

BOARD OF ZONING APPEAL

FOR THE

CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, APRIL 13, 2017

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

Patrick Tedesco, Member

Sean O'Grady, Zoning Specialist

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(7:05 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea

A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call this meeting of the Zoning Board of Appeals to order. At the outset I would like to read a statement.

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

And I wish to advise you in the audience that a recording is being made. Our stenographer records the meeting to assist her when she types up the minutes of the meeting. Most likely a second -- there's a citizen of the city who

almost always comes down and records the meeting. He's not here yet, but I suspect before the night's over he will be here and he will be recording the meeting as well.

So with that, we can turn to the actual agenda. We'll start with continued cases. These are cases that we started at an earlier session and for one reason or another, did not conclude and have been continued to this evening.

* * * * *

(7:05 p.m.)

(Sitting Members Case No. BZA-012016-2016: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The first case I'm going to call is case No. 012016, 1160 Massachusetts Avenue.

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes there is no one. We are in receipt of a letter from petitioner's counsel Sean Hope which I will read into the record.

(Reading) Please accept this request on behalf of the petitioner to continue the above-referenced case. A new case has been filed that contains all of the necessary relief for petitioner's food-related uses that is scheduled to be heard on May 25th. We respectfully request that you grant one additional continuance until May 25th so that both cases can be decided on that evening, avoiding any issues of a repetitive petition.

This is a case heard as I recall, am I right?

SEAN O'GRADY: I thought it wasn't heard.

CONSTANTINE ALEXANDER: We got into the merits a little bit. It's most likely we're not going to hear this case anyway.

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: But I'm wondering if we should make sure that all five of the persons who sat on the case originally can be there on the 25th. If you don't know, we'll just continue to the 25th and we'll play it by ear then.

SEAN O'GRADY: I thought it was not heard for some reason.

CONSTANTINE ALEXANDER: I thought we got into it, the merits of a little bit. That's my recollection.

SEAN O'GRADY: All right.

CONSTANTINE ALEXANDER: Anyway, the Chair moves that this case be continued until seven p.m. on May 25th subject to the following conditions:

First, that the petitioner sign a waiver of time for a decision. And the petitioner has already done that in connection with the earlier continuance.

Second, that the posting sign be maintained for the 14 days before May 25th reflecting the new date, May 25th, and the time of seven p.m.

And lastly, to the extent that the petitioner is going to submit revised plans, dimensional forms, and the like, they must be in our files no later than five p.m. on the Monday before May 25th.

On the basis of -- that is the motion. All those in favor of continuing this case on this basis, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

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

* * * * *

(7:05 p.m.)

(Sitting Members Case No. BZA-011345-2016: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call case No. 011345, 820 Memorial Drive.

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

ATTORNEY PHILIP LOMBARDO, JR.: Thank you, Mr. Chairman, Members of the Board. My name is Phil Lombardo and I'm an attorney and I represent the applicant. To my right is Jarrod Hanshaw who is with the applicant and to his right is Marc Belanger, the project engineer. By way of reintroduction, we had come before you last fall seeking a Variance to occupy a small portion of the building for retail which is currently used as storage. There developed a technicality with respect to this property. This is a gasoline service station and convenient store property. It was brought to our attention and to this Board's attention that there was a little known and probably little followed ordinance in the City that to the effect that a gas station -- excuse

me, that a retail gas station needed -- could not have self-service associated with its operation. And this Board allowed us time to work with the City Council on that issue. And as you know, two weeks ago the City Council finally voted to delete that ordinance provision. This Board had agreed to continue this case until today. I don't know how you knew that it was going to be about four days after the ordinance change would become effective --

CONSTANTINE ALEXANDER: We're very smart people.

ATTORNEY PHILIP LOMBARDO, JR.: -- back in October when you continued this. So this is where we are.

So we are before you to request that a small portion of the existing convenience store building at this location be converted from storage to additional retail space. The area we're looking to occupy as retail space was -- would have been at one time a repair bay. That's been abandoned and basically now serves as storage of a bunch of junk. And what we'd like to do is go into that store and modernize it, make better room for maneuverability for the customers, for persons with disabilities, to offer a slightly increased variation or variety of convenience food items. Generally give the employees and customers some more room to breathe. The work would be -- associated with the work would be some

improvements to the exterior of the building as well, and just overall housekeeping to make the property a little nicer and a little bit more convenient to live up to its name as a convenience store.

I'd ask Mr. Hanshaw to add to anything that I just said if I omitted anything.

JARROD HANSHAW: No, that's pretty much everything. We're, you know, looking to give a better offering to the customers, the surrounding neighborhoods, and anybody else stopping by. We're going to do a lot of modifications inside the building. We're looking to expand, give a better offering of coolers, water, soda, and stuff like that for the neighbors.

ATTORNEY PHILIP LOMBARDO, JR.: I will say that back in October, you know, before what we thought was gonna be a meeting on this or a hearing on this, we did submit to this Board --

CONSTANTINE ALEXANDER: Yes.

ATTORNEY PHILIP LOMBARDO, JR.: -- a list of -- a signed petitions by many of the neighbors. We actually after -- less than two weeks we had to take it down. We were overwhelmed with signatures for which we're grateful. And we, we were here to basically ask this Board to allow us to move

into really several hundred feet. It is an insignificant amount of space in the scheme of things, but it will make a world of difference for the employees, management, and more importantly for the customers, and I think it will be a vast improvement for the neighborhood as well.

CONSTANTINE ALEXANDER: What you have failed to mention so far, though, is a case -- a legal case before us is you need a Use Variance.

ATTORNEY PHILIP LOMBARDO, JR.: Yes.

CONSTANTINE ALEXANDER: The food -- retail sale of food is not prohibited at this site.

ATTORNEY PHILIP LOMBARDO, JR.: Yes.

CONSTANTINE ALEXANDER: Some relief from that granted in the past.

ATTORNEY PHILIP LOMBARDO, JR.: Yes.

CONSTANTINE ALEXANDER: You want to expand --

ATTORNEY PHILIP LOMBARDO, JR.: Yes, sir.

CONSTANTINE ALEXANDER: Let me just finish up. A Use Variance as you know as an attorney, is very difficult to obtain. Mr. Sullivan often will read from a court decision, a Superior Court decision where the court

says just that. So you've got to address for us the legal requirements why -- what is a substantial hardship? What are the special conditions? What's the basis for us to grant the legal relief you're seeking?

ATTORNEY PHILIP LOMBARDO, JR.: Thank you,

Mr. Chairman. And I really wanted to introduce the project before I got into the legalities.

CONSTANTINE ALEXANDER: Okay, just make sure you get to them.

ATTORNEY PHILIP LOMBARDO, JR.: I think this Board saw fit at one point to issue a Use Variance to allow the use to begin with. So I think that -- there's this precedent generally that this Board is inclined to recognize where we are. We're in a business-type neighborhood. We're a very small lot. We're already there with our existing use. To not allow my client to expand a very few hundred feet in order to allow for modernization, in order to allow my client to be competitive, we result in a financial hardship. This is a store that really desperately needs some work. There really is no financial benefit to doing work to a store to end up with the exact same configuration of the store. So my client wants to put money into the store, wants to improve the store for the

community. And to fail to do so, frankly to not be allowed to do so, will hurt this company financially. So there will be a financial hardship. There will be a result and a consequence if this Board doesn't grant the Variance we've asked for.

CONSTANTINE ALEXANDER: How long have you owned the station?

JARROD HANSHAW: About seven years.

CONSTANTINE ALEXANDER: Are you planning to continue to own it or if we grant you relief, are you planning to sell?

JARROD HANSHAW: No, we're planning on keep the property.

CONSTANTINE ALEXANDER: You're planning to keep the property?

JARROD HANSHAW: Yes, sir.

BRENDAN SULLIVAN: Am I correct in saying there are two entities; one who owns the land and there's another entity that is a franchisee of Shell; is that correct?

JARROD HANSHAW: No, so Shell, Shell doesn't own the properties anymore. We own it, Pecten Properties. We own the property, the building. We supply the gas. We're responsible for the tanks, the maintenance

on the building and everything. We lease the property to what we call an operator. So he's a tenant of ours. He comes in there. He runs the store. They're his employees. But we own the entire property and the building and we maintain it.

BRENDAN SULLIVAN: And you're located where?

JARROD HANSHAW: Our Home Office is New London, Connecticut.

BRENDAN SULLIVAN: All right. So you're Apache?

JARROD HANSHAW: Correct.

BRENDAN SULLIVAN: Okay.

JARROD HANSHAW: Apache is the parent company for Pecten that bought the Shell locations about seven years ago.

BRENDAN SULLIVAN: Yes, right. Okay.

ATTORNEY PHILIP LOMBARDO, JR.: And, Mr. Chairman, to address your question in particular, we have in the past seen instances where a Zoning Board saw fit to restrict the Variance to the particular applicant so that if there were a change of hands, this Board would have an opportunity --

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

legally.

ATTORNEY PHILIP LOMBARDO, JR.: Okay.

CONSTANTINE ALEXANDER: The Variance has got to run with the land. It's not to a person.

ATTORNEY PHILIP LOMBARDO, JR.: Understood. Well, again, I've seen it done. We just want to --

CONSTANTINE ALEXANDER: It's not legally correct, though.

ATTORNEY PHILIP LOMBARDO, JR.: Well, we just want to address your concern.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY PHILIP LOMBARDO, JR.: That the persons who operate this store will be as responsible as my client. My client has no plans to sell it or what have you, but I know it's a concern sometimes.

CONSTANTINE ALEXANDER: The reason I ask the question, frankly, is I was curious as to whether the purpose of this, the relief you're seeking, should we grant it, is to increase the value of the property so you can flip it and increase your profit, your sale price. But you're telling us that's not your intent?

JARROD HANSHAW: No, sir. We own and operate gas stations.

That's our business.

CONSTANTINE ALEXANDER: Okay. That's your business generally. But you could sell this station to someone, but you have no plans --

JARROD HANSHAW: No.

CONSTANTINE ALEXANDER: -- or Apache has no plans?

JARROD HANSHAW: No, we like that property.

ANDREA HICKEY: And will the present lessee remain in place if we were to allow this petition?

JARROD HANSHAW: Yes. Right now he has a three year contract. In general we, we extend the contracts as long as they want to stay.

CONSTANTINE ALEXANDER: Are you aware, by the way, jumping ahead a bit, there is a citizen of the city who is opposing relief? And the basis for the opposition is the fact that, according to this individual, that this station has been operated continuously in violation of our sign requirements of our Zoning Ordinance? She used the word signage scofflaw.

Are you aware of this? Okay, we'll get to that.

JARROD HANSHAW: Okay.

CONSTANTINE ALEXANDER: Have you ever been -- are you aware of our sign variance? Maybe you're not, you're from Connecticut. But we have -- our a Zoning Ordinance has a whole section devoted to signs which restricts basically, their illumination or lack thereof, the height, the number, the location, the size. And this person at least feels that you've been -- this station has been in continuous violation of this sign -- of our Zoning Ordinance with regard to signs. And we're going to give you an opportunity to speak, but I can say one thing that I'm going to recommend to the Board, is that if we do grant relief tonight, it will be tied to compliance with our sign variance. I'm sorry. The zoning provisions regarding signs, and should you fall out of compliance with that, the Variance is going to be revoked. So you're going to have to police this property and make sure that you understand the way the world works when it comes to Cambridge and signs and that you meet the requirements of that.

JARROD HANSHAW: Okay.

BRENDAN SULLIVAN: It's probably more than one citizen. I will be a citizen, and I've sat on this Board a number of times, and one of the times, many times, that gas stations, other automobile entities come down before us seeking relief, we give them relief. And it's really an enormous benefit to the

proprietor. And yet, then I ride by and, you know, it doesn't take too long before all of a sudden they start to sort of junk up the place with banners and signs.

And, you know, I know that they are somewhat temporary. I'm not sure exactly what the department's policy is on temporary signs, but those signs are temporary until the price raises and then they change the sign to a new sign. And yet, you know, it's the latest whatever milk is, whatever Coke is, cigarettes and all that other stuff, and I find it really junking up the place and I would like to curtail that. I would like to really stop. And I think that may be the essence of the letter that's in the file, but it's also my thoughts also. So I -- and, again, I think that you're asking this Board for an enormous benefit, and so I think we are looking for some reciprocating agreement, too.

CONSTANTINE ALEXANDER: And just to underscore that, the location of this gas station is very prominent.

BRENDAN SULLIVAN: It's a gateway to the city.

CONSTANTINE ALEXANDER: Yeah. And so all the more reason why it's necessary and crucial that you comply with the sign variance -- provisions of our Zoning Ordinance.

BRENDAN SULLIVAN: I know it's a marketplace. You know,

you think it's a marketplace, but it's our home. And so I'm very sensitive to the aesthetics of it all.

CONSTANTINE ALEXANDER: Also one other thing, when we grant relief, we tie it to plans. So are these, are these the ones that are still accurate in what you're going to --

ATTORNEY PHILIP LOMBARDO, JR.: Yes.

CONSTANTINE ALEXANDER: These were in the file. I want to make sure we have the right plans.

ATTORNEY PHILIP LOMBARDO, JR.: That's the floor plan.

JARROD HANSHAW: Uh-huh.

ATTORNEY PHILIP LOMBARDO, JR.: And the work to the outside.

CONSTANTINE ALEXANDER: Okay. Just want to be sure. Thank you.

ATTORNEY PHILIP LOMBARDO, JR.: With the understanding that we show a sign and we now understand that, if we didn't already before, that although we showed a sign on the building, we've got to comply. So whatever sign we put on the building.

CONSTANTINE ALEXANDER: That's understood. We dealt with in the motion when we get there.

JANET GREEN: So I have two questions.

CONSTANTINE ALEXANDER: Go ahead.

JANET GREEN: One is about how when people come they get gas and then they pull over and park somewhere while they go in? I mean, I understand you're counting on having a lot of people who walk in that are from the neighborhood or walking by or whatever, but presumably people pull in and park to go into the store, is that -- and so, are there spaces for that?

JARROD HANSHAW: Yeah, we have parking spaces up front. And a lot of time what people do is after they get gas and finish their transaction at the pump, they walk inside and grab sodas or candy and come out and leave. Yeah.

JANET GREEN: And my second question is, and this is more maybe for the Chair, is if they don't understand the sign ordinance, can they agree to it tonight?

CONSTANTINE ALEXANDER: I don't think they have a choice. They have to learn what it is.

JANET GREEN: I mean, you may want to know what you're agreeing to before.

ATTORNEY PHILIP LOMBARDO, JR.: This is the first we've heard this issue.

JANET GREEN: Right.

ATTORNEY PHILIP LOMBARDO, JR.: But it's not that we don't understand the ordinance. I just think that no one's directed our attention to it before.

CONSTANTINE ALEXANDER: Maybe so.

ATTORNEY PHILIP LOMBARDO, JR.: And I think that if -- whether or not we came here tonight, we are subject to the sign ordinance. It's not as if we could in any event just continue doing what we're doing.

PATRICK TEDESCO: But in fairness, because I think the word scofflaw was used.

ATTORNEY PHILIP LOMBARDO, JR.: Yeah, I think it's --

PATRICK TEDESCO: Your signage predated the ordinance. In other words, correct? I mean, I doubt very much that you --

CONSTANTINE ALEXANDER: Let me ask the citizen of the city

right there. I think, I think her position is that the violations may have started before the ordinance, but they're continuing on a constant basis. And today and recently they've been in violation. I'm not sure exactly to what extent they are in violation, but that is the position.

PATRICK TEDESCO: Because I think to Janet's point, if I understand correctly, to meet had ordinance today, the sign could not be illuminated, correct? Which --

CONSTANTINE ALEXANDER: I don't know what requirements. Do you have illuminated signs? This is an office district. The zoning for this is office.

ATTORNEY PHILIP LOMBARDO, JR.: I don't know the answer.

PATRICK TEDESCO: I only ask because if I'm the business owner --

JANET GREEN: Yes, you may want to know.

PATRICK TEDESCO: -- and I'm a gas station in a prominent location with a competitor across the street, and I can't illuminate my sign and people wonder if you're open.

ATTORNEY PHILIP LOMBARDO, JR.: I've been under the

impression that the discussion is about signs that we may have put up without permits and things like that. If we put up a sign 10, 15, 20 years ago and we had a permit for it, then it's a legitimate sign. If we threw up a sign there advertising cigarettes or -- without a permit, and we understand and we have to comply to take that noncompliant sign down.

PATRICK TEDESCO: I just wanted to understand whether there was, you know --

ATTORNEY PHILIP LOMBARDO, JR.: Perhaps it's better phrased to say the non-compliant signs would have to be removed.

BRENDAN SULLIVAN: I guess there's two different things. There is a sign identifying the business, Shell. And then there is signage --

ATTORNEY PHILIP LOMBARDO, JR.: Yes.

PATRICK TEDESCO: Yeah.

BRENDAN SULLIVAN: -- advertising everything that they sell or a special of the day, you know.

PATRICK TEDESCO: Right.

BRENDAN SULLIVAN: You know, so. And it is not the sign that I object to, because I think that's compliant. It's the --

PATRICK TEDESCO: It's the addition of --

BRENDAN SULLIVAN: -- the abundance of signage.

CONSTANTINE ALEXANDER: And the banners.

PATRICK TEDESCO: And sometimes those temporary signs --

JARROD HANSHAW: Right. Well we have temporary signage, correct. That stuff can be removed. Yeah. Because Shell -- what happens is Shell sends out for their promotions all kinds of banners, signs that they'd like to have displayed. If, when we get a secret shopper, if it's not posted, if it's not up, we get written down for it. If, though, I can prove to them that it's in violation of sign laws and signs are, you know, in the town it's in, I get relief from Shell for it and we don't get, you know, demoted on reports. So that's no problem.

CONSTANTINE ALEXANDER: Okay.

I see Ms. O'Hare dying to talk and she'll have her opportunity.

First, before we get there, though, I need any other questions from members of the Board at this point?

(No Response.)

CONSTANTINE ALEXANDER: Anything further you want to -- you'll have a time for final comments.

ATTORNEY PHILIP LOMBARDO, JR.: I'll just add to what Jarrod just said about the signs. I see gas stations and convenience stores typically have all kinds of things, promotions and things going on, and I think that's the things that upsets communities mostly versus a freestanding sign that may be permitted, you know, a long time before the most recent ordinance. And that's really what I was thinking of and I think that's what Jarrod was thinking of when you mentioned signs.

CONSTANTINE ALEXANDER: Well, the sign is permitted and it's legal. The issue is illegal signs.

PATRICK TEDESCO: That's what I wanted to understand. Being asked to if they're grandfathered into a permitted sign that pre-dated a change in the ordinance, are we asking him to --

CONSTANTINE ALEXANDER: No.

PATRICK TEDESCO: That's what I wanted to make clear.

CONSTANTINE ALEXANDER: I wouldn't do that. And that's it?

Okay, I'm going to open the matter up to public testimony.

Ms. O'Hare.

CAROL O'HARE: May I?

CONSTANTINE ALEXANDER: You can pull a chair up, too, if you like.

CAROL O'HARE: Carol O'Hare, 172 Magazine Street. Good evening. That's mine.

ATTORNEY PHILIP LOMBARDO, JR.: I'm sorry.

CAROL O'HARE: I certainly am not talking about their regular signage. In fact, I live two blocks down from the Shell Station with the mega sign that I love. It's on my street. I can see it from my house. I love it. I am talking about the junked up signage that is constantly at that station and at all other Shell Stations in the city, and that ISD is continuously out there, David Byrne is out there telling the proprietor, you can't have these signs. These signs are illegal. And they clean it up and then they plunk them back in the next time Shell sends another batch of signs.

I will give you -- I think I sent you all photographs of them.

CONSTANTINE ALEXANDER: I don't know if it was attached to your letter than you did.

CAROL O'HARE: I did. So it's these flags. It's at least six

illegal signs, temporary signs in this photograph --

CONSTANTINE ALEXANDER: I'm familiar with the property.

CAROL O'HARE: -- that magically disappeared when this zoning application went in. It's been clean, that is free of signs. This is the before photograph. If you have it in there, it would be --

CONSTANTINE ALEXANDER: Let me see if I can find it, hold on.

CAROL O'HARE: We're just so tired of being the sign police for the Shell Stations.

On Fresh Pond Parkway people complain about them. In the Mid Cambridge people complain about them. I don't know how many of them you own, but if you own others -- yeah, those.

CONSTANTINE ALEXANDER: If members of the Board can see? Okay.

CAROL O'HARE: There are two of them in there.

And then the third one is clean, that is they clean-up their act before -- right about the same time I think as they applied for this. So, you know, give us a break. You know? Tell your proprietor and I would just beg and

thank this Board for conditioning this on as you said, on compliance with the sign law. If you're grandfathered for your large sign, fine. But don't junk up our river. That is a Memorial Drive and the Riverway is on the national register of historic places. It is our gateway. It is something we take pride in. There are residents that live around there. I think you get the drift.

Thank you.

CONSTANTINE ALEXANDER: Thank you.

Just for my edification. Basically we're talking about temporary signs that get put up and they get replaced or taken down or whatever.

CAROL O'HARE: Right. And if they need -- I mean, if they're going to make new signage for their building once they renovate that section of the building over there on the right where they have had, I don't know if they wiped it out, but they have had cigarettes for sale, blah, blah, blah, on the closed-off mechanical part, what do you call it?

JANET GREEN: Bay.

CAROL O'HARE: The repair bay. Words.

JANET GREEN: Bay.

CAROL O'HARE: Yeah, the repair bay. And they have cigarettes

and it's just crap.

CONSTANTINE ALEXANDER: Okay, thank you for taking the time, as always taking the time to come down and also to writing a letter which I'm not going to read into the file because you summarized it right now.

CAROL O'HARE: Yeah.

CONSTANTINE ALEXANDER: Is there anyone else wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. As the petitioner has noted, we have a petition signed by many, many people in support of the relief being sought, and then there is a letter of opposition which has been summarized for us by Ms. O'Hare.

Any final comments?

ATTORNEY PHILIP LOMBARDO, JR.: No, thank you.

CONSTANTINE ALEXANDER: Discussion or ready for a vote?

(No Response.)

CONSTANTINE ALEXANDER: Okay, I'm going to try my hand at the conditions which I think might be a little bit tricky so I would welcome any

help.

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

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being that a portion of the property that is, that's been used in the past for repair services is not any longer economically feasible and is a drain on the ability to maintain the premises generally.

That the hardship is owing to the fact that you already have a non-conforming structure, a use, non-conforming use.

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

In this regard the Chair would note that we're talking about a relatively minor extension of a nonconforming use that we have approved in the past.

On the basis of these findings, the Chair moves that we grant the Variance requested subject to the following conditions:

First, that the work proceed in accordance with two pages of plans, schematic building excavations and schematic floor plan, each of which have been initialed by the Chair.

And these are your final. So if you have -- if you change in a dramatic way, you have to come back.

JARROD HANSHAW: Okay.

CONSTANTINE ALEXANDER: Understood.

And second that the petitioner or whoever owns the property, but certainly the owner of the property, going forward complies with the requirements of our Zoning Ordinance with respect so signs. Particularly with respect to temporary and banner signs. And that if the petitioner, whoever owns the property, fails to comply with those requirements of our Zoning Ordinance, that the Variance we're granting tonight will ipso facto be terminated. And, therefore, you have to cease using the space you're now going to be able to use for the use you want to use it. You can go back to a repair bay if you like, but you can't use it for food service.

JARROD HANSHAW: Okay.

BRENDAN SULLIVAN: I was thinking that any sign slash

signage which denotes any service or product be displayed on the building or inside the glass of the building and not outside on any --

CONSTANTINE ALEXANDER: That would be in addition to the banner signs, because they may have banner signs --

CAROL O'HARE: They aren't just banners. They stick them on the ground. They stick them on the gas tanks.

BRENDAN SULLIVAN: Well, that would be displaying a service or product. That any such signage which displays a service or product be mounted on the inside of the building.

CONSTANTINE ALEXANDER: Okay.

BRENDAN SULLIVAN: Sean, does that somewhat -- and by mounting it on the inside of the building, that then triggers part of the Ordinance regarding how much signage can be on the front of the building. 50 percent I believe -- not more than 50 percent I think.

SEAN O'GRADY: Yeah, I mean I have to confess Liza takes care of this section of the Ordinance. I don't really know it like the back of my hand. I believe you are correct, but I --

BRENDAN SULLIVAN: All right.

CONSTANTINE ALEXANDER: Well, let me just -- that's a good suggestion.

BRENDAN SULLIVAN: Whatever that requirement is, that would trigger. If the signage, signs are displayed on the inside of the building facing outward to the general public, they would then have to comply with the sign ordinance. My recollection is that the sign ordinance says that it cannot cover more than 50 percent of the glassed area. But that number may not be right. But that was my intent is to take away all the signage on the outside of the building.

PATRICK TEDESCO: But that's in the Variance. I mean, that's clear in the Variance what you're describing?

BRENDAN SULLIVAN: That would be a condition of the relief that we're granting.

PATRICK TEDESCO: Well, I mean, I'm sorry. It's clear in the ordinance.

ANDREA HICKEY: In the ordinance.

PATRICK TEDESCO: In the ordinance.

BRENDAN SULLIVAN: It's clear in the Ordinance.

PATRICK TEDESCO: It spells it out.

BRENDAN SULLIVAN: That's exactly correct.

CONSTANTINE ALEXANDER: Yeah, I think the motion I made picks that up. It's inclusive of that. If they're going to do a sign advertising products, they either -- they're going to post it outside. They've got to comply with whatever requirements our Ordinance has. If they put it inside, they have to comply with whatever that percentage is.

BRENDAN SULLIVAN: Ranjit, what is the department's policy on these temporary banners?

RANJIT SINGANAYAGAM: The ordinance says temporary signs are allowed.

CAROL O'HARE: But they don't permit --

THE STENOGRAPHER: Please, let him -- only one person at a time speaking, please.

RANJIT SINGANAYAGAM: The exterior signs on the outside of the building is different, and certain percentage is allowed inside is moved from the street so that's behind the glass.

BRENDAN SULLIVAN: Right.

RANJIT SINGANAYAGAM: That's I think 30 percent. I'm not exactly sure.

BRENDAN SULLIVAN: Okay. Now these banners and all this other stuff?

RANJIT SINGANAYAGAM: Could be considered signs because there's a logo there.

CAROL O'HARE: They are signs. They are signs and so are the ones that -- Mr. Chair, you in your -- I'm sorry, I wouldn't ordinarily do this, but in your condition you said particularly banners, but it isn't just banners.

CONSTANTINE ALEXANDER: I'll take those words out.
Thank you.

CAROL O'HARE: So if you said including banners and, and other signage, that would be preferable. And, you know, temporary signs are only permitted if they are for rent and for sale signs.

CONSTANTINE ALEXANDER: Right.

CAROL O'HARE: Not advertising, gas signs, and octane signs.
And in fact they have signs that advertise contests that have nothing to do with their gas station.

CONSTANTINE ALEXANDER: I think my motion was okay, except that there was too many words, and particularly banner signs. I think if we leave it at you have to comply with our Ordinance with regard to signs. And if you don't, you're going to lose your Variance. I'm doing a summary of it. And that's it. And whatever it is, behind the glass, in front of the glass, we'll deal with it as you go forward. And what you're going to have to do, sir or your tenant, is to educate yourself as to what our Ordinance provides.

JARROD HANSHAW: Correct.

CONSTANTINE ALEXANDER: And ISD and Community Development are always there to assist you if you have questions. But you got to, you know, not you, but your tenant has got to pay attention because otherwise he could be shut down at least to this 800 feet or so.

BRENDAN SULLIVAN: And, Jarrod, you're the contact guy?

JARROD HANSHAW: Correct.

BRENDAN SULLIVAN: Okay, now we have a card and we have a face and a telephone number.

CONSTANTINE ALEXANDER: We have a long arm, we'll come down and drag you back from Connecticut.

JARROD HANSHAW: I'm here all the time. I'll come see you.

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

I think I made the motion. We are ready for a vote.

All those in favor, please "Aye."

(Aye.)

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

* * * * *

(7:40 p.m.)

(Sitting Members Case No. BZA-012376-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call case No. 012376, 120 Magazine Street.

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

DAVID FOLEY: I'm David Foley. And this is Joseph Combs. And we're with Foley Fiore Architecture. I must apologize because we were here all prepared to meet with you, but we received a last minute plan change from our clients. A very small change, but it deviates from what we submitted to you. So I'm afraid we have to ask for a continuance.

CONSTANTINE ALEXANDER: Well, this would be the second continuance.

DAVID FOLEY: Yes.

CONSTANTINE ALEXANDER: You understand, we don't -- that's it. Absent compelling circumstances, we don't grant more than two continuances.

DAVID FOLEY: Yeah.

CONSTANTINE ALEXANDER: And this is a case not heard so we can pick a date. Do you have a date you want to continue the case to?

DAVID FOLEY: As soon as possible. Is that the 25th?

CONSTANTINE ALEXANDER: I don't think -- I think April is finished.

What's the next available slot?

SEAN O'GRADY: There actually is one left on April 27th if you want that.

DAVID FOLEY: April 27th.

CONSTANTINE ALEXANDER: That means you have to modify sign. You have 14 days. So you've got to --

DAVID FOLEY: I think that may be too soon actually.

CONSTANTINE ALEXANDER: The next one is May 11th.

DAVID FOLEY: May 11th?

JOSEPH COMBS: Yeah.

CONSTANTINE ALEXANDER: Just want to make sure he has availability on May 11th.

JANET GREEN: It's not heard, right?

CONSTANTINE ALEXANDER: Excuse me, Sean?

It's not heard.

SEAN O'GRADY: Yes, we have May 11th.

CONSTANTINE ALEXANDER: We have room on May 11th?

SEAN O'GRADY: Yeah.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that this case be continued until seven p.m. on May 11th subject to the following conditions:

That the petitioner sign a waiver of time for decision. And you've done that already in connection with the prior continuance.

That the posting sign be modified to reflect the new date, May 11th, and also the new time, seven p.m. And that the sign be maintained for the 14 days prior to May 11th as required under our Ordinance.

And last and maybe important, to the extent that you're going to

modify the plans that you've already submitted or the dimensional form, those must be in our files no later than five p.m. on the Monday before May 11th. You just can't bring them down.

DAVID FOLEY: Okay.

CONSTANTINE ALEXANDER: It gives us time to review them.

It gives citizens of the city time to review them as well.

DAVID FOLEY: Yes.

CONSTANTINE ALEXANDER: So all those in favor of granting the continuance on this basis please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Continuance granted.

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

* * * * *

(7:45 p.m.)

(Sitting Members Case No. BZA-012724-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: We'll now turn to our regular agenda and the Chair will call case No. 012724, 850 Cambridge Street.

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

LISA PETERSON; good evening.

CONSTANTINE ALEXANDER: Good evening.

LISA PETERSON: Are you ready for me to start?

CONSTANTINE ALEXANDER: Make sure the stenographer gets all the information.

LISA PETERSON: My name is Lisa Peterson, the Deputy City Manager and I'm glad to be here to be able to talk about this project tonight. I'm joined -- Michael Black is the construction project manager who works with me in the city. And we're also joined by our architectural team which is William Rawn Associates, R-A-W-N will be doing a presentation, brief presentation on the project.

If you're not familiar with the project, this was the site of the old Harrington School in Cambridgeport School on Cambridge Street and it is being rebuilt. As the elementary school, the Cambridge Street upper school, the Valente branch library is being rebuilt, the Gold Star Pool, the preschool, the after school programs.

CONSTANTINE ALEXANDER: Is that pool open to the public?

I'm sorry, I'm not familiar with that part of the city. The pool, is that part of --

LISA PETERSON: The pool was on Berkshire. This is on Cambridge Street. And then there was a seasonal pool that was right on Berkshire Street that was open there. The Gold Star Mother's Pool.

CONSTANTINE ALEXANDER: It's open to the public?

LISA PETERSON: Yeah, it's been there for --

CONSTANTINE ALEXANDER: I don't -- as I said, I don't know that part of the city.

LISA PETERSON: It's been there for 60 years. It's been there for a long time.

CONSTANTINE ALEXANDER: Okay.

LISA PETERSON: So part of this project, we're rebuilding that facility and the branch. An important element of this project is that the Cambridge public school administration facility that is rented, right now rented on Thorndike Street behind the Sacred Heart Church really very -- the facility they're in right now is not a good facility, and we are incorporating the Cambridge public school administration building into this project. By putting all the parking underground, we are able to add an additional acre of open space on this site which is just in such a densely populated neighborhood. It's just a really important amenity that we're able to do.

And I would say that we're building this as a NetZero facility, which means that there are no gas or oil or fossil fuels that's going into the building. It's all geothermal wells that are being installed right now, PV arrays, and it's going to be a building that I think we can all be very proud of.

There has been a lot of community input into this project. We've had six community meetings on this in addition to dozens and dozens of user group meetings to really determine what the best use of the facility and detail should be.

So just a little bit of context about why we're here tonight. Is that in

2012 the Cambridge City Council amended the Zoning Ordinance Section 5.54, special regulations for municipal elementary and middle K-8 schools. And the following regulations shall apply to the construction, alteration, or expansion of existing municipal K8 school uses. The regulations of the section shall apply where development is proposed on lots with the existing and proposed principal use is a municipal K8 school. However, such lots may include other uses customarily associated with municipal K8 schools such as public recreation, public open space, community center, preschool, after school programs, or municipal library. Where regulation and Section 5.54 contradicts any regulation set forth in the Zoning Ordinance including the requirements of Article 8, the regulations of Section 5.54 shall apply.

So when this section was written, the inclusion of the Cambridge public school administration at any of the new schools was not anticipated. So it was not included. But things like the library or community center and pool were anticipated were included. So we're here really specifically to talk about the Cambridge public school administration portion of this project.

So we have already been to the Planning Board. On January 11, 2017, the City and the project architectural team presented the project to the

Planning Board, and the Planning Board approved the application on the same evening including a Special Permit to locate the local government administrative office in Residence C-1 District. The Special Permit to increase building height over 45 feet and waive the front yard setback for municipal K8 school, and then the Special Permit for use of tandem parking spaces.

So on April 4, 2017, the Planning Board meeting, the members agreed to send a recommendation to the Zoning Board of Appeal to support the variances required for the project.

So the request that we have before you tonight and the request of the application is for -- to allow for the height of the Cambridge public school administration portion of the project to be approved at 41 feet. The present C-1 zoning allows a maximum of 35 feet.

And the request, the other piece as the application is to allow the Berkshire Street front setback to be approved at 33 feet, nine inches. The present zoning requires a setback of 57 feet. So I would leave it at that.

I think at this point, and I would like to hand it over to the architect with William Rawn Associates to sort of make a presentation and maybe just show you just a little bit more of the parcel in detail.

CONSTANTINE ALEXANDER: I think, I think it's encouraging to see about the project generally, but you should focus on the school administration building as opposed to the other aspects of the project.

SAMUEL LASKEY: Okay. Can you all hear me? My name is Samuel Laskey. I'm with William Rawn Associates Architects. And I'm here with my colleague Cindy Mieir and Tim Pinegre. And we're very excited to be working with the city on this project having worked with city at the Cambridge Public Library in the past. As Lisa described, we had a many community meetings -- thank you. We had many community meetings and so just very briefly, you know, some views of the project. This was, this was the site long ago in the past. One of the key things that came out of these community meetings was a focus on creating a connection between Cambridge Street and Donnelly Field in a way trying to reconnect that sense that you saw in that historic photograph, increase open space on the site, and of course at the same time fit all of this increased program on to the site. The community was very interested in the access to, you know, a number of these public functions not directly related to CPS. And then ensuring that the Valente branch which is there now was very prominent.

These were just diagrams about how we're connecting to Donnelly Field. We split the building into two parts and created this open space from Cambridge Street. You know, there are two glass enclosed connections that connect the two halves of the school. But this is, this is significant new open space as well as on Willow, the corner here, and the swimming pool. So just to be very quick about it, you know, one of the key ideas is the classrooms are in this part of the building. That can be shut off. During after hours the auditorium, cafeteria, the gyms, can be open, accessible to the public.

So in terms of the Cambridge public school administrative offices, we've located an entrance that is shared by the library staff, the school staff, and the CPS staff. Here on Berkshire Street visible from Cambridge Street, the main entrance to Valente is here and to the schools are here, the entrance to the pool during its, you know, summer season is here. And so we wanted this to be visible, but appropriately away from the children's entrances.

CONSTANTINE ALEXANDER: What are the nature of the activities that are going to be -- administrative activities that are going to be in the administration building? Is it going to be primary administration offices for the City of Cambridge schools?

LISA PETERSON: Yes, they are. And this is the office of the superintendent of the, you know, chief operating officer, the assistant superintendent, etc. So it is the primary administrative function.

CONSTANTINE ALEXANDER: Okay.

SAMUEL LASKEY: So just quickly to orient you, this is a view along Cambridge Street in one direction. This is the classroom building. That's Valente Library. And this is looking the other direction on Cambridge Street, this is down on Berkshire Street. So we're getting to what we're all here for. The two floors of the building here are the administrative offices for the school and then this further back in that element of the building is actually part of the school not Cambridge public school administrative offices. This is looking from the intersection of Berkshire and Cambridge Street. So here is that -- here's the entrance here, a shared entrance and then these two floors are the administrative office spaces there. You can get a sense of them in relationship to the buildings across the street.

This is the other side of the building by the Frisoli Youth Center.

So just overall again, this is the entrance to the, to that. And then here in yellow on floor two and floor three that is the office space in question.

That's the office space for the administrative offices for the school system.

And then we have this diagram that describes the two variances that Lisa explained, so the first is, you know, self-explanatory. It's 41 feet, not 35 feet. And then just to zoom in a little bit, you know, that Red Line would be the setback per the zoning at 57 feet, and then what we're requesting is 33 feet. And instead that is to the canopy that, you know, that you saw in some of those renderings. There's a canopy, but the mass of the building on floors 2 and 3 is actually, you know, further back, 41 feet or so. So but because of this canopy that exists there, that's where the 33 foot, nine came from. So hopefully that gives you a sense of more specificity on what we're asking for in relationship to Berkshire Street there.

LISA PETERSON: And if I just may add, I neglected to, the whole project including the underground parking is 272,000 square feet. The Cambridge Public -- the school administration space that we're talking about is 21,000. So it's actually a very, it's a very small portion of the overall project.

SAMUEL LASKEY: And I'll speak on Lisa's behalf which is one other comment. When we went to these multiple community meetings, Lisa strongly encouraged us as the architects to solicit the public's feedback with

regard to putting the CPS administrative offices on this site versus not doing so. And we showed, you know, versions of the design with and without it. And I think perhaps to our surprise I will say people not only seemed, you know, to say that didn't bother them one way or another. Particularly a number of people were downright encouraging. "Why wouldn't you do this?" was kind of the response that we got. So I thought that was interesting in a public meeting.

CONSTANTINE ALEXANDER: There's going to be parking, underground parking?

LISA PETERSON: Yes.

SAMUEL LASKEY: Some of which is for the administrative offices.

CONSTANTINE ALEXANDER: Yes, that's what I was referencing the administrative offices.

Thank you. Is that it?

LISA PETERSON: Yes.

Did you want to say anything?

MICHAEL BLACK: No.

CONSTANTINE ALEXANDER: I would like to congratulate all

of you on a very thorough and detailed presentation.

Questions from members of the Board?

(No Response.)

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

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. We don't have any correspondence. We do have a very detailed presentation from the Planning Board with regard to the Special Permit they granted for the school activities and their recommendation in support of the relief you're seeking here tonight.

I'll close public testimony. Ready for a vote? Okay.

The Chair moves that we make the following findings with regard to the Variances being requested:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being is that the desire to construct new administrative facilities for the School Department require that -- and given the general architecture of the whole project, require the relief that's being sought.

And without it, the ability of the administration building to be an effective structure will be hampered.

The hardship is owing to basically the shape of the lot and topography of the lot.

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

In this regard the Chair would note that the project as proposed, including the school, will improve the quality of the educational facilities of the City of Cambridge and will also improve the ability of the administration to function effectively within Cambridge.

And that also that this project has the support of the Planning Board and presumably of the citizens of the city in the neighborhood. Certainly we've seen nothing to the contrary.

So on the basis of these findings, the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with the plans submitted by the petitioner. I've initialled the first page, but only those pages that relate to the relief you're seeking are relevant.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Variance granted.

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

* * * * *

(8:00 p.m.)

(Sitting Members Case No. BZA-012585-2017: Constantine Alexander,

Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call case No.

012585, 625 Massachusetts Avenue.

Is there anyone here wishing to be heard on this matter? We've
seen you before.

JASON PARILLO: Yes, good evening.

Good evening, Mr. Chairman, Members of the Board. I'm Jason Parillo with Back Bay Sign Company. And this is Marc -- Marcelo Nandi with We Work. We are here tonight to ask for a Variance to install a flag on an existing flagpole at 625 Mass. Ave.

Before I get into the specifics of the petition, I think it might be helpful to have Marcelo just talk a little bit about who We Work is and a little bit more specifics of --

CONSTANTINE ALEXANDER: Briefly because I'm not sure it's all that relevant to the zoning relief --

JASON PARILLO: Absolutely.

CONSTANTINE ALEXANDER: -- it may be more relevant to your business.

MARCELO NANDI: So I work for We Work. We basically sell co-working spaces. But our main business is to get the community together. So inside of our spaces we have -- most of our members are between 25 on 35-years-old. So we have a lot of startup companies, freelancers, and they need a space where they can work freely without paying a lot of money I would say in

rent and all the other things that incur when you're renting your own space. So they use our space not only to have their local place to work, but also to get more work out there.

Our members talk to each other and generate business inside that community. We have a social network inside of our space basically that -- where all of the members can offer job or services to each other. And I believe there's no way we can have our space filled with all those members in creating new jobs if we cannot present the we are on the place.

CONSTANTINE ALEXANDER: Why does this justify a sign that's way out of compliance with our zoning by-law?

MARCELO NANDI: Well, the flagpole is existing. We are just trying to make sure that people know that we are in the city. And our space now --

CONSTANTINE ALEXANDER: This is Massachusetts Avenue. It's a very busy commercial area.

MARCELO NANDI: Yes.

CONSTANTINE ALEXANDER: And there are loads of businesses of all sorts along there. People have no trouble finding their way into

the building, particularly young entrepreneurial types. Why, your sign that you want, the size is not supposed to be anymore than 13 feet. 68.785 feet. That's five times -- more than five times as permitted by our ordinance. And it's a flag sign which is a little more distracting as well.

And the height, you're not supposed to be more than 20 feet. You want to be 42 feet. That's twice again what our ordinance allows. I don't see the justification me personally. In Central Square on Massachusetts Avenue with a loads of commercial buildings up and down, people running their businesses, complying with the sign by-law. Why do you think you need to have this big enormous sign?

MARCELO NANDI: Well, we don't have another option.

Basically Boston Sports Club and the pharmacy are both taking all the space for the signage. So we can have only one plaque that it's right behind the subway station.

CONSTANTINE ALEXANDER: That's your choice. Don't rent the property.

MARCELO NANDI: And transportation. And we don't have any way to advertise our business.

CONSTANTINE ALEXANDER: Don't rent the property.

MARCELO NANDI: Our business now is 30 percent of its capacity, and we are having a hard time for people to actually -- I heard from our community manager this afternoon that we are having a hard time to have people to come in to do tours and guide them through our space because they can't really find the location.

So we are 30 percent. We open the building recently. 30 percent is really a low number for a company that wants to, you know, provide office spaces for people that like need that service.

JASON PARILLO: Just to make a couple of points. So the We Work, they just don't occupy the 625 address, they're also in that 613 space which is to the right. They occupy the second floors of those two buildings. So this flag, because the first floor is completely occupied with signage, there's nowhere to put another sign for We Work. This sign would be on an existing flagpole which is on the second floor, which appropriately identifies their space. This -- allowing this flag wouldn't set a precedent because there's an existing flagpole there. The landlord is going to take down the other two flagpoles. So this -- it's not like we're asking to put up an some illuminated sign on an existing

old building. We're asking to put up -- use the existing flagpole, put up a, you know, a flag, which I -- it's is not like some illuminated sign that's gonna, you know, that's not gonna be in the character of the neighborhood. This flag I think would only add to the streetscape. I think it appropriately fits the character of the neighborhood. So just a couple of points there.

And like I said, I just don't think that this would set any kind of precedent by allowing this sign. And, you know, one thing I'd like to get feedback from the Board is the issue the concept of the flag or is it the size?

CONSTANTINE ALEXANDER: The issue is size and height. That's what -- you are going to be woefully out of compliance with our ordinance as to size of sign and height.

JASON PARILLO: As far as height, there's not much we can do about that because the flagpole'S existing.

CONSTANTINE ALEXANDER: Don't use the flagpole.

JASON PARILLO: Yeah. But as far as if size is really the issue, we could do a smaller flag.

CONSTANTINE ALEXANDER: Not much -- well, you know, if you could -- you started out, you know what our ordinance says. You say you

can't have it more than 13 feet. So what do you do? You pitch for a 68-foot flag and you hope to come down here and persuade us to allow you to have a 68-foot flag. And now you're saying well, if we can't do 68 feet, well, how much can we do? That's not the way I operate. You come in here and you've got to comply with our ordinance. And if you can't, give me a good reason why. And I think one of the good reasons is you're going to come as close to the ordinance if you can't comply with it, as possible. 68 feet don't cut it.

MARCELO NANDI: The size of the flag, the original size of the flag is basically the measure of the pole tell us basically what the size of the flag should be, the size of the flag. And so --

PATRICK TEDESCO: I mean personally what I guess troubles -- I agree with you, Gus. The presence of a flagpole to me doesn't justify, you know, if there were no flagpole there, and you came to us, you know, it doesn't change the impact, right? It's not as though people walk by there and say oh, gee there ought to be flags. To me it's a very different --

CAROL O'HARE: Can you use the mic?

PATRICK TEDESCO: Oh, I'm sorry.

To me it's a very different urban design expression to have a banner

or flag. There are a few examples in my opinion where it's successful. The ones I think of are galleries in SoHo where they have ordinances about how bad -- and there's sort of an array of them across the district. So for me I think this stands out. And I realize second floor space, commercial spaces are problematic in terms of wayfinding and identity. That's, that's kind of a reality of -- that's why a lot of second floor retail doesn't work. That's something you had to have known going into this. And as far as other signs on the building, that's something that, you know, your landlord is really between you and the landlord. And I, I would also point out there have been examples where this Board has granted variances both in height and in size because of visibility issues. But as you said, within reason, you know, in an effort to meet the Variance as close as possible. And I don't think the flag -- the presence of a flagpole in my opinion doesn't justify this kind of expression. It's just my reaction to it.

CONSTANTINE ALEXANDER: Good, thank you.

Any other comments at this point from members?

I'm sorry, have you finished your presentation? Is there anything more you want to say?

MARCELO NANDI: No. It's basically what I said. We only

proposed a bigger size was because it related to the size of the existing pole.

That's why we're planning on maybe introducing a different size. We could do a smaller flag like he said. Maybe we would get closer to what is compliant. And hoping that we could actually expose our brand on the exterior of the building.

It's very hard. I understand that it's the second floor, it's a problem for all different, you know, business. But 30 percent occupancy, that's really --

PATRICK TEDESCO: I have, I mean knowing your demographic, I find it hard to believe that people can't find We Work and don't -- and go to We Work because they see a sign there. I have to think that this population which is --

MARCELO NANDI: It attracts new potential members.

PATRICK TEDESCO: Developing apps can show you where every We Work within a ten mile radius. I just find it hard to believe that people go into your business because they happen to see a sign. That's just my impression. I mean --

MARCELO NANDI: Well, I mean, I don't know if you, you probably have never seen a lot of advertising actually on We Work other than on the media on-line. So we don't really do TV and things like that.

PATRICK TEDESCO: Exactly.

MARCELO NANDI: So what I'm saying is just that some people, they're not accessing those kinds of media and are just walking down the street, they will only know and raise the idea, oh, what is We Work? Or ask the question if they see that we are -- we have presence on that, you know, that city. If they don't see any sign, they cannot guess as well.

PATRICK TEDESCO: But doesn't -- I mean We Work, you've got locations all over Manhattan, right? In Boston. You're on 10, 20 -- you're in tall buildings on occasions. It's not like a Starbucks where you walk down the street and, you know, it's, I think it's part of a known network of workspace. I mean that, I don't, I can't, I don't think I've ever seen a We Work sign, but everybody knows about it. I mean that's just my impression. So I'm not sure I buy the need to, you know, for wayfinding at this scale. That's just my impression.

CONSTANTINE ALEXANDER: Anything further?

JASON PARILLO: I was just going to offer, we do have a rendering of a smaller flag. I don't know if the Board would be interested in seeing that.

CONSTANTINE ALEXANDER: I'm sorry, you just can't say you

come down with one petition and you pull out of your pocket another one and say, well, if we can't do this, it's how about this?

JASON PARILLO: It's not a separate petition. It's the same petition. It's a concession if size is the issue or not.

CONSTANTINE ALEXANDER: You've brought your case on the case before us with a 68-foot sign. We're going to vote on that yes or no. I'm not -- you can save those as far as I'm concerned.

I'll open the matter up to public testimony.

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

Ms. O'Hare.

CAROL O'HARE: Hi. Carol O'Hare, 172 Magazine Street.

I -- as you know, the Planning Board unanimously recommended against this.

CONSTANTINE ALEXANDER: I'm going to read it into the record. We have a letter from them.

CAROL O'HARE: Okay. And this --

CONSTANTINE ALEXANDER: Give one to the petitioner, too.

JASON PARILLO: Thank you.

CONSTANTINE ALEXANDER: I'll pass them out.

CAROL O'HARE: Okay.

You have covered the two dimensions that -- two of the dimensions that require the Variance; the height which is excessive, and the size which is super excessive. The thing that -- the other thing that strikes me about this proposal is that it's not just a sign on a flagpole. Flags of the United States, the City, and the Commonwealth of Massachusetts, which I think I remember having seen on those three flagpoles in years past, are exempt from zoning. So those flagpoles are only there because they hung, I believe, three exempt flags. Those flagpoles were not intended for business flags or even, even for wayfinding business flags. And they were intended for exempt flags. So those flagpoles project 90 feet into the public way, which is way beyond even a projecting sign, which the Boston Sports Club has on that building. So they are in effect requesting a massive variance for size, for height, and for extension into the sidewalk public space. If any other business in Central Square or in any other commercial strip in Cambridge looks at that sign, even if it's smaller, they say oh, we want to put our sign out on a flagpole right down the street, we would have flags of all different sizes unlike Soho, just jangling our nerves, our site, our appreciation of our buildings in Central Square, many of them are historical

facades. Central Square was just rezoned in a very thoughtful process. It is, as I've said, and you've said many times before, this would be the first in the slippery slope towards sign mess in precious and distinctive Central Square where local businesses still prevail, thank goodness.

There are ways in which this landlord from Texas who bought the building in 2012 is improving the building. They've now got what do you call it? Structural stuff where they -- I think they're re-pointing the brick. But this landlord obviously has no regard for signage because this landlord has had an oversized For Lease sign hanging on the front of the building for over a year, when those signs are supposed to be temporary not above the second floor. So I think that I will -- I think this tenant We Work, should talk to the landlord and figure out where a legal sign could go. And it is a difficult building. I would suggest that maybe the Boston Sports Club projecting sign could move down the building to be over their main entry door and that We Work might be a projecting sign at that same place.

Have you -- yeah, the Boston Sports Club entry is down at the end of the building, other end of the building.

So there are all kinds of ways in which this landlord, who is

currently violating the zoning law, and has been for a year or more, could work with the tenant to develop a legal location in our beloved Central Square.

CONSTANTINE ALEXANDER: Thank you.

Is there anyone else who wishes to be heard on this matter?

Ms. Hoffman.

HEATHER HOFFMAN: Hello, Heather Hoffman, 213 Hurley Street. And mostly I wanted to say hot dog for these microphones that actually work. And beyond that, what could I possibly add?

The Board understands this issue really well, and I cannot add to your analysis or to Carol's observations about why the flagpoles are there. So, thank you.

CONSTANTINE ALEXANDER: Thank you.

Is there anyone else wishing to be heard?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. We are in receipt of correspondence which I will read into the record.

We have a memorandum from the Planning Board. (Reading) The Planning Board reviewed the BZA sign Variance for a projecting sign, (flag) at

625 Massachusetts Avenue, and does not support this request. The Board Members saw no rationale for not following the sign ordinance and meeting the height and size limits and for projecting signs. There are specific cases such as museums where banners are encouraged as part of the cultural environment, but not in cases for individual businesses.

We have a letter from Colleen C-O-L-L-E-E-N Clark, C-L-A-R-K, 21 William Street. (Reading) I object to the use of large signs/flags in Central Square. The public visual space does not belong to businesses which may be inside the building. It's the same as Citizens Bank planned to put up banners around a building in Harvard Square, that was rightly rejected.

And last we have a letter from Marilyn Wellons, W-E-L-L-O-N-S, 651 Green Street. (Reading) Please deny We Work's request for the Variance here. Current zoning aims to protect the public against visual clutter even or especially in Central Square where recent rezoning strongly encourages more intensive development. We Work's Variance, if granted, would help unleash signage far beyond clutter, not the kind of vibrancy that the city aims for in Central Square.

And that's it.

Any concluding comments or rebuttal at this point?

(No Response.)

CONSTANTINE ALEXANDER: Discussion or ready for a vote?

JANET GREEN: I'm ready.

ANDREA HICKEY: Ready.

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

A literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner. Such hardship being that the petitioner feels to operate its business in these premises, it needs a sign of the size and height they're seeking with regard to the relief being sought.

For the hardship is owing to the shape of the building.

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

On the basis of these findings the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance were the plans initialled by the Chair and which had been originally submitted to the

Community Development Department.

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently there are no votes in favor. The request for a Variance has been denied.

MARCELO NANDI: Thank you very much.

CONSTANTINE ALEXANDER: You can leave but we have to for the record, we have to now explain why we reached that decision.

And the record should reflect that the Board concluded that the petitioner will not suffer a substantial hardship if the signage that they propose is not permitted.

That the shape of the building is such that they don't need a sign of the kind they're requesting.

And that relief would be -- if we granted relief, it would be to such a substantial detriment to the public good.

And in this regard we refer to the Planning Board objection and apparently the unanimous objections of citizens of the city who have taken the time to comment on this case.

Did I get it all? Anything else?

Thank you.

JASON PARILLO: Thank you.

MARCELO NANDI: Thank you.

* * * * *

(8:25 p.m.)

(Sitting Members Case No. BZA-012641-2017: Constantine Alexander,
Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call case No.
012641, 69 Rindge Avenue.

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

KYLE SHEFFIELD: As I'm sure you're aware, there is a lot of
history with this case.

CONSTANTINE ALEXANDER: I sat on the case. I remember
the case.

KYLE SHEFFIELD: So I figured there might be a little bit of

background.

CONSTANTINE ALEXANDER: Were you the architect for that case as well?

KYLE SHEFFIELD: I was not.

CONSTANTINE ALEXANDER: I didn't think so. Okay.

Just for those in the audience, a further recording is being made of our proceedings by a citizen of the city.

KYLE SHEFFIELD: Good evening, Mr. Chair. Good evening, Board. Thank you for having me. My name is Kyle Sheffield and I'm a principal at LDA Architecture and Interiors in Cambridge. I'm here tonight representing Nina Mani and Brett Hansmeier. It's a property that's come before this Board a few times under a previous architect. And to give you guys a quick background on it, Nina and Brett had purchased this property in 2013 and they had elected to hire an architect to actually go through and do some renovations to the house. You'll see some of the plans here tonight that I'll briefly walk you through just in case you need a refresher. And they, after a few tries before this Board, they were granted a Variance for two dormers, and at that -- after that particular meeting they realized that they were not gaining the design consultation

that they felt that they were getting with their current architect. They had approached LDA and had asked us to make some developments and to approve the design that was actually approved by this Board. So the goal was to make interior renovations that -- using the Variance that was approved.

In summary, we actually started to work on the interior components of the design, and during that process we actually discovered that there were some inconsistencies with the existing conditions as documented by the previous architect that had a slight impact on the way that the Variance or the dormers that were in question were part of that Variance approval. As a result, that's what brings me before you today is to amend the -- a Variance that was approved in December of 2015. And we are also asking for a Special Permit to make some adjustments to the windows and openings that are existing, existing walls.

The existing conditions at 69 Rindge Ave., it is on a corner lot. It's an 1800s two-family house. There's no parking. There are multiple non-conformities that are pre-existing; that includes the front, rear, and side yard setbacks as well as FAR. All of the proposals that you see before you today with regard to the Variance that has been granted are not in trying to exacerbate that condition. What we ended up doing, the approved conditions that are sort of the

major components, and I'll quickly walk you through them, is we have an existing -- a proposed dormer that is on the west side. It's 15 feet long. And the reason at that particular time for that dormer was to be able to get a new stair that was going up to the third floor as well as a bathroom into that area. There is also a proposed dormer that is on the west side of the property and that is actually to convert an existing gable end dormer into a shed dormer.

The other parts of the 2015 approved Variance were an exterior deck that was up on the second floor roof as well as a pair of French doors that gained access to that roof deck from the master bedroom.

You can see that existing elevations, there weren't any adjustments to the existing windows that were on the front of the house. And the rear of the house, as you can see, what was approved was the double French doors, as well as the railing for the roof deck. And there was actually a deletion of a window that was in that existing bump out that came off the back of the house.

You'll also notice that this is the east elevation showing that 15-foot dormer. There were two windows in there, one was within the stairwell, the other was within the bathroom. And there was also a skylight that was proposed for a third floor bathroom that was gonna be tucked under the existing. All the

other windows that were on this facade on the second floor and the first floor were gonna remain as is.

So here you sort of see some existing conditions. And what we had proposed was to amend some of the second floor windows based on the Special Permit. So I'll walk you through some of the Special Permit --

CONSTANTINE ALEXANDER: Do the Variance part of the case first.

KYLE SHEFFIELD: Yeah? Okay. I was going low hanging fruit.

CONSTANTINE ALEXANDER: What's that?

KYLE SHEFFIELD: I said I was going for the low hanging fruit first.

So the Variance petition, and I bring up the floor plans and I'll pull the floor plan up here as well, the Variance petition for the amendment is actually to shift the dormer further to the north. And there are a few reasons that we discovered as we started the project. One is IS that we actually went through and we did our own existing conditions survey. Some of it was based off the existing plans that we were given, but typically because the principals in the office were

required to stamp drawings, we want ownership of that and it's our risk and our license. So we went through and did another survey and input it into our Revit program. And we discovered that there were a couple of things that were incongruous with the granted Variance conditions:

One was that the proposed stairs that were designed with this adjusted 15-foot dormer, did not meet the head height requirements of six-foot, eight.

CONSTANTINE ALEXANDER: Really?

KYLE SHEFFIELD: They were very close, but from where we had actually placed it, they were a little bit incongruous.

The second thing that we looked at was the proposed bath, guest bath on the third floor that was gonna be tucked into the roof. A little background behind that just to refresh your memory, is that they had originally wanted -- they were at the time hoping to start a family. Since the granted Variance, they have now become parents.

CONSTANTINE ALEXANDER: Congratulations.

KYLE SHEFFIELD: And the goal is to actually have that bedroom be their son's bedroom and to be able to have a bathroom there with a tub. There

wasn't substantial headroom in that according to laying out the dimensions as we had found based on our survey. And the other thing that we found was that in the master bath, the headroom, as you sort of got in and around the storage and sink area was also slightly low. So we worked --

CONSTANTINE ALEXANDER: I'm sorry, for the bath there's not substantial headroom. By state building law or --

KYLE SHEFFIELD: It's close, yes. There is minimum seven foot, you know, there's headroom that is there.

CONSTANTINE ALEXANDER: Right.

KYLE SHEFFIELD: It slopes significantly to the point where that toilet location is actually, you would bump your head as you would step up. It may be good for a young child, but at that time it was not sufficient for --

CONSTANTINE ALEXANDER: The reason I ask is that the -- creating a second another bathroom for your child is not a justification for a zoning variance.

KYLE SHEFFIELD: Sure.

CONSTANTINE ALEXANDER: The headroom for stairs up is.

KYLE SHEFFIELD: Sure, of course.

CONSTANTINE ALEXANDER: So I'm trying to get my hands around -- my head around why the issues regarding the son's bathroom.

KYLE SHEFFIELD: Well, the -- what happened was during -- as a result of trying to be able to have one bathroom on that third floor that would serve both Nina and Brett and their son, caused us to look at what the current, the current approved conditions were which was a shower, a toilet, a corner sink, and another sink, and as well as being able to gain a headroom obviously for the stair. The existing stairs are below -- are non-conforming as you get higher up. So the benefit of having a dormer, if we were to leave the existing stair, was going to relieve that hardship.

The second thing was being able to try and have the bathroom up on that upper floor that actually could service the two bedrooms, rather than increasing the amount of bathrooms that were up on that floor as approved.

There were a couple of things that also had played an impact on that that had an impact on the window adjustments that were down on the second floor. As you probably have seen before, we were also trying to resolve some of the facade composition that was there and really try and take what was a very jumbled facade in terms of windows and a presentation to the neighbors as well as

to the street, to be able to at least keep that moment in a little bit more alignment than what is currently existing and what was previously approved. So the resultant was to align the two dormers. This is the existing -- sorry, this was the approved variance dormer that was once a gable dormer now is a shed. We aligned it to the end gable there, which we understand is why we're here tonight. The other -- the reason for that is also to sort of resolve some of the quirky issues that were happening as you can see all the way around the house that were part of the existing conditions. You can see the dormer here and it's very difficult to actually see some of the conditions that are up on that back section.

The other aspect of it was to be able to get a tub and a toilet and two vanities and as well as a little bit of storage so that they could have the family of three on that level.

The last thing that we are hoping to be able to adjust is that we actually -- in order to get that bathroom to work, we actually reduced the approved double French doors that were on that main gable end by sliding the bathroom wall further down to be able to get a little bit more headroom as we got closer to the main ridge of the house.

The deck still remains the same. And as a sort of byproduct of

reducing the double French doors on the north side, we're asking to be able to amend the Variance to be able to include a second window that is on the approved dormer from -- on the west side of the house.

Just very quickly, as you can see, the main things that we're doing now for that dormer that's on the west side, we're now working through trying to be able to create localized symmetries in ways that start to really compose the facade on all sides, again, inasmuch as we can. Obviously you're seeing the main dormer that's here on the east side and adding two windows that are symmetrically oriented about that for the new dining room.

CONSTANTINE ALEXANDER: This dormer, though, it's 15 feet, otherwise is not fully compliant with our dormer guidelines?

KYLE SHEFFIELD: Other than, with 15 feet it falls below the ridge --

CONSTANTINE ALEXANDER: Right.

KYLE SHEFFIELD: -- which does conform, and that was approved so that's still consistent. It has a continuous eave underneath it which is also consistent. The rake boards that you see actually on this are also consistent and do not get broken, so that there's still a reading of the main roof volume.

I'm just going to turn the one page to the east facade. As you can see there, you can see the actual rake that's coming down that's consistent, and it's unbroken. The dormer rakes themselves are also put back and taught. And what was approved was having the front facade of that dormer aligned with the wall below, which is different than what you have in the current dormer ordinances. But what we wanted to do was keep what we had and merely shift. We didn't want to exacerbate any further conditions. And if there was a way that we could actually pull the dormer in and still not hurt the headroom and the stair that's coming up to the third floor, we would have. Unfortunately we weren't able to accomplish that.

And as you can see there are some 3-D views that show the composition as it is proposed.

PATRICK TEDESCO: So the dormer shifts but doesn't get wider?

KYLE SHEFFIELD: Correct. It only shifts.

I would want to point out that we actually were able to garner support of all neighbors that are abutters, including ones that are across the street, across from Rindgefield. I believe that the owners have submitted them for the record. We also have them here.

CONSTANTINE ALEXANDER: We have letters of support which I will read into the record.

KYLE SHEFFIELD: Great.

CONSTANTINE ALEXANDER: I remember from the last case, you were here, that there was at least one neighbor that you had problems with initially, and you came to a resolution. Has that neighbor, whoever it is, still here and do they have any comments on what you're doing?

BRETT HANSMEIER: They are still our neighbor and we actually do have a letter from them that -- which you will be adding to the record. Todd and Alicia Harrison. And they have agreed with the --

CONSTANTINE ALEXANDER: All right. Because I think all the letters are in support. I don't see any letters in opposition.

Okay, thank you.

KYLE SHEFFIELD: Lastly, because I know this Board has labored through this project for multiple iterations prior to our firm working on it, I know that the owners wanted to sort of say a few words on their own behalf about the reasons for also coming back here today.

CONSTANTINE ALEXANDER: Go ahead.

BRETT HANSMEIER: We just wanted to thank the Board for your time. We realize it's valuable and we did not really want to be in this position. We had to fire our previous architect. The previous plans were I think of questionable quality. Had not been reviewed by a structural engineer. And the, you know, basically was no help to us with trying to navigate the zoning variance process resulting in a lot of wasted cycles in this Board. So we think we've, we believe we've hired somebody of much higher degree of talent to help us out.

CONSTANTINE ALEXANDER: Okay, thank you.

BRETT HANSMEIER: Thank you.

CONSTANTINE ALEXANDER: Anything further?

KYLE SHEFFIELD: No, sir.

CONSTANTINE ALEXANDER: Okay. I'll open the matter up to -- any comments or questions from members of the Board first?

JANET GREEN: I want to say I thought your presentation was very clear. And I, this afternoon I was having a hard time with these plans. They gave me a headache.

KYLE SHEFFIELD: I apologize.

CONSTANTINE ALEXANDER: I want to endorse that. I couldn't figure out after reading this file and remember the other case, what's going on here? Same arguments were being made, but now you did clarify.

KYLE SHEFFIELD: Thank you.

JANET GREEN: Yeah, you did.

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

Is there anyone wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. We are in receipt of letters from neighbors which I will read into the record.

The letter from Todd Harrison and Alicia Crothers

C-R-O-T-H-E-R-S -Harrison that reside at Two Rindgefield Street. (Reading)

We are the abutters to the property at 69 Rindge Avenue for whom the owners have applied for a Variance for renovations to their house. We have received an e-mail from Nandini Mani on March 24, 2017, with a PDF attachment of 19 pages with information about their project. Our understanding of the changes are as follows:

The dormer on the east side of the house would move six inches to the north. We also notice from the drawings that there are changes to the exterior that face our house, in particular changes to the size, location, and number of windows and doors. We have reviewed these changes and find them acceptable. If there are any revisions to these plans, we request notification about them. Please consider us in support of the application of new plans as submitted by the applicant.

We have a letter from Maureen O'Sullivan, 67 Rindge Avenue.

(Reading) As homeowners next-door to the house at 69 Rindge Avenue, we have been given the opportunity to review and discuss the proposed plan with the applicants. They have answered all of our questions. My husband and I enthusiastically support the plan submitted by Nina Mani and Brett Hansmeier for the renovation of their house.

A letter from Germane Hult, H-U-L-T who resides at Three Rindgefield Street. (Reading) As a homeowner in and around the property of 69 Rindge Avenue, I have been given the opportunity to review and discuss the proposed plan with the applicants. The proposed plan was explained to me and any questions or concerns have been addressed to my satisfaction. Please

consider me in support of the plans submitted by the applicants.

And we have an identical letter, more than one identical letter, from the resident at 27 Haskell Street, No. 2, Albert Moody and Denise Moody.

And also from Jeff Hanseu (phonetic), H-A-N-- I think it's S-E-U.

BRETT HANSMEIER: S-E-L-L.

CONSTANTINE ALEXANDER: It's handwritten. I can't read it.

And Sophie, same, Hansell.

And I don't see where they reside. But anyway.

NANDINI MANI: They're -- it's the house right across Rindgefield from us. So it would be the next thing, Rindge Avenue, 70-something.

CONSTANTINE ALEXANDER: Anyway, that's in support because it's identical to the other letters. And that's the last of our correspondence in the file.

Just take a moment to talk about the Special Permit which I cut you off on earlier.

KYLE SHEFFIELD: Sure.

The Special Permit actually is more resultant of trying to work with some of the existing conditions of the windows that are there, but also provide a

better layout of -- in the second floor for their living.

And I'll just pull up the plan. The existing kitchen is actually shoehorned in the upper northeast corner of the house, and there's an existing bathroom that's actually up at the top of the stairs as you come up into the unit. There's a bedroom at the back, dining room, the living room, and there's sort of a little sunroom, and another bedroom that's off of the southeast corner. And a couple of things sort of drove the adjustments to the apertures within the existing walls on all of those facades. Part of which the biggest move really is being able to flip the kitchen and bring it from the northeast side of the house, which is adjacent to the back stair and didn't really sort of provide an efficient layout. Actually bringing you down on to the northwest side of the house and providing a much more functional kitchen with an island, a place where they spent a lot of time working at home, part of which could be at various horizontal surfaces, including an office, but the island also is a place of, as many of us now are finding ourselves rather than being huddled around a fire, that we're now having glasses of wine around the island, kitchen island. So it's a very much more formal gathering space.

The bathroom was shifted actually back to the back corner of the

house. And we were able to tuck in a little bit of a mud space and a laundry as you get -- come up from the back door. A lot of these inputs were driven in large part by their own discoveries as being new parents and wanting to walk and move around the city. There's no parking, and they have stroller issues. They also have a dog. So being able to have a nice little discrete part to deposit places was another thing.

The other aspect where the old guest bathroom was where the guest bedroom is. It's much smaller, whereas the previous guest bedroom took up the entire footprint of the kitchen.

And the kitchen windows were subsequently adjusted so that they were higher and smaller. And adding an additional window in the dining room to be able to get a little bit more light.

At the front of the house the window openings remained unchanged in large part with the exception of the front of the house which actually has this existing roof deck that is essentially falling apart. But more importantly concern for them and being parents about the kids getting access on to an upper porch.

So the other reason that we removed the bedroom in that location was actually to create a little bit more of a Home Office. And also if we're

keeping the existing stair structure, which was -- which is there, allows us to be able to get a little bit of a closet, hall closet as you first enter into the unit.

CONSTANTINE ALEXANDER: Thank you.

I will close public testimony. Discussion or ready for a vote?

JANET GREEN: I'm ready.

ANDREA HICKEY: Ready.

CONSTANTINE ALEXANDER: There will be two votes actually.

I'll start with the Variance.

With regard to the Variance being requested the Chair moves that we make the following findings. And the findings I think we can do very shortly is incorporate the findings we made in connection with the prior Variance we granted since the relief being sought in terms of dimensional aspects is very modest and nothing, and nothing has changed in the neighborhood. So simply for the purpose of our decision, we'll incorporate the prior findings.

So on the basis of these findings, the Chair moves we grant the Variance being requested tonight on the condition that the work proceed in in accordance with the plans prepared by LDA Architecture and Interiors, the first page of which has been initialed by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

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

CONSTANTINE ALEXANDER: Moving to the Special Permit. There was no Special Permit last time. So the Chair moves that we make the following findings with regard to the Special Permit being requested:

That the requirements of the Ordinance cannot be satisfied without the Special Permit.

That traffic generated or patterns of access or egress resulting from what is being proposed with regard to relocation of the windows will not cause congestion, hazard, or substantial change in established neighborhood character.

That the continued operation of or development of adjacent uses as permitted in the Zoning Ordinance will not be adversely affected if we grant the Special Permit requested.

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

of the city.

And that what is being proposed with regard to the Special Permit, will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

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

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

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

* * * * *

(9:00 p.m.)

(Sitting Members Case No. BZA-012626-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call case No. 012626, 409 Norfolk Street.

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

DAVID SISSON: Thank you. I'm David Sisson the architect representing Hudson and Lisa Santana who are the homeowners of 409 Norfolk Street. I'd like to thank Sean and the Board for your time and effort in this case.

Hudson and Lisa purchased this home in 2015 originally as an investment property and ended up liking it so much we changed our plans for interior renovation at that time and ended they up moving into the house and committing to the City of Cambridge at that point. At that point we had -- they did a by-right dormer addition and interior renovation of the home. They've additionally changed out windows and some exterior renovation in terms of siding and trim and things like that. Home looks much nicer today than it did when

they originally purchased the home and is much nicer inside of course also.

Subsequently the family's expanded and they have two children now and would like to construct a family room, playroom, over the top of what is an existing, let's call it about a half story concrete block portion of the existing building. And this is located at the rear of the home. It's an existing portion of the home. And this concrete block is not a very attractive portion of the home. It exists primarily to form an entry to the basement apartment and has a deep boiler room in it. And so it's a service portion of the house. And it has a shed roof which comes up on one side slightly higher than the first floor, and on the other side slightly lower than the first floor. And so attached to the back of that is a concrete block shed which has a matching shed roof on it. They would like to construct a one-story addition above this concrete block portion of the home, and that -- it would be the family room. When we do that, we bump into zoning issues which is why we're coming to you folks. We also -- the existing entrance to the basement apartment doesn't work anymore because we've lowered the height of that wall on the one side, on the entry side to it, and we've raised it on the other. And so if we, we can't -- we can no longer go in that same door, because the new floor is in the way and you would hit your head on it. So we've

designed a new little addition coming off the back. And its sole purpose is to provide an entry to that basement apartment.

CONSTANTINE ALEXANDER: And this addition creates a rear yard setback issue which is why you're here tonight. The playroom, you're still going to be within the FAR?

DAVID SISSON: Correct, correct.

And we have an existing side yard setback issue. We have an existing front yard setback issue, which I don't think is a concern of the Board but we wanted to bring it to your attention. And we would be building to the existing side yard setback which is non -- you know, existing non-conforming. And we would be exacerbating the rear yard setback which I believe is also existing non-conforming.

You'll note on the property that it abuts on the north side a condominium unit which is primarily in the City of Somerville. We've approached Somerville and we've submitted to you some -- an e-mail chain between our attorney and also Somerville indicating that Somerville considers this a de minimus issue for them and they're turning over all decisionmaking to this Board.

The property abuts at the rear a commercial use property on Tremont Street and residential properties around it on the other sides.

The proposed addition is single story. It's designed to match the existing home in style and scale. We would be doing similar windows and siding to the existing home. And I believe that the addition would improve the look and feel of the rear of the home, because we would be taking a rather strange half story concrete block addition and integrating it into the design of the home. And so that's our intention.

I would be happy to answer questions for the Board.

CONSTANTINE ALEXANDER: Okay. Any questions or comments?

(No Response.)

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

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

Ma'am, is there anything you want to say? You don't have to.

JOANNA HURLEY: I'm a neighbor but it looks good to me.

CONSTANTINE ALEXANDER: Could you give your name?

JOANNA HURLEY: Joanna Hurley at 410 Norfolk.

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

I guess that's the only public testimony. We don't have any -- I don't think we have any letters in the file.

Do you have the file?

PATRICK TEDESCO: I didn't see any letters. A bunch of return letters.

CONSTANTINE ALEXANDER: I'll give other members of the Board a chance to read through the plans and the file. It will just take a second.

The Chair will close public testimony. Discussion from members of the Board? Questions? Comments or you want to go to a vote?

JANET GREEN: I'm comfortable.

ANDREA HICKEY: Ready.

CONSTANTINE ALEXANDER: Okay.

All right, the Chair moves that we make the following findings with regard to the relief being sought:

That a literal enforcement of the provisions of the Ordinance would

involve a substantial hardship. Such hardship being that the structure needs to be increased in terms of occupancy. It's a small home. And to do so requires modification of this rear addition which in turn creates the setback issues that we are faced with tonight.

That the hardship is owing to basically the fact that this is already a non-conforming structure in terms of setbacks and therefore any modification requires zoning relief.

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

In this regard the Chair would note that relief being sought is modest.

That there appears to be no neighborhood opposition or other public opposition. And that would allow the petitioner to remain in the city with a home that's more suitable to their growing family than it is now the case.

So on the basis of these findings, the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with the plans all of which have been -- each page of which has been initialled by the

Chair.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor Variance granted.

Good luck.

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

BRETT HANSMEIER: Can we hug you guys?

* * * * *

(9:05 p.m.)

(Sitting Members Case No. BZA-012457-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call case No. 012457, 15 Brown Street.

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

JAMES VAN SICKLE: Yes. Good evening, Mr. Chairman and Board Members. My name is Jim Van Sickle. I'm here representing myself and my wife who is not here this evening. I'm also the architect for the project.

CONSTANTINE ALEXANDER: I noticed on the plans.

JAMES VAN SICKLE: Yeah. I'm here and I hope to be very brief. I'm here to ask for a Variance to put a roof over an existing front porch and an existing, and an eyebrow roof over an existing back porch of my own house.

We've been living at 15 Brown Street since 1983. As we grow older, we have -- this is a very simple house. It's a builder's, you know, a worker's cottage, so-called: As we grow older, we find we would like to have

more protection as we step out on to the porch and hope that it will help us stay in place longer.

With that I'll just show you briefly the property. This is the house. This is the two-car garage you'll see here. There was what one of the elderly neighbors told us was originally a chicken coop added to -- stuck on to the back of the house, many, many years ago. So it's a kind of a studio room now. And that's where the back porch is. The entrance porch right here. And you'll see a rendering of it here.

This is an A-2 District. There are before and after 3-D views here if you want to look at them. They're available. Sorry I did not bring a tripod.

CONSTANTINE ALEXANDER: The reason that you're here before us tonight is an FAR issue. Your district is 0.5 --

JAMES VAN SICKLE: Yes.

CONSTANTINE ALEXANDER: -- and you're slightly non-conforming. You're going to go to 0.57. You're adding 48 square feet?

JAMES VAN SICKLE: That's correct. So I'm violating the FAR requirements.

CONSTANTINE ALEXANDER: You're only violating if we don't

grant you relief.

JAMES VAN SICKLE: Right. And, you know, even though it's outdoor space, because it's a roof, we have to count that as square footage.

The other issue is that I have an auxiliary use in the garage and the porch comes out and violates the ten-foot separation. So that's what I'm asking for relief for.

CONSTANTINE ALEXANDER: Okay.

JAMES VAN SICKLE: This other drawing simply shows before and after. That's the existing. From the street you would see the porch. From the yard, same thing. This is the front porch, and it would look like this. Rear porch, the eyebrow addition back here.

So it does have the support of the Half Crown Marsh Neighborhood Conservation District. Going through that review I did consult with all the neighbors. Everybody seems to be in support of this.

CONSTANTINE ALEXANDER: We have one letter, written letter in support, very brief, which I'll read it into the file.

JAMES VAN SICKLE: Yeah.

CONSTANTINE ALEXANDER: Patrick Pratt.

JAMES VAN SICKLE: Yes. Pat Pratt. And that's it.

CONSTANTINE ALEXANDER: Comments or questions from the Board?

BRENDAN SULLIVAN: It's funny how you live with something for so long sort of put up with it, and either it's a particular winter or a particular day and you say I just can't. It's the breaking point.

JAMES VAN SICKLE: I think it was the winter before last that we said we need to get serious about this.

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

Is there anyone wishing to be heard? Sir.

WIN QUAYLE: Win Quayle, W-I-N Q-U-A-Y-L-E, 16 Brown Street. My wife and I reviewed the plans and we think they're very common. Overhangs are attractive and consistent with the neighborhood and we urge that you approve them.

CONSTANTINE ALEXANDER: Thank you. Thank you for taking the time.

Anyone else?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

As I mentioned, we have a very brief letter from Patrick Pratt,
P-R-A-T-T.

JAMES VAN SICKLE: It's Pat Pratt. It's a woman.

CONSTANTINE ALEXANDER: It's actually addressed to the
Historical Commission, not speaking to us. (Reading) I am writing in support of
the improvements to the house at 15 Brown Street, Cambridge, by the Van
Sickles. That's it very brief.

I will close public testimony. Ready for a vote?

JANET GREEN: Yes.

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

That a literal enforcement of the provisions of the Ordinance would
involve a substantial hardship. Such hardship being is that the house as it's
currently designed does not provide shelter from the elements when departs or
approaches the entrances to the structure.

That the hardship is owing to the fact that this is already a

non-conforming structure. So any modification requires zoning relief.

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

In this regard the Chair would note that there's no neighborhood opposition.

That the relief being sought is quite modest in nature.

So on the basis of these findings, the Chair moves we grant the Variance being sought on the condition that the work proceed in accordance with the plans submitted by the petitioner, each page of which has been initialled by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

JAMES VAN SICKLE: Thank you very much.

* * * * *

(9:10 p.m.)

(Sitting Members Case No. BZA-012625-2017: Constantine Alexander,

Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair calls case No.

012625, 138 Thorndike Street.

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

PETER MARTIN: Good evening.

CONSTANTINE ALEXANDER: Good evening.

Give your name and address.

PETER MARTIN: I'm Peter Martin the architect. 11 Tremont Street, Cambridge, Mass., 02139.

PHILLIP JEFFERSON: Phillip Jefferson, the owner at 138 Thorndike Street. The co-owner is my wife.

PETER MARTIN: So Phillip and Kim want to demolish the existing masonry concrete garage behind their house at 138 Thorndike and build a new structure which is bigger footprint, but basically in the same place. This is the existing structure.

CONSTANTINE ALEXANDER: That's in our files already?

PETER MARTIN: That's in your file, yeah, yeah. And the footprint as you can see on BZA2 it's the same, it's wider and a little bit deeper. And it's higher.

CONSTANTINE ALEXANDER: That's what I want to talk about. Much higher than our Ordinance allows.

PETER MARTIN: Yeah, yeah.

CONSTANTINE ALEXANDER: And also I noticed that you have a dormer on there. This doesn't suggest to me that you're looking to use that garage more for something more than putting cars.

PETER MARTIN: Well, here.

PHILLIP JEFFERSON: And so this is a single post car lift. And the way it works is there's a column --

CONSTANTINE ALEXANDER: Why do you need a car lift?

PHILLIP JEFFERSON: My hobby is I have a vintage car and I work on it.

CONSTANTINE ALEXANDER: You've got a two car garage now. I mean, and you want to put three cars in this garage?

PHILLIP JEFFERSON: No, I still --

JANET GREEN: He wants to lift it up so he can look at the bottom.

CONSTANTINE ALEXANDER: Oh, I get it now. I'm sorry. Thank you.

PHILLIP JEFFERSON: Right, right, right. I do work on it. It's an older car.

JANET GREEN: What it is?

PHILLIP JEFFERSON: It's a 1988 Porsche 911.

CONSTANTINE ALEXANDER: Nice car.

PATRICK TEDESCO: Is that vintage, '88?

PHILLIP JEFFERSON: Well, 25 years is kind of the rule for vintage in that class.

CONSTANTINE ALEXANDER: Why the dormer?

PHILLIP JEFFERSON: So that's -- sorry.

PETER MARTIN: We had -- the design originally didn't have the dormer. And we -- sort of my reaction to the dormer is the same as everyone at the table. We had another type of lift which had four legs and one car could go under as the bottom was up. And eventually we decided because of, you know, getting in and out of the garage, we probably -- Phillip found this one basically. And we were about to submit the drawings when I really studied this and realized this telescoping arm chair that goes up and goes through the roof. And we were thinking, we've discussed this tonight, and we, we could put a fake chimney. We just need something for this thing to go into. It seemed like the dormer was the most elegant solution, but we're not married to the dormer.

PHILLIP JEFFERSON: No, the dormer is not --

PETER MARTIN: If that was a bone of contention, there's no -- this house used to be a two-family. I did the gut renovation plans years ago for another client and we converted it from a two to a one. I don't think your intention is to --

PHILLIP JEFFERSON: No, no.

PETER MARTIN: There's plenty of room in the existing house.

PHILLIP JEFFERSON: Right.

PETER MARTIN: So if that was an issue the dormer, we could do a fake chimney. We just need whatever the, you know, something that looks right.

CONSTANTINE ALEXANDER: I just maybe I'm just a suspicious type. I just want something to make sure that this garage doesn't ultimately end up as another dwelling unit on that property.

PETER MARTIN: No, I mean that -- no.

CONSTANTINE ALEXANDER: Well, I mean the dormer gives you sunlight and makes it inhabitable.

PETER MARTIN: I understand. And I, when I was drawing the

suspended storage here, it dawned on me that we've got some small people in there that could, they could live in there. There are other issues obviously with having the car lift. We have to have a rollup door which -- because we can't have the door kind of go across because it will hit the car, which is not a great idea particularly as it's vintage.

And so, yeah, we're not -- I mean, it's not your intention, right?

PHILLIP JEFFERSON: No.

PETER MARTIN: His baby's his car.

PHILLIP JEFFERSON: There's plenty of room in the house.

There's no need for any additional space.

CONSTANTINE ALEXANDER: You could have a rental unit.

Anyway.

Other members of the Board share my concerns about the dormer or any sunlight into a second floor, if you would, of the garage or not.

ANDREA HICKEY: Yeah, I share your concern and it may be your present intention not to do anything like that, but what we decide will be inherited by subsequent purchasers so I do share that.

BRENDAN SULLIVAN: Yeah, in order to become a second unit,

then you're going to introduce plumbing, you're going to introduce bathroom.

That would then trigger all kinds of relief because we're not granting that.

CONSTANTINE ALEXANDER: Right.

BRENDAN SULLIVAN: And so, I read it as sort of an architectural feature that has a purpose of --

PETER MARTIN: Without this, we wouldn't do it.

BRENDAN SULLIVAN: And not turning it into an apartment.

PATRICK TEDESCO: And if it makes you feel any better, Gus, the dimensions if I understand this, the area of the loft, the storage loft that's over five feet is only two feet wide.

PETER MARTIN: It's minimum. If you were to put a stair in there that met Building Code, you wouldn't really having anything here.

PATRICK TEDESCO: You couldn't stand up in there.

CONSTANTINE ALEXANDER: Okay.

PETER MARTIN: And conversion for plumbing, I imagine the slab on this thing is going to be quite thick when we bolt this contraption to it.

PHILLIP JEFFERSON: The idea was cold storage like patio furniture that you put there instead of leaving out in the winter.

JANET GREEN: I think I understood it better once I saw that piece that had to go up, that needed to go somewhere.

PATRICK TEDESCO: I like you thought it was storage for another parking space.

PETER MARTIN: I saw on the plan, on the elevation and I thought today you know what, I would have the same reaction that you guys had. But I think if you really analyze the section of the building, it would be tough to have habitable space.

CONSTANTINE ALEXANDER: And you're increasing the exterior dimensions of this structure because you need bigger, more space for bigger cars.

PETER MARTIN: I think for just a modern garage it's, you know, describe how it's used.

PHILLIP JEFFERSON: I mean, right now today my wife parks her car there, and she has a relatively small car. I can only use the right side during winter storms. Or when we go away, just to hide the cars. I don't use it everyday which creates problems because you can, you can't get out. You have to put the cars about a foot apart to be able to open the door. One has to go in

front way. One has to go in back end so that you can get out on the driver's side.

So it's, it's really difficult to use as a two-car garage. So that's --

CONSTANTINE ALEXANDER: But you will be with this new design?

PHILLIP JEFFERSON: Yes.

PETER MARTIN: And street parking on Thorndike is a nightmare.

PHILLIP JEFFERSON: That's another problem. If one car is not in the garage, then when our schedules change, one car has to park on the street. And if you know Thorndike Street, it's a dense neighborhood.

CONSTANTINE ALEXANDER: Yes.

JANET GREEN: I think the parking one car in one direction and one car in the other direction is sort of a hardship myself. You have to get good at backing.

PHILLIP JEFFERSON: You have to back down the entire length. I do that. I let my wife go straight in.

PATRICK TEDESCO: I would think parking a portion on Thorndike Street is a hardship.

CONSTANTINE ALEXANDER: You wouldn't have very long.

Any other comments from members of the Board?

(No Response.)

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

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

(No Response.)

CONSTANTINE ALEXANDER: We are in receipt of one letter from Finnegan W. Hopkins and Katelyn G.D. Hopkins. (Reading) We are writing in support of the proposed Variance at 138 Thorndike Street. We own the property at 136 Thorndike Street which abuts the current concrete garage. We have discussed the project with the owners at 138 Thorndike Street and we have no reservations about it. We encourage you to grant the Variance.

That's all she said.

PETER MARTIN: Well, that's interesting because they are the people most affected with this. Marginal difference.

ANDREA HICKEY: So they're on the left side facing the house?

PHILLIP JEFFERSON: Facing the house, left side, yeah.

JANET GREEN: The driveway?

PHILLIP JEFFERSON: Yeah, the side of their house is next-door driveway.

ANDREA HICKEY: Okay.

CONSTANTINE ALEXANDER: Okay. Ready for a vote?

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

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being is that the current garage is insufficient for modern day vehicles. You need a larger garage in short. It is a structure that is somewhat dated and inconsistent with the neighborhood.

That the hardship is owing to the fact that this is already a non-conforming garage, and therefore any new garage would be non-conforming as well.

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

So on the basis of these findings, the Chair moves that we grant the

Variance requested on the condition that the work proceed in accordance with the plans submitted by the petitioner and initialled by the Chair. That's it.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

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

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(9:25 p.m.)

(Sitting Members Case No. BZA-012697-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call case No. 012697, 799 Concord Avenue.

Is there anyone here wishing to be heard on this matter? You know the drill.

ATTORNEY TIMOTHY TWARDOWSKI: Thank you, Mr. Chairman. Tim Twardowski of Robinson and Cole here representing the applicant Verizon Wireless. Verizon Wireless, I'll get this out of the way, is a licensed provider of wireless services in the area that includes Cambridge. We did include in your packet copies of the wireless licenses issued by the FCC.

This particular application is actually a renewal for a Special Permit that was approved by the Board in 2015. The application is probably unique in that we're not proposing to change anything.

The original permit that was issued by the Board in 2015 contained a condition that essentially created an expiration date two years from the date of issuance. It required that if Verizon Wireless wished to continue to use the

facility, we had to come back for a renewal of the Special Permit. Verizon does in fact wish to continue to using the facility so that's why we're here this evening.

CONSTANTINE ALEXANDER: The reason we put the time limit on was, as you well know, there was substantial neighborhood concern, particularly from the Fayerweather School and the impact of electromagnetic waves on their students or the parents discouraged -- parents registering their kids in the school. So we wanted to see if the world would change in terms of health issues. We put a two year time limit on it. I don't see anybody here from the school.

Have you received any complaints or inquiries from abutters?

ATTORNEY TIMOTHY TWARDOWSKI: We have not. I contacted ISD to see if any letters, comments, calls have been received.

CONSTANTINE ALEXANDER: There's none in the file.

ATTORNEY TIMOTHY TWARDOWSKI: There were none. I've been in communication with our landlord at Sancta Maria Hospital to see if they received any comments or calls from neighbors. They also had not received any questions or neighbors.

I do have, I don't know if you want to look at copies of photographs

of the facilities. In this case they're not photo sims, they're actual as-built photos and as-built plans. Again, we're not proposing to change anything.

CONSTANTINE ALEXANDER: It seems to me the only issue before us tonight -- well, there's two issues:

When do we renew the Special Permit?

And two, do we put a time frame, a limit on it as we did the last time?

The last time we did it for a reason. It was a contentious situation and we wanted to give everybody a chance to see how things work out and take a second look and tonight is a second look. I don't feel a need, and maybe other members feel differently, but I don't feel a need for any of that. I think the issue, frankly, to cut to the chase is do we grant the -- do we renew the Special Permit, which I think is pretty clear, to me. And the question more -- the other question is do we put another time limit on it; another two years, five years, or do we simply say no time limit. And I welcome thoughts -- I personally would go with no time limit. I think at this point given two years and nobody -- everybody seems to have come to terms with what you're doing in the area, I don't see a need for a time limit, further time limit. But I welcome other comments from

members of the Board.

JANET GREEN: I remember this case really well. I'm sure -- and I think the two-year limit was really response to the community that was concerned about it. And I remember they presented a business concern, that they would lose, that they would lose clients.

CONSTANTINE ALEXANDER: Right, students, clients, right.

JANET GREEN: Because the parents might have a belief system that wasn't what we were discussing. I think if that had been true, I think they would show up. At least some of them.

CONSTANTINE ALEXANDER: Or at least write a letter.

JANET GREEN: Yeah, or at least write a letter. And they haven't. So I would agree with the Chair about not having a limit.

CONSTANTINE ALEXANDER: Anyone feel differently?

ANDREA HICKEY: No, I agree.

CONSTANTINE ALEXANDER: Okay, let's frame the motion. I believe we shortcut a lot of things.

The Chair moves that we renew the Special Permit that was earlier granted based on the findings we made then, are incorporated into this case

because there's no change that would require a change in the findings. And that the conditions we imposed before would continue as originally imposed except that there is no longer any time limit.

So the Special Permit that we would grant tonight is indefinite and doesn't have a two year or any finite period of time.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor, Special Permit granted.

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

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(9:30 p.m.)

(Sitting Members Case No. BZA-012742-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will now call case No. 012742, 1654 Massachusetts Avenue.

ATTORNEY TIMOTHY TWARDOWSKI: Thank you, again,
Mr. Chairman, Timothy Twardowski from Robinson and Cole representing the
applicant Verizon Wireless.

Again, Verizon Wireless is a wireless service provider including the
area that includes the City of Cambridge.

In this case we are proposing to make some changes. So I do have
copies of the photo sims that I submitted to the Board. If anyone needs extra
copies, I have them with me.

BRENDAN SULLIVAN: Yes, Tim, let me see them.

ANDREA HICKEY: Yes, let me have a look. Thank you.

JANET GREEN: Thank you.

CONSTANTINE ALEXANDER: By the way, are you aware of
the comments that we got from the Planning Board?

ATTORNEY TIMOTHY TWARDOWSKI: I am.

CONSTANTINE ALEXANDER: Okay. I just pass them down.
Give them to me I'll take care of them.

ATTORNEY TIMOTHY TWARDOWSKI: Okay, thank you.

So by way of background this is, again, a facility that was approved

by the Board, in this case back in 2006. The location of the property is 1654 Mass. Avenue. This is a six-story brick building. Currently we have three arrays containing three antennas each for a total of nine antennas. Each of the arrays are located -- each of the arrays are located on -- they're mounted on existing brick chimneys on top of the roof.

The antennas are painted to match the chimneys to which they are mounted. I think you'll see by way of the photographs that were prepared for the application that some of the paint is giving way. So the paint to match doesn't quite match any longer, but our intent is to remedy that through the application.

The facility, just to complete the description, also includes a backup power generator on the roof, communications equipment, and including utility connections are also located in the basement level.

Now in this application essentially what we're proposing to do is to replace all nine antennas. Just to orient the Board -- so this is Massachusetts Ave. on what you see is the right-hand side. The three arrays are located on three different chimneys: One here, one here, and one here. And in each case the proposal is to replace the existing antennas with a new antenna. The proposal also includes the addition of two remote radio heads and one junction box on what

we've referred to as the rear of the chimney. Basically the side opposite of the antennas on each of these chimneys. And the plan again is to paint the radio heads and junction boxes as is the case with the antennas to make -- to match the color of the chimney.

In this case we've submitted this application under the Spectrum Act. I'm sure the Board is familiar with this federal legislation.

CONSTANTINE ALEXANDER: Unfortunately we are, yes.

ATTORNEY TIMOTHY TWARDOWSKI: Which, yes, many communities across the country are obviously coming to grips with that.

In short, what The Spectrum Act Section 6409 does is establishes an expedited review process for certain types of wireless applications, in particular those that proposed to either co-locate or to modify an existing facility. In this case I do have in the packet a more detailed discussion of the 6409 criteria, but I'll go through them just briefly this evening.

CONSTANTINE ALEXANDER: Please.

ATTORNEY TIMOTHY TWARDOWSKI: Essentially the requirements under Section 6409 and the FCC regulations is that the proposal is to modify an existing base station. In this case the base station is the existing

building at 1654 Mass. Ave.

It qualifies as a base station by virtue of the approval for the facility that exists now back in 2006.

In this case modification includes either the replacement or colocation of transmission equipment as defined by the regulations. And in this case the replacement is the antennas which are being replaced, and then the radio heads and junction boxes are being co-located on this facility on the back sides of the chimney.

The question then becomes under Section 6409 whether the proposed modification will substantially change the existing facility. Substantial change is defined in the FCC regulations, and essentially it breaks down to six separate criteria, each of which I'll go through just quickly this evening.

The first is that the change cannot involve the installation of more than a standard number of equipment cabinets, and we're not proposing to add any new equipment cabinets here.

The second, cannot entail excavation or deployment outside of the current site. We're not obviously proposing any type of excavation.

Cannot defeat any the concealment elements of the existing facility.

In this case the concealment elements essentially consist of painting to match the existing, the color of the chimneys to which these antennas are mounted.

Fourth, does not increase the height of the building by more than ten percent or ten feet. We're not increasing the height of the building at all.

Fifth, the modification cannot add any equipment that protrudes from the building from the edge of the building by more than six feet. In this case these are being located not on the facade of the building, but on the chimneys on top of the roof so they will not protrude at all from the facade of the building.

And then lastly, the modification has to comply with the conditions proposed by the BZA decision. And we did include in the packet a copy of the original decision from 2006. The conditions in that decision were only three:

The first dealt with abandonment or expiration of the lease, which is not a factor here.

The second dealt with testing of the generator being limited to once a week. And then again that is not an issue here.

And then lastly dealt with installation being consistent with the drawings and details which was, that were submitted in connection with that application, and that was satisfied with this existing facility.

So with that as background, our request is that the Board consider this to be an eligible facilities request in compliance with Section 6409 The Spectrum Act and that approve the modification accordingly.

CONSTANTINE ALEXANDER: The Planning Board memo you said you're familiar with.

ATTORNEY TIMOTHY TWARDOWSKI: Yes, I did -- I had communications with Liza Paden from the Planning Department earlier this week. And she provided me with a copy of the Planning Board's comments. I guess my initial comment is that if we were applying for a Special Permit for a new facility or applying for a Special Permit under the Zoning Ordinance, these are entirely appropriate comments. But in the context of Section 6409 of The Spectrum Act, respectfully the question is, you know, whether it's a substantial modification of the facility. And the determination as to whether or not it is substantial modification is determined by the criteria that we just went over. So in that case, you know, I think the Planning Board's comments are respectful, but I don't think they're particularly relevant to this application in the context of 6409.

CONSTANTINE ALEXANDER: So what you're seeking approval for, that's reflected in these photo sims, do not respond to these comments for the

Planning Board?

ATTORNEY TIMOTHY TWARDOWSKI: That's correct. These comments were submitted -- they're based on the photos that we submitted, the photos and plans that were submitted in connection with this application.

CONSTANTINE ALEXANDER: Right.

ATTORNEY TIMOTHY TWARDOWSKI: Practically speaking the first comment with respect to not breaking the cornice lines, I'm not sure that's even a fair comment given that we're not on the facade of the building or on the chimneys themselves. Also because we're located on the chimneys, we don't have a lot of room in terms of being able to lower the height of antennas which is typically what we would do if we were on the facade of the building.

Spacing of antennas. You know, they're as evenly spaced as possible. To some extent, you know, the location of the antennas is driven by the existing network and, you know, being able to orient the direction of the antennas in order to mesh with the existing, the existing network.

The mounting and brackets, cablings, you know, concealed whenever possible. And we think we've done that to the extent that we can. All of the cabling will, you know, like the antennas and equipment itself be painted to

match. So we're working with that I think to some extent.

In terms of the antennas being all the same length, I think in this case they are virtually all the same length. They're not identical, but I think in terms of the overall height, they're within a few inches of one another, and quite frankly when viewed from street level, the only thing, you know, a passer-by or a driver or a pedestrian would see would be the tops of those antennas and those antennas are measured from the top even. So the only thing that would be uneven would be the bottoms, and those are not visible from the street level.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY TIMOTHY TWARDOWSKI: And, again, the last issue that they have in terms of the painted materials, you know, consistent matte finish, we're happy to do that, you know, include the matte finish in terms of the actual paint for the color. So, you know --

CONSTANTINE ALEXANDER: So do I take it, then, that you will comply with that comment? Your client will --

ATTORNEY TIMOTHY TWARDOWSKI: Yeah, yeah, we have no problem with that. That's -- typically what we do, you know, I don't think I have ever seen the antennas painted on a gloss finish, but you know, that's

certainly our intent. We respect the matte finish request and we'll be happy to comply with that. So I think in all, even though, you know, our position effectively is that, you know, the comments are not within the Board's jurisdiction under Section 6409, as a practical matter we're in compliance with or at least adhering to the spirit of the comments on virtually each of these five points that were made by the Planning Board.

CONSTANTINE ALEXANDER: I'm not sure I fully agree with you about the fact that you can disregard -- the Planning Board's comments can be disregarded. I think, I don't want to get into it tonight certainly. I think there's an argument that some of these comments are not precluded by The Spectrum Act, and we could impose those, but it's not worth going through that tonight. I've had enough The Spectrum Act anyway generally.

ATTORNEY TIMOTHY TWARDOWSKI: We can certainly appreciate that and would, trust me we've done our part to try and avoid you folks having to deal with these applications, but to this point the discussions have not been fruitful as you know.

JANET GREEN: I will say, though, that I was just noticing this the other day how much better Cambridge looks compared to many of the cities and

towns around us --

CONSTANTINE ALEXANDER: That's true.

JANET GREEN: -- where you see things just slapped up and not always -- and the wires are running this way and that way. And I think it has to do with a lot of people on this Board who put hours and hours and hours in trying to figure out what the best way was to let the technology come through, but not really destroy the visual aspect of this city. And I think Cambridge looks quite different as a result of that. So, you know, the little details really have mattered. And I think the reason you come to us and say you're going to paint it is because a lot of people came for a long time without saying they were going to paint it and without painting them. And so it's better.

ATTORNEY TIMOTHY TWARDOWSKI: And I personally, you know, I think Ms. Green's comment is very well taken. You know, as somebody who works in the wireless industry all across Massachusetts and Rhode Island as well, you know, I will honestly tell you that whenever I'm contacted by the client for a project in the City of Cambridge, they understand that the standards are higher and different in this city and we, we strive to meet those standards.

CONSTANTINE ALEXANDER: Good. Thank you. Thank you

for that comment.

BRENDAN SULLIVAN: Tim, so what you're saying basically is that the chimney obviously is a set dimension and that the antenna are a set dimension and that they have to be a certain height off of the roof in order to have any effect. And of course the height of the antenna is going to exceed or come up above that chimney.

ATTORNEY TIMOTHY TWARDOWSKI: Yes, yes, that's correct.

BRENDAN SULLIVAN: There's absolutely no way that could be lowered at all?

ATTORNEY TIMOTHY TWARDOWSKI: Right. In most cases, if this were a new facility and of the calculations that is done is, you know, where do we need to provide coverage? And in terms of being able to, you know, send the signal off the top of a roof, you know, the compromise is that, you know, the further setback the antennas are, the higher up they have to go in order to be broadcast.

BRENDAN SULLIVAN: To project.

ATTORNEY TIMOTHY TWARDOWSKI: And to broadcast

below the height of the building, and there are a number of factors involved --

BRENDAN SULLIVAN: They're receiving -- they're bouncing all over the place.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Antennas are not higher.

BRENDAN SULLIVAN: I'm sorry?

ATTORNEY TIMOTHY TWARDOWSKI: No, they're not.

And in this case, you know, we have the benefit that, you know, the chimneys are not, except for this one here, they're not set back a tremendous distance from the roof edge which really is what enabled us to use these chimneys in the first place. You know, had the chimneys been setback further from the roof edge, it might not have been a feasible alternative for the antennas to be mounted just because of the roof edge, and roof itself would have been blocking a big portion of the signal.

JANET GREEN: Are you the only ones up there?

ATTORNEY TIMOTHY TWARDOWSKI: I believe we are, yes.

CONSTANTINE ALEXANDER: Ready for a vote?

Okay, the Chair moves that we make the following findings with

regard to the Special Permit being sought:

That the requirements of the Ordinance cannot be met without a Special Permit from this Board.

That traffic generated or patterns of access or egress resulting from what is being proposed will not cause congestion, hazard, or substantial change in established neighborhood character.

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

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

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

And lastly the Board finds that the modification of its existing telecommunication facility at the site proposed by the petitioner does not substantially change the physical dimensions of the existing wireless tower or base station at such facility within the meaning of Section 6409(a) of The Middle

Class Tax Relief and Job Creation Act of 2012, also known as The Spectrum Act.

Based on these findings the Chair moves petitioner be granted the Special Permit it is seeking subject to the following conditions:

That the work proceed in accordance with the plans submitted by the petitioner initialled by the Chair.

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

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

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

And next that the petitioner is in compliance with, and will continue to comply with in all respects, the conditions imposed by this Board with regard to previous Special Permits granted to the petitioner with regard to the site in

question.

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

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

B, that in the event that at any time federal authorities notify the petitioner that its equipment on the site, including but not limited to the Special Permit granted tonight, fails to comply with the requirements of law or governmental regulations, whether with regard to the admissions of electromagnetic energy waves or otherwise, the petitioner, within ten business days of receipt of such notification of such failure, shall file with the Inspectional

Services Department a report disclosing in reasonable detail that such failure has occurred and the basis for such claimed failure.

The Special Permit granted tonight shall ipso facto terminate if any of the petitioner's federal licenses is/are suspended, revoked, or terminated.

C, that in the event that the Special Permit has terminated pursuant to the foregoing paragraphs A and B, the petitioner may apply to this Board for a new Special Permit provided that the public notice concerning such application discloses in reasonable detail that the application has been filed because of a termination of Special Permit pursuant to paragraphs A or B above. Any such new application shall not be deemed a repetitive petition and therefore will be not subject to the two year period during which repetitive petitions may not be filed.

D, that within ten business days after receipt of a Building Permit for the installation of the equipment subject to this petition, the petitioner shall file with the Inspectional Services Department a sworn Affidavit of the person in charge of the installation of equipment by the petitioner with a geographical area that includes Cambridge stating that A, he or she has such responsibility; and B, that the equipment being installed pursuant to the Special Permit we are granting tonight will comply with all federal safety rules and will be situated and

maintained in locations with appropriate barricades and other protections such that individuals, including nearby residents and occupants of nearby structures, will be sufficiently protected from excessive radiofrequency radiation under federal law.

On the basis of these findings and subject to these conditions the Chair moves that we grant the Special Permit.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special Permit granted.

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

(Whereupon, at 9:50 p.m., the

Zoning Board of Appeals Adjourned.)

* * * * *

ERRATA SHEET AND SIGNATURE INSTRUCTIONS

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

INSTRUCTIONS

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

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

C E R T I F I C A T E

**COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.**

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of April, 2017.

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

My Commission Expires:
April 29, 2022

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