort of these pavers here. And
8 this is historically where the previous owner parked a car
9 that was probably pretty small or maybe hung out into the
10 private way there.

11 JANET GREEN: So is that on Athens Terrace?

12 ATTORNEY SARAH RHATIGAN: This is on -- Exactly.
13 Yeah, yeah. Thank you. So this is a corner lot. So this
14 is off of Athens Terrace. And --

15 CONSTANTINE ALEXANDER: Because this is a corner
16 lot, this is going to be a front-yard parking.

17 ATTORNEY SARAH RHATIGAN: It's a front-yard
18 parking. Exactly. So it exists in the front yard. I mean,
19 it exists really out into the street probably. I mean, for
20 a normal-size car to park there and for the petitioners to
21 park there, their car would not fit very well.

22 So they have proposed parking that is in a more

1 compliant location. It's not perfectly conforming because
2 it is within the front yard setback, but it is set back a
3 little bit. And the proposal is to have a -- they are going
4 have a nice fence along the terrace with a sliding gate so
5 that they can get in and out. People won't see the car.
6 They'll be able to fully get a car off the private way.

7 And because of the entry to that newly-located
8 parking space, it actually allows for more parking along
9 their house, along Athens Terrace.

10 CONSTANTINE ALEXANDER: Well, as you know, we
11 usually don't look with favor on front-yard parking, but I
12 can't think --

13 ATTORNEY SARAH RHATIGAN: Correct.

14 CONSTANTINE ALEXANDER: -- of a case that is more
15 justified for technically front-yard parking than this does.

16 ATTORNEY SARAH RHATIGAN: I'm glad you agree,
17 because I had the same conversation with the petitioners as
18 we were looking at this. I said, well, gosh, it is still in
19 the front yard. And then the other aspect of this is if we
20 were to put the parking in a truly conforming location, we
21 would lose more of the yard.

22 THE COURT: Right.

1 ATTORNEY SARAH RHATIGAN: And we are already
2 breaking up --

3 CONSTANTINE ALEXANDER: Very tight.

4 ATTORNEY SARAH RHATIGAN: -- a very small yard
5 area. So it seemed like, you know, for the best of
6 everyone, it seemed like a good sort of compromise.

7 So just in terms of -- oh, the rear exit, yeah.
8 So that's the other -- the new rear exit for the basement
9 apartment results in the other additional portion of the
10 square footage.

11 CONSTANTINE ALEXANDER: Right.

12 ATTORNEY SARAH RHATIGAN: So I have mentioned it's
13 the total -- it's the same total square footage that we were
14 talking about before.

15 So in terms of, you know, of being a good case for
16 a hardship, I think that the unique aspects of the property,
17 of the structure and the lot are its corner location. The
18 house itself is unique in terms of the way the units are
19 laid out, unique in a bad way, frankly, because it's kind of
20 unusable. It certainly was unsellable as a, you know, a
21 fixer upper as a two-unit in its current configuration. And
22 the condition is really, really seriously deteriorated. So

1 to allow for, you know, a family to buy this and renovate it
2 and live there themselves and then also continue to maintain
3 what will be a small apartment but a nice apartment near
4 Harvard Square I think is a benefit obviously for them but
5 also for the community.

6 The changes that they are recommending are very,
7 very minor, very small, like very low impact on the
8 neighbors. There was quite a bit of outreach both sending a
9 letter around and some cookie delivery and some nice
10 response from the neighbors. So we have just a few -- like
11 literally I think the byline is thanks for the cookies, but
12 it --

13 CONSTANTINE ALEXANDER: You didn't bring a cookie
14 for us, though.

15 REBECCA PRICE: I really contemplated it,
16 actually.

17 ATTORNEY SARAH RHATIGAN: I told her she couldn't.

18 CONSTANTINE ALEXANDER: I joked with that once
19 with someone who wanted to start a pizza joint and he
20 delivered pizzas to us during the year and we gave him
21 relief. All of a sudden the deliveryman showed up with
22 several boxes of pizza, so.

1 ATTORNEY SARAH RHATIGAN: That's great.

2 This one, you can't quite see that it's part of a
3 chain of discussion but essentially --

4 CONSTANTINE ALEXANDER: Okay.

5 ATTORNEY SARAH RHATIGAN: -- a neighbor saying --

6 CONSTANTINE ALEXANDER: Anyway.

7 ATTORNEY SARAH RHATIGAN: -- that everything is
8 okay.

9 CONSTANTINE ALEXANDER: I'll leave them in the
10 file. These are all letters of support --

11 ATTORNEY SARAH RHATIGAN: They are.

12 CONSTANTINE ALEXANDER: -- for the relief you are
13 seeking.

14 ATTORNEY SARAH RHATIGAN: Yeah. And then we had a
15 text that was going to be a little hard to grab and send to
16 you, but there has been --

17 CONSTANTINE ALEXANDER: Okay.

18 ATTORNEY SARAH RHATIGAN: There has been support,
19 including from the neighbor immediately across the terrace
20 from us, you know, who would be, you know, impacted by, you
21 know, changes in parking situations.

22 And we have established I think our hardship and

1 we think that, you know, the changes will be an improvement.

2 CONSTANTINE ALEXANDER: And also the relief, the
3 second condition, if I could find it, is that the hardship
4 is owing to conditions relating to soil conditions, shape or
5 topography of the land or structure. In this case, you have
6 a nonconforming structure, so any --

7 ATTORNEY SARAH RHATIGAN: Yes.

8 CONSTANTINE ALEXANDER: -- modification is going
9 to require relief. And, in fact, the lot is small in
10 nature, and so it's an unusual piece of property,
11 particularly located as close as it is to Harvard -- the
12 heart of Harvard Square. So I think you need the second
13 condition.

14 And the third, it relates to that no substantial
15 detriment to the public good or nullifying or substantially
16 derogating the intent and purpose of the Ordinance. In
17 fact, it's not a detriment. This is a benefit to the
18 community in that we are going to take an older structure
19 located in a strategic location and make it much more
20 habitable for people to live, you and whoever your
21 successors may be.

22 ATTORNEY SARAH RHATIGAN: I just wanted to just

1 clarify one thing.

2 Rebecca, is the window you are thinking of on the
3 Terrace?

4 Front window -- there will be a window change on
5 the --

6 CONSTANTINE ALEXANDER: Are they reflected in the
7 plans?

8 ATTORNEY SARAH RHATIGAN: -- facade. It's
9 reflected in the plans --

10 CONSTANTINE ALEXANDER: Yeah.

11 ATTORNEY SARAH RHATIGAN: But you actually don't
12 need relief for that.

13 REBECCA PRICE: Oh, okay.

14 ATTORNEY SARAH RHATIGAN: Yeah.

15 PETER QUIN: It's facing the street.

16 ATTORNEY SARAH RHATIGAN: It's facing the street.
17 It's facing the street, so it's allowable without the
18 Special Permit.

19 CONSTANTINE ALEXANDER: Anything else?

20 ATTORNEY SARAH RHATIGAN: No. Thank you.

21 CONSTANTINE ALEXANDER: Questions from members of
22 the Board?

1 I'll open the matter up to public testimony. Is
2 there anyone here wishing to be heard on this matter?

3 Apparently not.

4 We have letters that you have given to us or put
5 in the file -- e-mails, actually, in support of your
6 project, so I think we are ready for a vote. Okay.

7 The Chair moves to make the following findings
8 with regard to the Variance being sought.

9 It's just a Variance. You don't have any Special
10 Permits, right? Yeah.

11 ATTORNEY SARAH RHATIGAN: Correct.

12 CONSTANTINE ALEXANDER: Just a Variance.

13 That a literal enforcement of the provisions of
14 the Ordinance would involve a substantial hardship, the
15 charge of being whoever owns this property needs to improve
16 it to make it habitable. So it's not just peculiar to your
17 own special needs, it's peculiar to the structure itself,
18 and that hardship is substantial if we left the property the
19 way it is right now.

20 The hardship is owing to the nature of the lot,
21 the size of the lot, and we have talked about this already,
22 and to the fact that this is already a nonconforming

1 structure, and, therefore, any modification requires zoning
2 relief and that relief may be granted without substantial
3 detriment to the public good or nullifying or substantially
4 derogating from the intent and purpose of this ordinance.
5 In that regard, again, we have mentioned, you are
6 taking -- you are improving the housing stock of the city by
7 renovating this house, which is, again, a strategic location
8 in terms of the Harvard Square area.

9 So the basis of all of these findings, the Chair
10 moves that we grant you this Special Permit you are
11 requesting on the conditions that the work proceed in
12 accordance as plans prepared by Peter Quin Architect --

13 ATTORNEY SARAH RHATIGAN: Excuse me. I'm sorry to
14 interrupt you. I think you said to grant the Special Permit
15 as opposed to grant --

16 CONSTANTINE ALEXANDER: I'm sorry.

17 ATTORNEY SARAH RHATIGAN: -- the Variance.

18 CONSTANTINE ALEXANDER: Variance. Thank you.

19 Thank you.

20 Plans prepared by Peter Quin Architects dated
21 April 5, 2019, the first page of which has been initialled
22 by the chair.

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

2 (Aye.)

3 CONSTANTINE ALEXANDER: Five in favor. Variance
4 granted.

5 PETER QUIN: Thank you.

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1 (10:26 p.m.)

2 Sitting Members: Constantine Alexander, Brendan Sullivan,
3 Janet Green, Andrea A. Hickey,
4 and Laura Warnick

5 CONSTANTINE ALEXANDER: The Chair will call Case
6 Number 017074, 402 Rindge Avenue.

7 Anyone here wish to be heard in this matter? Are
8 you all set? Okay.

9 CONSTANTINE ALEXANDER: All set. If they're set,
10 I'm set.

11 ATTORNEY SIMON BRIGHENTI: Good evening. It's not
12 good morning yet. It's still good evening. Okay. I'm
13 Attorney Simon Brighenti with Centerline Communications,
14 which is a representative here for AT&T and -- I'm sorry,
15 for Sprint. AT&T was your last one. And what --

16 BOARD MEMBER: I was going to say.

17 ATTORNEY SIMON BRIGHENTI: And what we are doing
18 is working with the building over at -- on Rindge Avenue,
19 one of the tall buildings over there. I guess it's one of
20 the top ten I think in Cambridge. It's within 30 feet of
21 being one of the tallest or the tallest.

22 And there is an existing facility up on top of the

1 building, and what we are doing is we are looking at
2 replacing three antennas that are there already with other
3 antennas that are slight smaller, and we are adding -- or
4 seeking to add three more antennas, one on each corner of
5 the building essentially and then swapping out some of the
6 equipment that is actually on the roof of the building, with
7 is indiscernible from the ground.

8 We did supply photo simulations which show the
9 intended result. And, once again, we did have some issues
10 with the sign posting. We had to get -- I think we ended up
11 with either five or six altogether because a couple got
12 blown down, a couple got --

13 CONSTANTINE ALEXANDER: I've applied with half
14 blown down --

15 ATTORNEY SIMON BRIGHENTI: Yeah.

16 CONSTANTINE ALEXANDER: But I put it back up
17 myself.

18 ATTORNEY SIMON BRIGHENTI: Well, I appreciate
19 that, but --

20 CONSTANTINE ALEXANDER: I can see why --

21 ATTORNEY SIMON BRIGHENTI: Yeah.

22 CONSTANTINE ALEXANDER: -- you have a problem

1 there, though.

2 ATTORNEY SIMON BRIGHENTI: And Heather has been
3 going out there every day to take pictures and to help us
4 put things up. And so -- we did what we could there, and I
5 think we did comply.

6 So that's where it is. And, again, it is a
7 residential area, as you know, but -- or building, but as
8 you know, it's got the T stop right across the street, it's
9 got the ball fields, it's got the restaurants in the area,
10 the highway right there. So it's, you know, a relatively
11 mixed-use environment, and it's very similar to other 6409
12 petitions we have brought before this board in that we
13 believe it is an eligible facility because there already are
14 structures on the building and that we are making -- we are
15 not making a significant change to it, and we believe it
16 complies with all requirements of the Zoning By-law in the
17 city.

18 CONSTANTINE ALEXANDER: Okay. Questions from the
19 Board?

20 BOARD MEMBER: No.

21 CONSTANTINE ALEXANDER: No?

22 I'll open the matter up to public testimony. Does

1 anyone here wish to be heard in this matter? Apparently
2 not.

3 We are not in receipt of any letters.

4 You didn't appear before the Planning Board, did
5 you?

6 ATTORNEY SIMON BRIGHENTI: We were not requested
7 to, no.

8 CONSTANTINE ALEXANDER: Okay. I think we are
9 ready for a vote. If I can find my notes and my cheat
10 sheet. Here we go.

11 The Chair moves to make the following findings
12 with regard to the relief being sought. That -- we have to
13 go through the general requirements. First of all, that
14 this is in a residential area. You must make a finding that
15 nonresidential uses predominate in the vicinity of the
16 proposed facility's location and that the telecommunication
17 facility is not inconsistent with the character that does
18 prevail in the surrounding neighborhood.

19 And as the petitioner's representative has pointed
20 out, there are many nonresidential uses in the area. And I
21 would also point out that this area has not changed. And we
22 made a finding earlier whether with respect -- earlier in

1 time with respect to telecommunications facility finding
2 that nonresidential uses are -- I mean, what is being
3 proposed is not inconsistent with the character that
4 prevails in the surrounding neighborhood and that this
5 finding still continue to be accurate. Further, that we
6 have to go through the general requirements for Special
7 Permits under our ordinance, unfortunately.

8 And so the Chair moves to make further the
9 following findings; that the requirements of the Ordinance
10 cannot be met unless we grant you this Special Permit you
11 are seeking; that traffic generated or patterns of access or
12 egress resulting from what you are proposing, excuse me,
13 will not cause congestion, hazard, or substantial change in
14 established neighborhood character; that the continued
15 operation or the development of adjacent uses as permitted
16 in the Ordinance will not be adversely affected by what is
17 proposed; no nuisance or hazard will be created to the
18 detriment of the health, safety, and/or welfare of the
19 occupant, welfare of the occupants, the large structure,
20 other proposed use or the citizens of the city; and
21 generally what is being proposed will not impair the
22 integrity of the district or adjoining districts or

1 otherwise derogate the intent and purpose of this ordinance.

2 Again, with regard to all of these findings, the
3 Chair would note that we have made these findings with
4 respect to approving previous telecommunication facilities
5 on this structure and that nothing has changed that would
6 alter those findings from before. So I propose we
7 incorporate them by reference.

8 Further, the Chair moves that we find that the
9 modification of this existing telecommunication facility at
10 the site proposed by the petitioner does not substantially
11 change the physical dimensions of the existing wireless
12 tower or bay station as such facility within the meaning of
13 Section 6409(a) of the Middle Class Tax Relief and Job
14 Creation Act of 2012, also known as the Spectrum Act.

15 So based upon all these findings, the Chair moves
16 that the petitioner be granted the Special Permit it is
17 seeking subject to the following conditions: One, that the
18 work proceed in accordance with the plans submitted by the
19 petitioner and initialled by the Chair, and I have done
20 that; that upon completion of the work, the physical
21 appearance and visual impact of the proposed work will be
22 consistent with the photo simulations submitted by the

1 petitioner and initialled by the Chair; three, that the
2 petitioner shall at all times maintain the proposed work so
3 that its physical appearance and visual impact will remain
4 consistent with the photo simulations previously referred
5 to; four, that should the petitioner cease to utilize the
6 equipment approved tonight for a continuous period of six
7 months or more, it shall promptly thereafter remove such
8 equipment and restore the building on which it is located to
9 its prior condition and appearance to the extent reasonably
10 practicable; and, five, that the petitioner is in compliance
11 with and will continue to comply in all respects -- comply
12 with in all respects the conditions imposed by this board
13 with regard to previous Special Permits granted to the
14 petitioner with regard to the site in question.

15 Further, in as much as the health effects of the
16 transmission of electromagnetic energy waves is a matter of
17 ongoing societal concern and scientific study, this Special
18 Permit is also subject to the following conditions: A, that
19 the petitioner shall file with the Inspectional Services
20 Department each reported files with the federal authorities
21 regarding the electromagnetic energy waves emissions
22 emanating from all the petitioner's equipment on the site.

1 Each such report shall be filed with the
2 Inspectional Services Department no later than ten business
3 days after the report has been filed with the federal
4 authorities. Failure to timely file any such report with
5 the Inspectional Services Department shall ipso facto
6 terminate the Special Permit granted tonight.

7 B, that in the event that at any time federal
8 authorities notify the petitioner that its equipment on the
9 site including but not limited to the Special Permit granted
10 tonight fails to comply with the requirements of law or
11 governmental regulation, whether with regard to the
12 emissions of electromagnetic energy waves or otherwise, the
13 petitioner within ten business days of receipt of such
14 notification of such failure shall file with the
15 Inspectional Services department a report disclosing in
16 reasonable detail that such failure has occurred and the
17 basis for such claimed failure. The Special Permit granted
18 tonight shall ipso facto terminate if any of the
19 petitioner's federal licenses are suspended, revoked, or
20 terminated.

21 C, that to the extent that a Special Permit has
22 terminated pursuant to the foregoing paragraphs A and B, the

1 petitioner may apply to the Board for a new Special Permit
2 provided that the public notice concerning such application
3 discloses in reasonable detail that the application has been
4 filed because of a termination Special Permit pursuant to
5 paragraphs A and B that I've already referred to. Any such
6 new application shall not be deemed a repetitive petition
7 and, therefore, will not be subject to the two-year period
8 during which repetitive petitions may not be filed.

9 D, that within ten business days after the receipt
10 of a building permit for the installation of the equipment
11 subject to this petition the petitioner shall file with the
12 Inspectional Services Department a sworn affidavit of the
13 person in charge of the installation of equipment by the
14 petitioner for the geographical area that includes Cambridge
15 stating that, A, he or she has such responsibility and, B,
16 that the equipment being installed pursuant to the Special
17 Permit we are granting tonight will comply with all federal
18 safety rules and will be situated and maintained in
19 locations with appropriate barricades and other protections
20 such that individuals including nearby residents and
21 occupants of nearby structures will be sufficiently
22 protected from excessive radio frequency radiation under

1 federal law.

2 So on the basis of all these findings and subject
3 to these conditions, the Chair moves again that we grant the
4 Special Permit.

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

6 (Aye.)

7 CONSTANTINE ALEXANDER: Five in favor. The
8 Special Permit granted.

9 ATTORNEY SIMON BRIGHENTI: Thank you.

10 CONSTANTINE ALEXANDER: Thank you.

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1 (10:38 p.m.)

2 Sitting Members: Constantine Alexander, Brendan Sullivan,
3 Janet Green, Andrea A. Hickey,
4 and Laura Warnick

5 CONSTANTINE ALEXANDER: Thank you.

6 The Chair will now call, finally, Case Number
7 017086, 200 Monsignor O'Brien Highway.

8 Anyone here wish to be heard in this matter?

9 ATTORNEY ADAM FINE: Good evening, Mr. Chair.

10 Adam Fine on behalf of Ascend Mass, LLC. We are here -- I
11 am an attorney with the law firm of Vicente Sederberg. I am
12 here with my colleagues Rebecca Rutenberg and Tony
13 Capachietti, who is the site engineer, and we are seeking a
14 Special Permit to reconfigure an existing nonconforming
15 parking lot.

16 And I am going to hand it over to Rebecca
17 Rutenberg who has kind of been the impetus behind this
18 project along with Tony to explain what we are asking for
19 this evening.

20 REBECCA RUTENBERG: Absolutely. And I think,
21 respectfully, that this is one of those projects that
22 requires a little bit of back story to truly understand the

1 context, but I'll be brief, understanding it's your last
2 hearing for the evening.

3 So in February this year, February 2019, Ascend
4 Mass, LLC received a Special Permit to operate a registered
5 marijuana dispensary at 200 Monsignor O'Brien Highway. And
6 throughout the review for that Special Permit, which spanned
7 approximately three, four months in the fall of 2018, the
8 City worked extensively with the applicant in particular
9 relative to the parking on the site.

10 So there was a preexisting nonconforming lot that
11 was on the site that despite having been utilized as a
12 parking lot since the 1970s, 1980s, certainly predating the
13 City's parking lot inventory had actually never been counted
14 as part of that inventory as a lot and as such was
15 unregistered.

16 So upon finding that out, the applicant
17 immediately undertook the small PTDM process and made it
18 kind of a working viable lot, you know, and, you know, was
19 required to do so as a part of the Special Permit process.

20 Throughout review with the Planning Board and City
21 staff, it was brought to our attention and certainly
22 something that we knew already that the existing

1 configuration of the lot, which, again, was preexisting,
2 nonconforming had multiple spaces within, you know, within
3 the setback provisions from abutting lots was not the best
4 in terms of safety for the community. It had a very wide
5 curb cut, it had multiple parking spaces that were not I
6 would say dimensionally sound, it made it challenging to go
7 back out onto Monsignor O'Brien Highway and, frankly, was
8 not what you would hope for on a site, especially one that
9 would be used for a more active retail use in the future.

10 So working collaboratively with City staff, we
11 identified a solution that reduced the parking on the site,
12 that allowed for a short-term and long-term bike parking,
13 that reduced the width of the curb cut, that added in some
14 environmental features that made it more appealing but did
15 preserve kind of some of the preexisting nonconformities of
16 being close to two abutting parcels, one of which I'll note
17 is a commercial parcel that is the same land owner as the
18 current land owner of this parcel and one which is a
19 residential parking with a relatively large setback I would
20 say from the property line in and of itself.

21 So the Board did contemplate the fact that we
22 would need to be before this board this evening, and they

1 recognized that in the event that, you know, this board did
2 not approve that we would be going back to a previous kind
3 of iteration of those plans which was not deemed to be as
4 appropriate in terms of health, safety plans. Certainly, a
5 step up from what's currently existing but it certainly was
6 contemplated by the Planning Board.

7 So, respectfully, I would say I think this
8 particular configuration though perhaps not ideal does
9 certainly -- is certainly more than now, you know, in the
10 best interest of the nearby residents, certainly would
11 reduce the traffic congestion as you are kind of backing up
12 out of the lot and certainly would, you know, significantly
13 enhance the health and welfare of pedestrians, bikers, and
14 vehicles that are going in and out of the lot.

15 And I give it to Tony Capachietti if you have any
16 questions on the site plan.

17 CONSTANTINE ALEXANDER: Yeah, I have one basic
18 question. I mean, the zoning is before us because you are
19 going to put some of the parking spaces less than five feet
20 from the property line. I don't know if you were here
21 earlier, but there was a big issue on a --

22 REBECCA RUTENBERG: Oh, my.

1 CONSTANTINE ALEXANDER: A completely different
2 time and place this is. But the person whose property you
3 are going to be too close to with the parking, have you
4 spoken with him or her and what's the --

5 TONY CAPACHIETTI: So we have reconfigured the
6 parking so the -- I'm sorry.

7 For the record, Tony Capachietti, Hays
8 Engineering, 603 Salem Street, Wakefield, Massachusetts, the
9 civil engineer for the project.

10 So in reconfiguring the parking lot, we have
11 aligned all the parking spaces towards the property owned by
12 the same property owner --

13 CONSTANTINE ALEXANDER: Okay. So it's the same
14 property owner. Right. But are you going to -- I'm sorry.
15 I don't mean to --

16 TONY CAPACHIETTI: That's all right.

17 CONSTANTINE ALEXANDER: -- interrupt you, but if
18 we approve the relief tonight you go forward with your
19 dispensary, are you going to sell the other half of that
20 property?

21 TONY CAPACHIETTI: No. I believe --

22 REBECCA RUTENBERG: It's not ours to sell.

1 CONSTANTINE ALEXANDER: I'm sorry?

2 REBECCA RUTENBERG: It was a different -- it is a
3 different land owner, so there is a --

4 CONSTANTINE ALEXANDER: I thought you said the
5 same land owner owns this property.

6 REBECCA RUTENBERG: So it is the same land owner,
7 but the applicant is not the land owner in this case.

8 The --

9 TONY CAPACHIETTI: It's a lease.

10 REBECCA RUTENBERG: It's a lease. So although
11 the --

12 CONSTANTINE ALEXANDER: I would have like to have
13 seen a letter from the -- or some communication from that
14 person saying I have no problem with what you want to do.

15 REBECCA RUTENBERG: Absolutely. So I think by way
16 of signing the owner's affidavits, I would say would that
17 be -- that would be my kind of --

18 CONSTANTINE ALEXANDER: Well --

19 REBECCA RUTENBERG: Yeah. Understood.

20 CONSTANTINE ALEXANDER: I mean, does he know when
21 he was signing the owner's affidavit that he was
22 waiving -- maybe waiving his rights with regard to parking

1 being too close to the lot line?

2 REBECCA RUTENBERG: Respectfully, I would say that
3 they are very -- their counsel reviewed the materials, so I
4 would say that they were.

5 CONSTANTINE ALEXANDER: Yeah.

6 REBECCA RUTENBERG: But I would say --

7 ANDREA HICKEY: Excuse me. If they are abutters,
8 they are on the notice list.

9 CONSTANTINE ALEXANDER: They should have gotten
10 notice. That's right.

11 REBECCA RUTENBERG: They certainly were noticed,
12 and they did ask if we would like them to be present this
13 evening. And given the late hearing time, we said they were
14 welcome to join us, but --

15 CONSTANTINE ALEXANDER: So, basically, you are
16 saying that there is no objection from that abutter.

17 REBECCA RUTENBERG: There is no objection --

18 CONSTANTINE ALEXANDER: Abutters have been put on
19 notice, as Andrea has pointed out. They got notice of the
20 hearing --

21 REBECCA RUTENBERG: Certainly.

22 CONSTANTINE ALEXANDER: -- and the relief being

1 sought and they did not express any objection.

2 REBECCA RUTENBERG: Excellent. But I do want to
3 be completely transparent here. The primary lot owner right
4 on the --

5 CONSTANTINE ALEXANDER: Right.

6 REBECCA RUTENBERG: -- the immediate street-facing
7 side is the same owner. There is a residential parcel in
8 the back. Throughout the feedback for the registered
9 marijuana use, these particular abutters have been noticed I
10 would say in upwards of nine to ten times of hearings, of
11 community outreach meetings, so they are all very aware of
12 the process.

13 LAURA WARNICK: So just to be perfectly clear,
14 this is the residential owner. Is that what we are saying?

15 TONY CAPACHIETTI: Correct.

16 LAURA WARNICK: Okay.

17 TONY CAPACHIETTI: And their building is actually
18 back on --

19 CONSTANTINE ALEXANDER: And the parking that's in
20 question is these two spaces here, right?

21 TONY CAPACHIETTI: In this space here.

22 THE COURT: That one? Okay.

1 TONY CAPACHIETTI: If you look at the existing
2 configuration of the lot, they are right on top of the
3 property line and the --

4 LAURA WARNICK: It's actually a better --

5 TONY CAPACHIETTI: -- headlights are facing the
6 wall.

7 LAURA WARNICK: It's a better situation.

8 REBECCA RUTENBERG: It's a better situation.

9 CONSTANTINE ALEXANDER: -- the situation.

10 TONY CAPACHIETTI: And I provided an existing
11 condition photograph just to kind of show you the abutting
12 residential neighbor is protected by a four-foot high
13 retaining wall with a six-foot high chain link fence on top
14 of it. So there is some screening.

15 CONSTANTINE ALEXANDER: He doesn't have any trees
16 that are planted along the property line?

17 TONY CAPACHIETTI: There are no trees on that
18 property line.

19 CONSTANTINE ALEXANDER: Just kidding.

20 TONY CAPACHIETTI: We did add some minimal
21 landscaping to our lot where we could.

22 REBECCA RUTENBERG: Those are some actually bushes

1 if memory serves me.

2 TONY CAPACHIETTI: Yeah, some ground cover just
3 to --

4 CONSTANTINE ALEXANDER: Okay.

5 TONY CAPACHIETTI: -- to green it up as much as
6 possible.

7 CONSTANTINE ALEXANDER: Anything further?

8 TONY CAPACHIETTI: Just basically to cover
9 engineering wise we rotated the parking spaces so they would
10 be -- headlights would be aimed towards the abutting
11 building that's owned by the same owner as this parcel, and
12 it was redesigned to work with the Monsignor O'Brien Highway
13 improvements that narrow the curb cut and increase safety,
14 so.

15 CONSTANTINE ALEXANDER: Questions from members of
16 the Board? None.

17 I'll open the matter to public testimony. Does
18 anyone here wish to be heard on this matter? Apparently
19 not.

20 I don't think we -- the last I looked, we had no
21 letters from anyone. We just have a report from the
22 Planning Board where this issue about the parking was

1 acknowledged and dealt with, but they can't grant relief, we
2 have to grant the relief.

3 So I'll close public testimony.

4 Discussion or are we ready for a vote?

5 JANET GREEN: We are ready.

6 CONSTANTINE ALEXANDER: Okay. This is a Special
7 Permit case, so the Chair moves we make the following
8 findings with regard to this Special Permit that's being
9 requested: That the requirements of the Ordinance cannot be
10 met unless we grant you the relief you are seeking; that
11 traffic generated or patterns of access or egress resulting
12 from what is proposed will not cause congestion, hazard, or
13 a substantial change in established neighborhood character.

14 In this regard the new parking layout has been
15 designed to minimize hazard in terms of access or egress
16 from the lot, and certainly it won't make any changes to
17 establish neighborhood character; that the continued
18 operation of a development of adjacent uses as permitted in
19 the Ordinance will not be adversely affected by what is
20 being proposed.

21 And, again, the way this lot is an
22 unusually-shaped lot and its location, the parking that you

1 are seeking to put on the lot will not have any adverse
2 impact on the neighborhood; no nuisance or hazard will be
3 created to the detriment of the health, safety, and welfare
4 of the occupant of the proposed use or the citizens of the
5 city; and generally what is being proposed will not impair
6 the integrity of the district or adjoining districts or
7 otherwise derogate the intent and purpose of this ordinance.

8 So the basis of all these findings, the Chair
9 moves that we grant you the Special Permit you are
10 requesting on the condition that the work proceed in
11 accordance with these plans that I have initialled. So if
12 you are going to modify them, you may have to come back
13 before us. This is it. You are okay?

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

15 (Aye.)

16 CONSTANTINE ALEXANDER: Five in favor. Special
17 Permit granted.

18 REBECCA RUTENBERG: Thank you very much. Have a
19 wonderful night.

20 (End of proceedings.)

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