



CITY OF CAMBRIDGE

BOARD OF ZONING APPEAL

831 Massachusetts Avenue, Cambridge MA 02139

617-349-6100

2022-5539-8 PM 12:14
OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

BZA Application Form

BZA Number: 162034

General Information

The undersigned hereby petitions the Board of Zoning Appeal for the following:

Special Permit: _____ Variance: X Appeal: _____

PETITIONER: Buckingham Browne & Nichols School C/O Cynthia Westerman

PETITIONER'S ADDRESS: 80 Gerrys Landing Road, Cambridge, MA 02138

LOCATION OF PROPERTY: 5 Buckingham Pl., Cambridge, MA

TYPE OF OCCUPANCY: Residential

ZONING DISTRICT: Residential A-2 Zone

REASON FOR PETITION:

/Change in Use/Occupancy/

DESCRIPTION OF PETITIONER'S PROPOSAL:

Request for use variance to allow the use of the parcel for educational uses.

SECTIONS OF ZONING ORDINANCE CITED:

Article: 4.000 Section: 4.50 (Institutional Use).
Article: 4.000 Section: 4.56.C (Use Category- Institutional Uses).
Article: 10.000 Section: 10.30 (Variance)

Original
Signature(s):

(Petitioner (s) / Owner)

Dr. Tara Gohlmann

(Print Name)

Address:

80 Gery's Landing Rd

Tel. No.

617-823-7822

E-Mail Address:

Cynthiawesterman@verizon.net

Date: _____

BZA APPLICATION FORM - OWNERSHIP INFORMATION

To be completed by OWNER, signed before a notary and returned to The Secretary of the Board of Zoning Appeals.

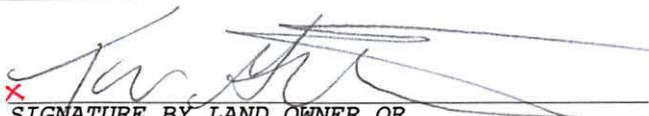
I/We Buckingham Browne & Nichols School
(OWNER)

Address: 80 Gerry's Landing Rd, Cambridge 02138

State that I/We own the property located at 5 Buckingham Place which is the subject of this zoning application.

The record title of this property is in the name of _____
Buckingham Browne & Nichols School

*Pursuant to a deed of duly recorded in the date 11/23/2021 Middlesex South County Registry of Deeds at Book 79212, Page 432 ; or Middlesex Registry District of Land Court, Certificate No. _____ Book _____ Page _____.


SIGNATURE BY LAND OWNER OR AUTHORIZED TRUSTEE, OFFICER OR AGENT*

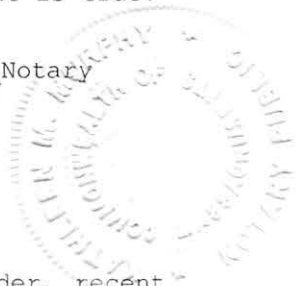
*Written evidence of Agent's standing to represent petitioner may be requested.

Commonwealth of Massachusetts, County of Middlesex

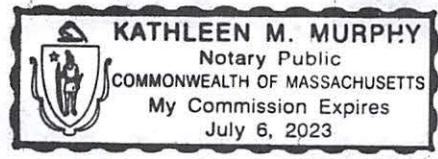
The above-name Tara Gohlmann personally appeared before me, this 7th of February, 2022, and made oath that the above statement is true.

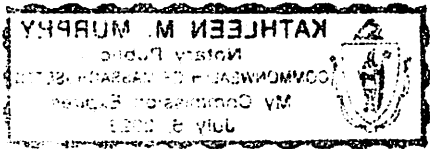
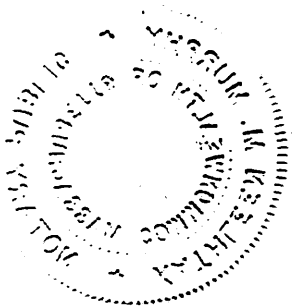
Kathleen M. Murphy Notary

My commission expires July 6, 2023 (Notary Seal).



• If ownership is not shown in recorded deed, e.g. if by court order, recent deed, or inheritance, please include documentation.





Memo

Date: February 7, 2022

To: City of Cambridge Board of Zoning Appeal

From: Tad Heuer

Regarding: BB&N Supporting Statement for Zoning Relief

I. SUMMARY OF REQUESTED RELIEF

Buckingham, Browne & Nichols School (“BB&N” or the “School”) respectfully requests a use variance from Section 4.56(c)(1-3) of the Ordinance, authorizing BB&N to utilize the parcel known at 5 Buckingham Place (Map/Lot 224-35) for daycare, pre-school, kindergarten, or primary school uses (hereinafter “Educational Uses”) and uses accessory thereto.

BB&N recently had the unanticipated opportunity to acquire 5 Buckingham Place, a residential structure that directly abuts its Lower School campus. As part of BB&N’s ongoing master planning process for the Lower School campus, BB&N envisions an adaptive reuse of the property at 5 Buckingham Place, primarily for consolidating existing Lower School administrative staff and uses in the existing structure. As explained in detail below, the School anticipates this use will have minimal, if any, impact on the neighborhood, while allowing BB&N to make significant improvements to the educational program it provides to its youngest learners at the Lower School campus.

However, while the majority of BB&N’s Upper School campus is located within the “Shady Hill School, and Buckingham, Browne, and Nichols School” Institutional Overlay District (“IOD”), *none* of BB&N’s Lower School campus is within an IOD — despite having been the original location of the Buckingham School, and has been located on Buckingham Street and Buckingham Place for over a century. Literal enforcement of Section 4.56(c)(3) of the Ordinance would preclude daycare, pre-school, kindergarten, and primary school uses at 5 Buckingham. The Board has the express authority to grant use variances pursuant to Section 10.13(c) of the Ordinance.

BB&N is *not* requesting dimensional relief as part of this petition, as BB&N does not propose any external changes to the existing structure, or to the parcel itself, that require

relief.¹ Should dimensional relief be required in the future, BB&N will of course request such relief to the extent required by the Ordinance.

II. REASONS FOR REQUESTED RELIEF

BB&N is a preK-12 nonprofit independent educational institution, created in 1974 through the merger of two Cambridge schools: The Browne & Nichols School, a school for boys founded in 1883, and the Buckingham School—coeducational at the youngest grades, and for girls only at the higher grades—established in 1902.

Because of this organic physical development, BB&N does not have a single consolidated campus, but is instead spread across multiple locations in Cambridge and Watertown. The Upper School, serving grades 9 through 12, has since 1948 been located at 80 Gerry's Landing. The Middle School, serving grades 7 and 8, is located on Sparks Street in mid-Cambridge, and the Lower School, serving preK through grade 6, is located on Buckingham Street and Buckingham Place. Central office staff are located in the former Sacred Heart School in Watertown. There are approximately 330 students enrolled in the Lower School, and approximately 50 teachers, staff, and administrators located on site.

The Lower School campus is ensconced in its West Cambridge neighborhood, utilizing a combination of purpose-built structures and adaptively-reused houses, many of which are over a century old. BB&N therefore has extensive experience in being creative with the limited space it has available. However, BB&N's existing square footage is distributed across (and within) its structures in a manner that, while always challenging, is making it increasingly difficult to meet the educational programmatic needs of twenty-first century students and primary school.

The pandemic only accelerated these challenges: the major physical changes required for teaching and learning in a socially-distanced and sometimes remote environment, combined with legal mandates on how classroom space could be used, made clear the School's urgent need to plan for a future that would require not only additional educational programmatic space on campus, but increased use of on-campus outdoor space and green space. To solve this problem in the context of a school located in an existing neighborhood where space is at a premium, BB&N identified a three-pronged solution in its comprehensive master planning process: (1) Construct a new by-right modern programmatic space on existing land currently used as field space, and identify creative reuses and renovation of existing space for programmatic purposes and increasing classroom sizes; (2) reclaim as replacement green space two existing former residential structures currently housing certain administrative functions like admissions, staff dining, staff offices, and lactation facilities; and (3) consolidate those existing administrative functions more efficiently and effectively.

¹ In order to ensure disabled access as required under federal and state law, BB&N intends to build a disabled access ramp, as shown on the attached sketch. Under G.L. c. 40A, § 3, "handicapped access ramps on private property used solely for the purpose of facilitating ingress or egress of a physically handicapped person" are expressly exempt from zoning, and therefore no relief is required.

While the School is moving forward on the first two prongs, the game of musical chairs as to the third prong remains both urgent and unresolved. The School has contemplated dispersing these various administrative uses to various corners of the existing campus, or even moving certain of those functions off-campus, suboptimal though both options would be. Furthermore, the availability of “swing” space is essential in order to minimize disruption to teaching and learning during the anticipated multi-year construction and renovation, but the absence of such proximate space creates additional challenges. However, the unexpected availability of 5 Buckingham Place provided a silver bullet solution. Consolidating existing administrative functions from literally across the street — from their current home at 6 & 10 Buckingham Place to 5 Buckingham Place — would enable the School to unlock the maximum benefits of its master plan to its students and staff, while simultaneously creating minimal if any impact on the existing neighborhood.

Because the School seeks to use 5 Buckingham for educational uses that already exist elsewhere on campus (either for existing students or for existing administrative functions) there will be no increase in either student enrollment or staff headcount on campus as a result of the adaptive reuse of 5 Buckingham. For the same reason, there is not expected to be any increase in either automotive traffic or parking needs above what currently exists on Buckingham Place.

Indeed, the functional uses to which the School expects to put 5 Buckingham are essentially those for which a structure of its size and design is already designed to accommodate. For instance, the School envisions the likelihood of using the kitchen and dining room to allow for the storage and service of staff meals; using existing bedrooms as single or double-occupancy office spaces and a lactation room; using the living rooms as meeting space for staff or student tutorials, using the basement as workshop or art studio space, etc. Moreover, as the prior owner of 5 Buckingham was an accomplished gardener, the lot is lushly vegetated with a master-gardener quality garden space that the School believes offers a significant experiential educational opportunity for its primary school pupils.

Because this petition is for a use variance, BB&N understands from prior petitions pertaining to the Upper School that relief can be granted without being conditioned on the detailed plans and elevations that would be required if the petition sought dimensional relief. While BB&N recognizes the Board’s desire that requests for use and dimensional relief be consolidated where possible, in these particular circumstances — both where it is anticipated that BB&N’s use of 5 Buckingham will not require any dimensional relief, and where *any* hypothetical future construction depends on first obtaining certainty as to whether the parcel may be utilized for Educational Uses — BB&N is seeking only a use variance at this time.

On October 19, 2021, BB&N held an open community meeting to which it invited all abutters to the property and the campus, as well all residents of the Buckingham Street neighborhood, to explain the proposed Lower School campus master plan, including the proposed acquisition and use of 5 Buckingham Place, and respond to any questions.

III. PROPERTY DESCRIPTION

BB&N purchased 5 Buckingham Place on November 23, 2021. This parcel is one of five with a street address on the dead-end unaccepted public way of Buckingham Place, of which BB&N already owns three. It is located in the Residence A-2 district. The parcel currently contains a roughly 3,700 gross square foot Victorian structure, built in 1893, on a lot of approximately 9,500 square feet.

With the exception of any minor exterior improvements required under the federal Americans with Disabilities Act to ensure disabled access, BB&N anticipates that only interior renovations will be required. Moreover, because the educational use of the existing structure is anticipated to primarily involve the transfer of administrative uses from other locations on campus, no additional traffic is anticipated on Buckingham Place. The parcel has two off-street parking spaces, with additional on-street parking located on the existing unaccepted public way.

IV. LEGAL JUSTIFICATION FOR REQUESTED RELIEF

A. Literal enforcement of the provisions of the Ordinance would involve a substantial hardship, financial or otherwise, to BB&N.

A literal enforcement of the provisions of the Ordinance would create a substantial financial, educational, and logistical hardship to BB&N, a nonprofit educational institution that has operated on Buckingham Place for over 130 years — longer than the structure at 5 Buckingham Place has itself been in existence.

In particular, literal enforcement would prohibit BB&N from using the parcel for primary school uses, and would involve a substantial financial and educational hardship for the School and its students. Without the ability to utilize 5 Buckingham for educational uses, it will be exceptionally educationally and financially challenging for the School to restructure its existing century-old campus for a post-pandemic future that will require not only additional on-campus educational programmatic space, but increased on-campus outdoor space and green space as well, even as enrollment remains constant.

As noted above, BB&N's comprehensive master plan identified a creative way to obtain both of these necessary components in an existing neighborhood where space is at a premium, but not without the major hardship of the potential need to disperse and relocate essential administrative uses, including admissions, staff dining, and faculty offices, and not without the further major hardship of disrupting existing educational offerings due to the lack of swing space during construction. Literal enforcement of the provisions of the Ordinance would preclude BB&N from using 5 Buckingham to resolve those issues, requiring BB&N to expend significant financial and logistical resources merely to perpetuate an educationally suboptimal dispersion (or at worst separation) of key administrative facilities from the Lower School campus itself.

B. The hardship is owing to the shape and topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located.

The structure at 5 Buckingham is a preexisting nonconforming use, constructed significantly into its rear setback. The parking for the locus is also preexisting nonconforming, with 1-2 spots located the front yard setback, on an unaccepted public way. Moreover, as explained in detail above, the hardship is also owing more broadly to the shape and topography of the land and structures that comprise BB&N's existing Buckingham Place campus as a whole, and the attendant challenges of adapting both the School's existing campus footprint — constrained as it is by its West Cambridge neighborhood — and its numerous century-old structures for a post-pandemic future. Obtaining the additional on-campus educational programmatic space and increased on-campus outdoor space and green space required without the ability to utilize a proximate structure like 5 Buckingham will create a significant financial and educational hardship for the School, its students, and its staff.

C. Desirable relief may be granted without substantial detriment to the public good.

The requested use variance may be granted without substantial detriment to the public good. To the contrary, use of the parcel for primary school uses is entirely compatible with the immediate neighborhood in which it is located: Buckingham Place has for over a century been predominantly in institutional use for educational purposes. At a more granular level, Buckingham Place is a short, dead-end unaccepted public way, on which there are only five parcels, four of which have been owned by BB&N and used for primary school uses for decades. As such, nothing about the proposed use would contravene the objectives of the City's institutional growth management plan; indeed, the plan expressly states that "All else being equal, concentration of new institutional activity in areas of existing institutional development is preferable to dispersion or scattered growth of those new activities." The ability of BB&N to focus the use of 5 Buckingham northward toward existing Lower School facilities on the existing dead-end way is entirely in keeping with the plan's objectives, and demonstrates that 5 Buckingham is particularly appropriate for educational uses.

Nor will there be any detriment to the public good owing to detrimental increases in pedestrian travel, vehicular traffic, or parking. Because the reuse of 5 Buckingham will involve the consolidation of existing staff offices from other locations on the Lower School campus, as opposed to adding additional staff, no substantial change from the current vehicular uses of Buckingham Place is anticipated. No change is being proposed to the existing available parking, either on the locus or on the way, nor will the use of 5 Buckingham for educational uses eliminate any residential services or activities in the neighborhood.

In short, the most likely practical outcome of the proposed institutional use of these parcels is that the change will not be noticed by the neighborhood at all. Given the intent of BB&N to pursue adaptive reuse of the existing structures to the extent possible, and to retain the existing features of the property including the garden, it is likely that the transition of 5 Buckingham to being a part of BB&N campus will be imperceptible to the neighborhood at large.

D. Desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the Ordinance.

Section 4.50 of the Ordinance (the Institutional Use Regulations) is the result of a home rule exemption for Cambridge from the provisions of G.L. c. 40A, § 3 (colloquially known as the “Dover Amendment”, which precludes municipalities from enforcing zoning requirements on educational institutions other than “reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements”). Section 4.52 states that the purpose of the Institutional Use Regulations is, in relevant part, as follows:

[To] protect lower density residential neighborhoods from unlimited expansion of institutional activities, to reduce pressures for conversion of the existing housing stock to nonresidential uses, to minimize the development of activities which are different from and incompatible with activity patterns customarily found in lower density residential neighborhoods and to provide a framework for allowing those institutions which are compatible with residential neighborhoods to locate and expand there.

As explained in detail above, BB&N’s petition would not constitute the “unlimited expansion” of institutional activities into lower density residential neighborhoods, as it seeks only to utilize a single structure that is physically adjacent to a century-old existing educational use. The grant of relief would have minimal (if any) effect on the neighborhood at all, and would not increase the pressure to convert existing housing stock to nonresidential uses. Far from introducing incompatible activity patterns into the neighborhood, the existing activity pattern on Buckingham Place is — and has been for decades — one that reflects the rhythms and activities of a children’s day care and primary school.

Because access to the parcel would come exclusively from Buckingham Place (which is already utilized almost exclusively by BB&N because of its ownership of the parcels comprising the north and east sides of the dead-end way), the proposal would not cause congestion hazards or substantial change in established neighborhood character. For the same reasons, additional traffic generated in the neighborhood is anticipated to be minimal, if any. Nor would the continued operation of or the development of adjacent residential uses, or the integrity of the adjoining residential neighborhood, be adversely affected by the grant of a use variance under the circumstances outlined herein, for the reasons articulated above.

BZA Application Form

DIMENSIONAL INFORMATION

Applicant: Buckingham Browne & Nichols School

Present Use/Occupancy: Residential

Location: 5 Buckingham Pl., Cambridge, MA

Zone: Residential A-2 Zone

Phone: 617-823-7822

Requested Use/Occupancy: Educational

| | | <u>Existing Conditions</u> | <u>Requested Conditions</u> | <u>Ordinance Requirements</u> | |
|--|-------------------|----------------------------|-----------------------------|-------------------------------|--------|
| <u>TOTAL GROSS FLOOR AREA:</u> | | 3719 | No change | 4757 | (max.) |
| <u>LOT AREA:</u> | | 9513 | No Change | 6000 | (min.) |
| <u>RATIO OF GROSS FLOOR AREA TO LOT AREA: ²</u> | | .39 | No Change | .5 | |
| <u>LOT AREA OF EACH DWELLING UNIT</u> | | 9513 | No Change | 6000 | |
| <u>SIZE OF LOT:</u> | <u>WIDTH</u> | 105 | No Change | 65 | |
| | <u>DEPTH</u> | 90 | No Change | ? | |
| <u>SETBACKS IN FEET:</u> | <u>FRONT</u> | 24 | No Change | 20 | |
| | <u>REAR</u> | 5.75 | No Change | 25 | |
| | <u>LEFT SIDE</u> | 15.5 | No Change | 10' or sum to 25' | |
| | <u>RIGHT SIDE</u> | 31.5 | No Change | 10' or sum to 25' | |
| <u>SIZE OF BUILDING:</u> | <u>HEIGHT</u> | Unknown | No Change | 35 | |
| | <u>WIDTH</u> | 60 | No Change | ? | |
| <u>RATIO OF USABLE OPEN SPACE TO LOT AREA:</u> | | 60% | No Change | 50% | |
| <u>NO. OF DWELLING UNITS:</u> | | 1 | n/a | n/a | |
| <u>NO. OF PARKING SPACES:</u> | | 2 | No Change | n/a | |
| <u>NO. OF LOADING AREAS:</u> | | 0 | No Change | 0 | |
| <u>DISTANCE TO NEAREST BLDG. ON SAME LOT</u> | | 0 | n/a | n/a | |

Describe where applicable, other occupancies on the same lot, the size of adjacent buildings on same lot, and type of construction proposed, e.g; wood frame, concrete, brick, steel, etc.:

n/a

1. SEE CAMBRIDGE ZONING ORDINANCE ARTICLE 5.000, SECTION 5.30 (DISTRICT OF DIMENSIONAL REGULATIONS).
2. TOTAL GROSS FLOOR AREA (INCLUDING BASEMENT 7'-0" IN HEIGHT AND ATTIC AREAS GREATER THAN 5') DIVIDED BY LOT AREA.
3. OPEN SPACE SHALL NOT INCLUDE PARKING AREAS, WALKWAYS OR DRIVEWAYS AND SHALL HAVE A MINIMUM DIMENSION OF 15'.

Pacheco, Maria

From: Michael W. Wiggins <mww@westonpatrick.com>
Sent: Wednesday, March 9, 2022 7:43 PM
To: Pacheco, Maria
Subject: 5 Buckingham Place
Attachments: Aerial Photo Showing 4 Buckingham Street, 5 and 7 Buckingham Place.pdf; Block Map showing 4 Buckingham Street, 5 and 7 Buckingham Place.pdf

Dear Maria,

I copied you on an email to Sisa Daglian earlier today. I got a bounce back message saying that it was undeliverable as Sisa Daglian is no longer at Cambridge. As I explained in the email, I will be appearing at tomorrow evening's hearing on behalf of the abutters at 4 Buckingham Street, Gerburg Wulf and Steven Sands. Would you please ask whoever will be setting up the hearings for tomorrow night to upload the attached two exhibits so that I may show and comment about them to the Board tomorrow evening. I am sorry for the late submission of these documents, but I was just retained this afternoon and did not have a chance to prepare these exhibits before now.

Thanks for your anticipated cooperation.

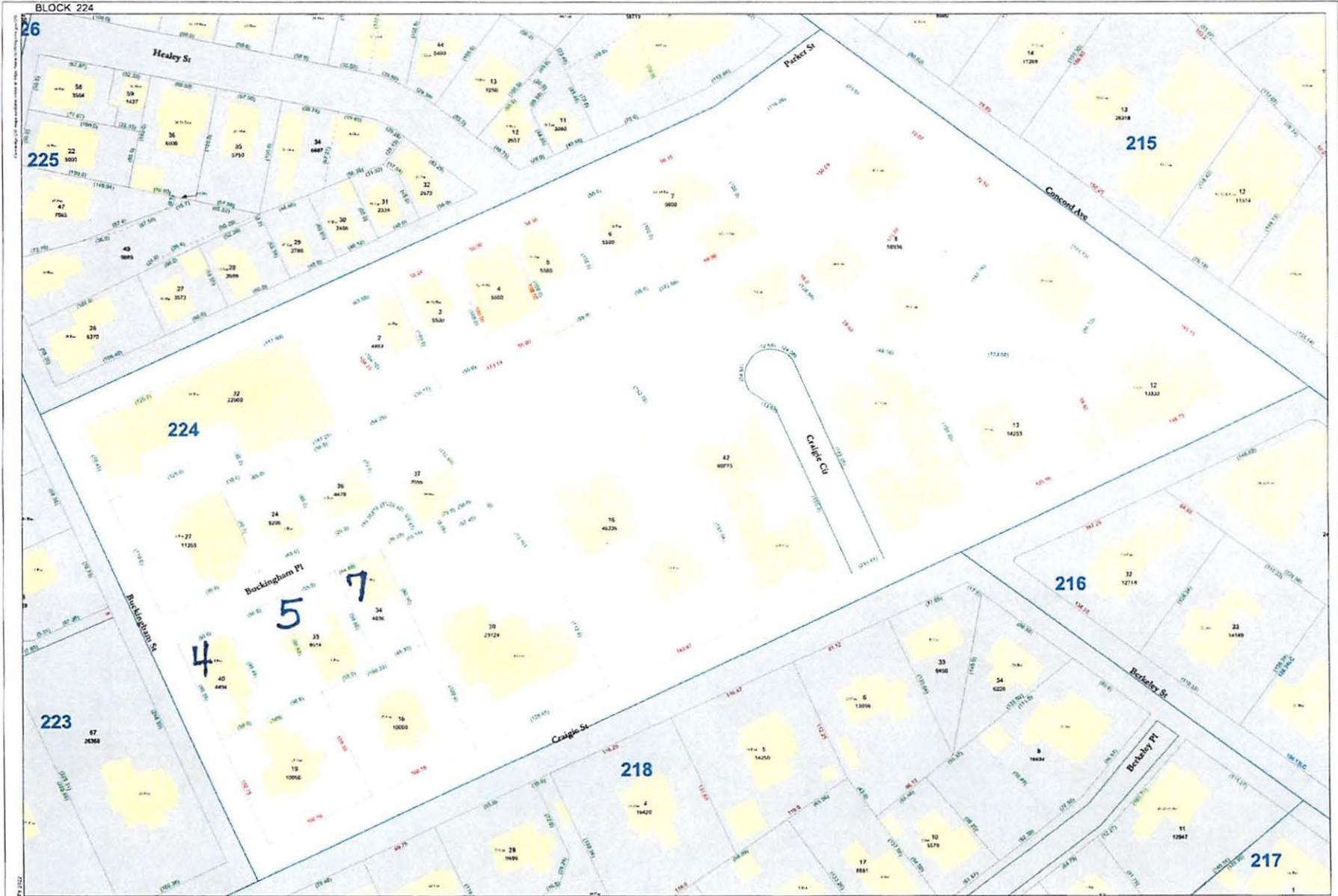
Respectfully,

Mike

Michael W. Wiggins
Weston Patrick, P.A.
One Liberty Square, Suite 1210
Boston, MA 02109-4825
Tel. 617-880-6300
Direct Line 617 880 6313
Fax 617 742-5734
Email mww@westonpatrick.com

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City of Cambridge
Assessing Department
795 Massachusetts Ave.
Cambridge, MA 02139

- Buildings
- Lot Line
- Block Line
- City Boundary
- Water
- Sub-Parcel Line
- Easement
- Railway

10 Lot Number 100 Parcel size in Sq. Ft.
 224 Block Number 44.0LC Land Count Dimension
 10 Can. Street Number 65.0 Survey Dimensions
 (125.0) Deed Dimension

© 2013 Cambridge
 All other property data on this map was collected from various sources. For more
 information on the City of Cambridge's GIS data, please visit the City of Cambridge
 GIS website. The information on this map is for informational purposes only. It is not
 intended to be used for legal or financial purposes. The City of Cambridge
 does not warrant the accuracy or completeness of the information on this map.
 For a full list of Cambridge services, please visit the City of Cambridge website.



0 15 30 60 Feet
 1 inch = 33 feet



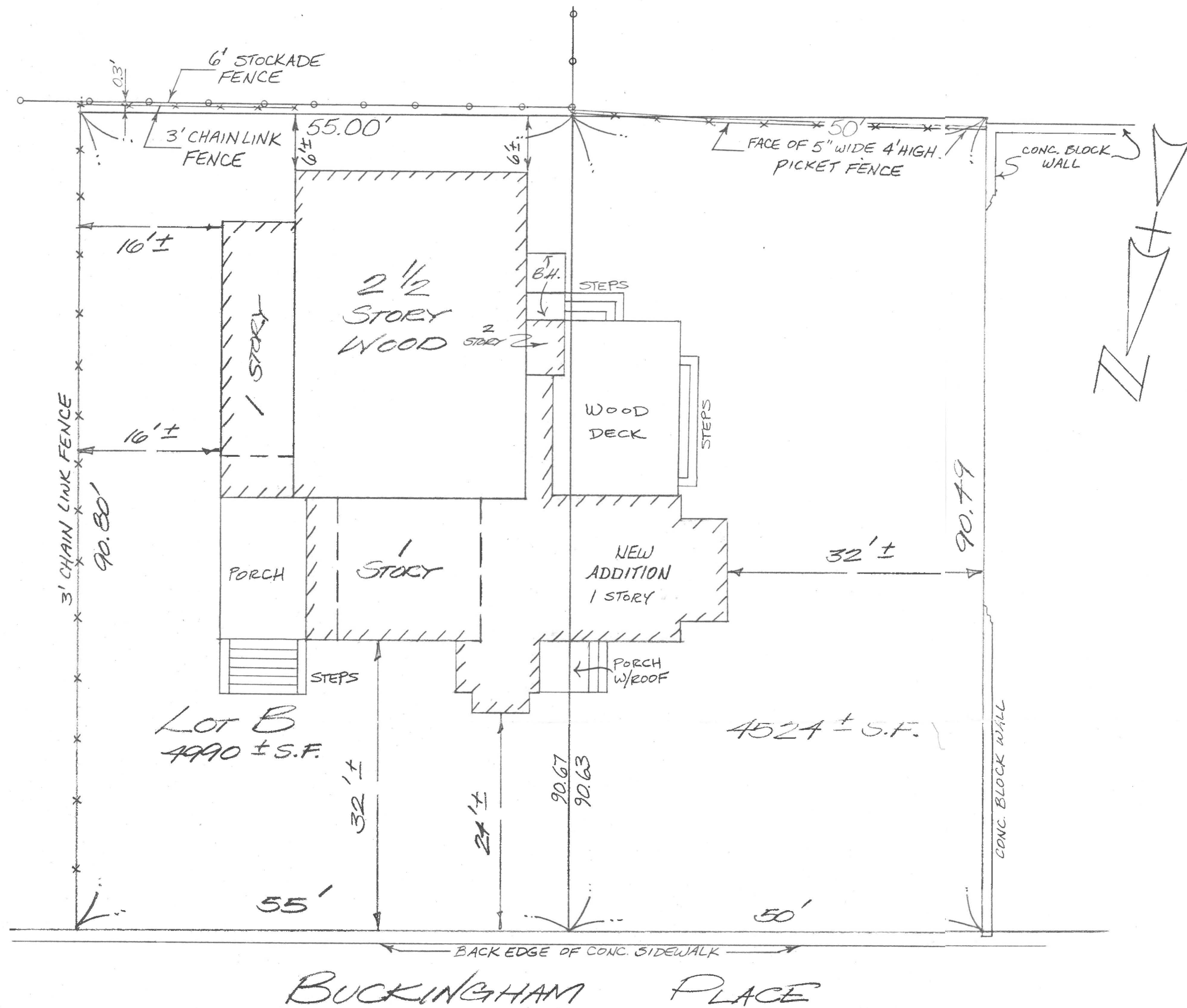
Parcel Block Map
224



5 Buckingham Pl

4 Buckinham Street, 5 Buckingham Place, 7 Buckingham Place



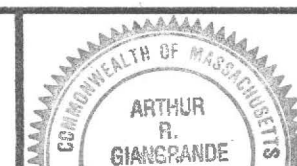


PLAN REFERENCES

MIDDLESEX REGISTRY BK. 24671 PG. 579
 " " BK. 4508 PG. END
 " " P.BK. 70 PLAN 2
 " " BK. 24919 PG. 593
 ASSESSOR'S MAP 224 - LOT NO. 35 & 41

I CERTIFY THAT THE BUILDING SHOWN IS LOCATED APPROXIMATELY ON THE GROUND AS SHOWN AND THAT IT CONFORMED TO THE BUILDING AND ZONING DIMENSIONAL SETBACK REQUIREMENTS OF THE CITY OF CAMBRIDGE WHEN CONSTRUCTED EXCEPT THOSE WHICH WERE WAIVED BY THE CITY OF CAMBRIDGE BOARD OF APPEALS UNDER CASE #6928 DATED AUGUST 18, 1994

CERTIFIED PLOT PLAN
 5 BUCKINGHAM PLACE



DESIGN
 DRAFT L.G./K.T.

Design Consultants, Inc.
 Consulting Engineers and Surveyors



SCALE:
 HORIZ: 1" = 10'

PROJECT NO.
 594-069
 DATE: SEPT. 18, 1995

















Memo

Date: February 7, 2022

To: City of Cambridge Board of Zoning Appeal

From: Tad Heuer

Regarding: BB&N Supporting Statement for Zoning Relief

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¹ In order to ensure disabled access as required under federal and state law, BB&N intends to build a disabled access ramp, as shown on the attached sketch. Under G.L. c. 40A, § 3, “handicapped access ramps on private property used solely for the purpose of facilitating ingress or egress of a physically handicapped person” are expressly exempt from zoning, and therefore no relief is required.

While the School is moving forward on the first two prongs, the game of musical chairs as to the third prong remains both urgent and unresolved. The School has contemplated dispersing these various administrative uses to various corners of the existing campus, or even moving certain of those functions off-campus, suboptimal though both options would be. Furthermore, the availability of “swing” space is essential in order to minimize disruption to teaching and learning during the anticipated multi-year construction and renovation, but the absence of such proximate space creates additional challenges. However, the unexpected availability of 5 Buckingham Place provided a silver bullet solution. Consolidating existing administrative functions from literally across the street — from their current home at 6 & 10 Buckingham Place to 5 Buckingham Place — would enable the School to unlock the maximum benefits of its master plan to its students and staff, while simultaneously creating minimal if any impact on the existing neighborhood.

Because the School seeks to use 5 Buckingham for educational uses that already exist elsewhere on campus (either for existing students or for existing administrative functions) there will be no increase in either student enrollment or staff headcount on campus as a result of the adaptive reuse of 5 Buckingham. For the same reason, there is not expected to be any increase in either automotive traffic or parking needs above what currently exists on Buckingham Place.

Indeed, the functional uses to which the School expects to put 5 Buckingham are essentially those for which a structure of its size and design is already designed to accommodate. For instance, the School envisions the likelihood of using the kitchen and dining room to allow for the storage and service of staff meals; using existing bedrooms as single or double-occupancy office spaces and a lactation room; using the living rooms as meeting space for staff or student tutorials, using the basement as workshop or art studio space, etc. Moreover, as the prior owner of 5 Buckingham was an accomplished gardener, the lot is lushly vegetated with a master-gardener quality garden space that the School believes offers a significant experiential educational opportunity for its primary school pupils.

Because this petition is for a use variance, BB&N understands from prior petitions pertaining to the Upper School that relief can be granted without being conditioned on the detailed plans and elevations that would be required if the petition sought dimensional relief. While BB&N recognizes the Board’s desire that requests for use and dimensional relief be consolidated where possible, in these particular circumstances — both where it is anticipated that BB&N’s use of 5 Buckingham will not require any dimensional relief, and where *any* hypothetical future construction depends on first obtaining certainty as to whether the parcel may be utilized for Educational Uses — BB&N is seeking only a use variance at this time.

On October 19, 2021, BB&N held an open community meeting to which it invited all abutters to the property and the campus, as well all residents of the Buckingham Street neighborhood, to explain the proposed Lower School campus master plan, including the proposed acquisition and use of 5 Buckingham Place, and respond to any questions.

III. PROPERTY DESCRIPTION

BB&N purchased 5 Buckingham Place on November 23, 2021. This parcel is one of five with a street address on the dead-end unaccepted public way of Buckingham Place, of which BB&N already owns three. It is located in the Residence A-2 district. The parcel currently contains a roughly 3,700 gross square foot Victorian structure, built in 1893, on a lot of approximately 9,500 square feet.

With the exception of any minor exterior improvements required under the federal Americans with Disabilities Act to ensure disabled access, BB&N anticipates that only interior renovations will be required. Moreover, because the educational use of the existing structure is anticipated to primarily involve the transfer of administrative uses from other locations on campus, no additional traffic is anticipated on Buckingham Place. The parcel has two off-street parking spaces, with additional on-street parking located on the existing unaccepted public way.

IV. LEGAL JUSTIFICATION FOR REQUESTED RELIEF

A. Literal enforcement of the provisions of the Ordinance would involve a substantial hardship, financial or otherwise, to BB&N.

A literal enforcement of the provisions of the Ordinance would create a substantial financial, educational, and logistical hardship to BB&N, a nonprofit educational institution that has operated on Buckingham Place for over 130 years — longer than the structure at 5 Buckingham Place has itself been in existence.

In particular, literal enforcement would prohibit BB&N from using the parcel for primary school uses, and would involve a substantial financial and educational hardship for the School and its students. Without the ability to utilize 5 Buckingham for educational uses, it will be exceptionally educationally and financially challenging for the School to restructure its existing century-old campus for a post-pandemic future that will require not only additional on-campus educational programmatic space, but increased on-campus outdoor space and green space as well, even as enrollment remains constant.

As noted above, BB&N's comprehensive master plan identified a creative way to obtain both of these necessary components in an existing neighborhood where space is at a premium, but not without the major hardship of the potential need to disperse and relocate essential administrative uses, including admissions, staff dining, and faculty offices, and not without the further major hardship of disrupting existing educational offerings due to the lack of swing space during construction. Literal enforcement of the provisions of the Ordinance would preclude BB&N from using 5 Buckingham to resolve those issues, requiring BB&N to expend significant financial and logistical resources merely to perpetuate an educationally suboptimal dispersion (or at worst separation) of key administrative facilities from the Lower School campus itself.

B. The hardship is owing to the shape and topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located.

The structure at 5 Buckingham is a preexisting nonconforming use, constructed significantly into its rear setback. The parking for the locus is also preexisting nonconforming, with 1-2 spots located the front yard setback, on an unaccepted public way. Moreover, as explained in detail above, the hardship is also owing more broadly to the shape and topography of the land and structures that comprise BB&N's existing Buckingham Place campus as a whole, and the attendant challenges of adapting both the School's existing campus footprint — constrained as it is by its West Cambridge neighborhood — and its numerous century-old structures for a post-pandemic future. Obtaining the additional on-campus educational programmatic space and increased on-campus outdoor space and green space required without the ability to utilize a proximate structure like 5 Buckingham will create a significant financial and educational hardship for the School, its students, and its staff.

C. Desirable relief may be granted without substantial detriment to the public good.

The requested use variance may be granted without substantial detriment to the public good. To the contrary, use of the parcel for primary school uses is entirely compatible with the immediate neighborhood in which it is located: Buckingham Place has for over a century been predominantly in institutional use for educational purposes. At a more granular level, Buckingham Place is a short, dead-end unaccepted public way, on which there are only five parcels, four of which have been owned by BB&N and used for primary school uses for decades. As such, nothing about the proposed use would contravene the objectives of the City's institutional growth management plan; indeed, the plan expressly states that "All else being equal, concentration of new institutional activity in areas of existing institutional development is preferable to dispersion or scattered growth of those new activities." The ability of BB&N to focus the use of 5 Buckingham northward toward existing Lower School facilities on the existing dead-end way is entirely in keeping with the plan's objectives, and demonstrates that 5 Buckingham is particularly appropriate for educational uses.

Nor will there be any detriment to the public good owing to detrimental increases in pedestrian travel, vehicular traffic, or parking. Because the reuse of 5 Buckingham will involve the consolidation of existing staff offices from other locations on the Lower School campus, as opposed to adding additional staff, no substantial change from the current vehicular uses of Buckingham Place is anticipated. No change is being proposed to the existing available parking, either on the locus or on the way, nor will the use of 5 Buckingham for educational uses eliminate any residential services or activities in the neighborhood.

In short, the most likely practical outcome of the proposed institutional use of these parcels is that the change will not be noticed by the neighborhood at all. Given the intent of BB&N to pursue adaptive reuse of the existing structures to the extent possible, and to retain the existing features of the property including the garden, it is likely that the transition of 5 Buckingham to being a part of BB&N campus will be imperceptible to the neighborhood at large.

D. Desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the Ordinance.

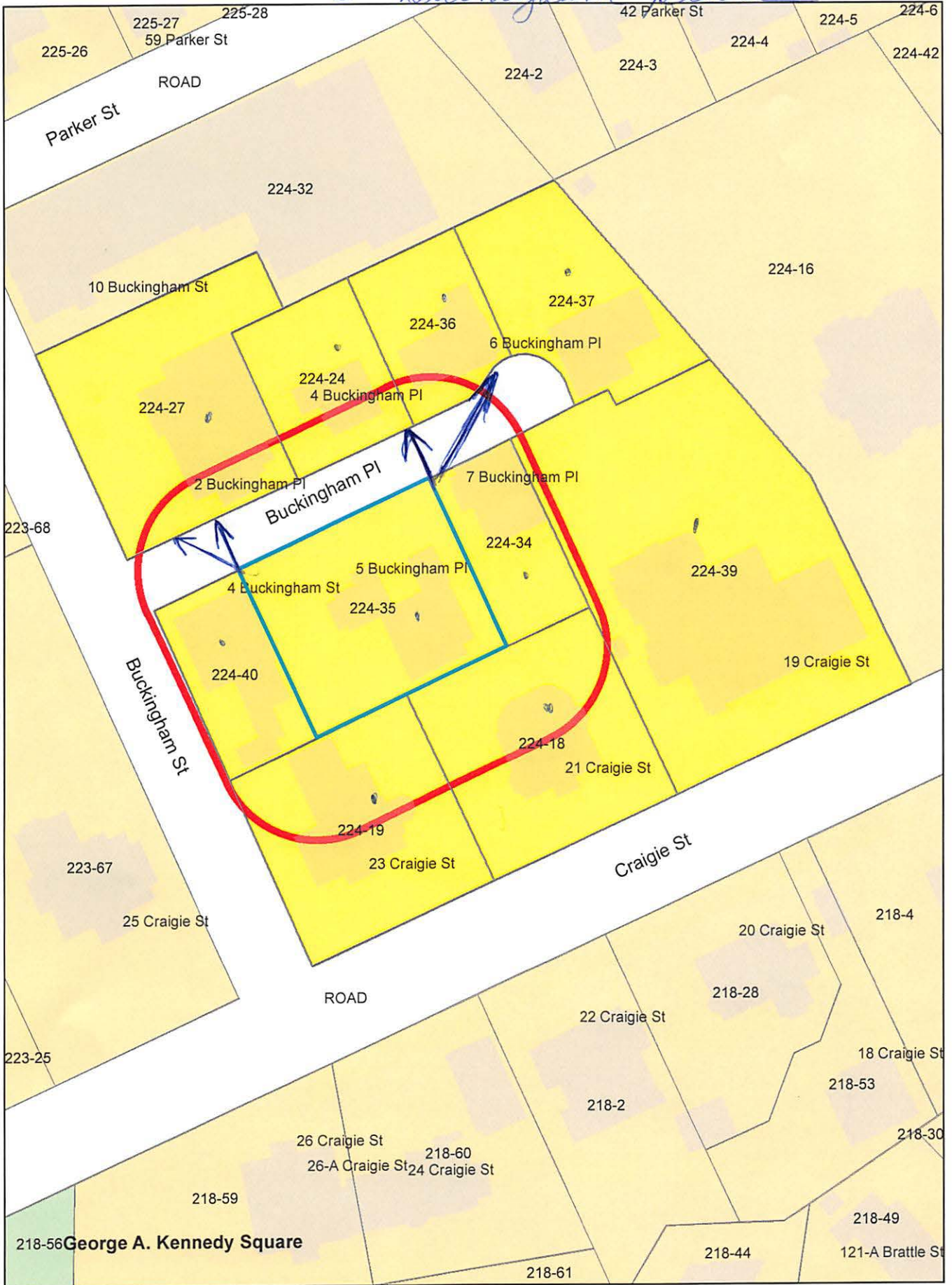
Section 4.50 of the Ordinance (the Institutional Use Regulations) is the result of a home rule exemption for Cambridge from the provisions of G.L. c. 40A, § 3 (colloquially known as the “Dover Amendment”, which precludes municipalities from enforcing zoning requirements on educational institutions other than “reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements”). Section 4.52 states that the purpose of the Institutional Use Regulations is, in relevant part, as follows:

[To] protect lower density residential neighborhoods from unlimited expansion of institutional activities, to reduce pressures for conversion of the existing housing stock to nonresidential uses, to minimize the development of activities which are different from and incompatible with activity patterns customarily found in lower density residential neighborhoods and to provide a framework for allowing those institutions which are compatible with residential neighborhoods to locate and expand there.

As explained in detail above, BB&N’s petition would not constitute the “unlimited expansion” of institutional activities into lower density residential neighborhoods, as it seeks only to utilize a single structure that is physically adjacent to a century-old existing educational use. The grant of relief would have minimal (if any) effect on the neighborhood at all, and would not increase the pressure to convert existing housing stock to nonresidential uses. Far from introducing incompatible activity patterns into the neighborhood, the existing activity pattern on Buckingham Place is — and has been for decades — one that reflects the rhythms and activities of a children’s day care and primary school.

Because access to the parcel would come exclusively from Buckingham Place (which is already utilized almost exclusively by BB&N because of its ownership of the parcels comprising the north and east sides of the dead-end way), the proposal would not cause congestion hazards or substantial change in established neighborhood character. For the same reasons, additional traffic generated in the neighborhood is anticipated to be minimal, if any. Nor would the continued operation of or the development of adjacent residential uses, or the integrity of the adjoining residential neighborhood, be adversely affected by the grant of a use variance under the circumstances outlined herein, for the reasons articulated above.

5 Buckingham place



5 Buckingham pl.

Lelitowers

224-19
LEVITAN, SHARI A.
TRUSTEE 23 CRAIGIE STREET NOMINEE TRUST
C/O HOLLAND & KNIGHT LLP
10 SAINT JAMES AVE. 11FL
BOSTON, MA 02116

224-27-39-37-36-24-35
BUCKINGHAM BROWNE AND NICHOLS SCHOOL
80 GERRYS LANDING ROAD
CAMBRIDGE, MA 02138

BUCKINGHAM BROWNE & NICHOLS SCHOOL
C/O DR. TARA GOHLMANN
80 GERRY'S LANDING ROAD
CAMBRIDGE, MA 02138

224-40
SANDS, STEVEN M., ET-AL
4 BUCKINGHAM ST
CAMBRIDGE, MA 02138

224-18
KARGER, DAVID & ALLEGRA GOODMAN KARGER
21 CRAIGIE ST
CAMBRIDGE, MA 02138-3403

BUCKINGHAM BROWNE & NICHOLS SCHOOL
C/O CYNTHIA WESTERMAN
80 GERRY'S LANDING ROAD
CAMBRIDGE, MA 02138

224-34
CURAUDEAU VERONIQUE H. &
ALAIN H. CURAUDEAU TRS
7 BUCKINGHAM PL
CAMBRIDGE, MA 02138



City of Cambridge

MASSACHUSETTS

BOARD OF ZONING APPEAL

831 Mass Avenue, Cambridge, MA.
(617) 349-6100

BZA

POSTING NOTICE – PICK UP SHEET

The undersigned picked up the notice board for the Board of Zoning Appeals Hearing.

Name: Joseph OBR16N Date: 2/23/27
(Print)

Address: 5 Buckingham St.

Case No. BZA-162034

Hearing Date: 3/10/22

Thank you,
Bza Members

Pacheco, Maria

From: Gerburg Wulf <wulfgerburg@gmail.com>
Sent: Monday, March 7, 2022 3:41 PM
To: Pacheco, Maria
Cc: Steve Sands
Subject: hearing on March10

Dear Ms. Pacheco,

We live on 4 Buckingham St, and there'll be a meeting on March 10 about change of use for 5 Buckingham place, our direct neighbour. We are still trying to understand what the ramifications would be and are hoping that the meeting could possibly be postponed?

Thank you for your consideration,
Gerburg Wulf, I cc my husband Steven Sands



City of Cambridge

MASSACHUSETTS

BOARD OF ZONING APPEAL

831 Mass Avenue, Cambridge, MA.
(617) 349-6100

2022 MAR 17 PM 3:03

OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

Board of Zoning Appeal Waiver Form

The Board of Zoning Appeal

831 Mass Avenue

Cambridge, MA 02139

RE: Case # B7A-162034

Address: 5 Buckingham place

Owner, Petitioner, or Representative: Cynthia Westerman
(Print Name)

hereby waives the required time limits for holding a public hearing as required by Section 9 or Section 15 of the Zoning Act of the Commonwealth of Massachusetts, Massachusetts General Laws, Chapter 40A. The Owner, Petitioner, or Representative further hereby waives the Petitioner's and/or Owner's right to a Decision by the Board of Zoning Appeal on the above referenced case within the time period as required by Section 9 or Section 15 of the Zoning Act of the Commonwealth of Massachusetts, Massachusetts General Laws, Chapter 40A, and/or Section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, codified as 47 U.S.C. §1455(a), or any other relevant state or federal regulation or law.

Date: 3/11/22

Cynthia Westerman
Signature

* * * * *

(8:46 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Monteverde, Matina Williams, and Jason
Marshall

BRENDAN SULLIVAN: The Board will hear now -- will
now hear Case No. 162034 -- 5 Buckingham Place.

TAD HEUER: Good evening, Mr. Chairman and Members
of the Board. Ted Heuer from Foley Hoag on behalf of the
applicant, Buckingham Browne & Nichols.

BRENDAN SULLIVAN: Okay.

TAD HEUER: Mr. Chairman, I have with me in the
event that it is useful three members of the School itself.
I have Dr. Tara Gohlmann, who is the Chief Financial
Officer, I have Jennifer Price, who is the head of School;
and Cynthia Westerman, who is the facility's Project
Manager.

The application here for BB&N is for a use
variance authorizing the School utilize the parcel at 5
Buckingham Place for primary and earlier educational uses.
As the Board is aware, this is the same relief that BB&N
requested and was granted unanimously by the Board two years

1 ago in 2020 for its property at the Upper School.

2 Relief is required here because even though BB&N's
3 Lower School campus is the original location of the
4 Buckingham School that dates back 120 years, and the School
5 has been located on Buckingham Street and Buckingham Place
6 since well before the existence of zoning, the Lower School,
7 unless it's Upper School counterpart, is not located within
8 its "Student Overlay District."

9 And because of that, the ordinance requires new
10 educational uses to obtain zoning relief.

11 The School acquired 5 Buckingham last November.
12 It's one of seven parcels abutting the dead-end, an
13 unaccepted public way of Buckingham Place, of which BB&N
14 already owns four of them, all of which are in active
15 educational use today, including the 1902 original
16 schoolhouse.

17 The parcel contains, as you see in the dimensional
18 form, a roughly 3700 square-foot Victorian structure built
19 in the late 1890s, and it's on a lot of approximately 9500
20 square feet.

21 BB&N intends to use 5 Buckingham primarily for
22 consolidating existing Lower School administrative staff and

1 uses that are currently located in two smaller, former
2 residential structures that are located directly across the
3 street.

4 And I think we have some slides in the
5 presentation that will show exactly what we're talking
6 about. Those administrative uses -- there we are -- those
7 administrative uses include administrative staff offices,
8 faculty offices, the staff lunchroom, kitchen facilities,
9 small meeting spaces, things of that nature.

10 So the property here you can see on the screen 5
11 Buckingham Place is on the south side of Buckingham Place.
12 The two properties that the existing administrative
13 functions are in are predominantly Kelsey and Morrison.
14 Those are the two on the north side of Buckingham Place.
15 And the building labeled, "Markham" is the original
16 schoolhouse building.

17 The other buildings in Browne are the other
18 facility buildings that the School owns. So that's what
19 comprises the campus.

20 It is key here to emphasize to the Board that
21 neither the intensity of the use of the streets -- including
22 parking -- nor the intensity of the use of the campus will

1 change as a result of relief being granted.

2 If relief is granted, the School will still have
3 the same number of students, which is about 330 at the
4 moment, and the same number of staff, which is about 50 at
5 the moment, as before.

6 So this is simply moving things around, not adding
7 or expanding the intensity of the use.

8 I'm happy to go into the statutory requirements,
9 and that's also I think going into quite a bit of
10 background, as you've seen in our petition for why we're
11 asking to do this.

12 As the Board well knows, there are four standards,
13 the four statutory standards we believe are met here. As to
14 substantial hardship, as I mentioned, BB&N is located in
15 several locations around the city. It doesn't have a single
16 consolidated campus.

17 The Lower School is a combination, as you can see,
18 of purpose-built structures, more down on the bottom there.
19 It's a purpose-built structure. Lainard (sic) is a purpose-
20 built structure for the School.

21 But also a number of adaptive or (sic) used
22 houses. So that's Markham, Kelsey, Morrison, Bridgeman, St.

1 Anne's -- which is the old Catholic Sisters' facility. That
2 means that when you're trying to create a campus for a
3 twenty-first-century primary school, they're essentially
4 using twentieth and even nineteenth-century buildings to do
5 it.

6 And the square footage is not evenly or
7 appropriately distributed between those buildings to make it
8 efficient at all times. So they've done a lot of work over
9 the last few decades to make that work. They were already
10 planning increasingly difficult prep to make that work for a
11 twenty-first-century primary school.

12 With the pandemic, that was made exceptionally
13 difficult. As the Board knows, there are major physical
14 changes required for teaching and learning. You had social
15 distancing, you have remote access, there are legal mandates
16 from the Department of Education about how you could use
17 classroom space, how often you could use classroom space,
18 who's allowed in it, HVAC, other types of things.

19 Because of that, the School recognized that
20 there's an urgent need to incorporate in this Master Plan
21 not just additional educational programmatic space, but also
22 increased use of on-campus outdoor space and green space,

1 all in all neighborhood where there is no space.

2 And in doing so, their Master Plan identified a
3 creative way to obtain both of those components in this
4 neighborhood where there is space at a premium.

5 And what they're proposing to do is to take the
6 green space that is to the -- this is the east of Bridgeman,
7 north of Lainard, that area at the top of the bird's eye
8 view that you're seeing, and to construct a new programmatic
9 building in that space by right, and then reclaim as green
10 space the area currently occupied by Kelsey and Morrison, so
11 to remove those buildings.

12 That meant, of course, that those administrative
13 functions would have to go somewhere. And the School was
14 engaged in a number of different exercises to figure out
15 what they would do to move those and where they would move
16 them to, whether to other places on campus, or whether they
17 would have to move them off campus, which is where the
18 significant hardship comes in.

19 The need to potentially disburse and relocate
20 administrative uses like admissions, like staff dining, like
21 faculty offices, would obviously have a major disruption of
22 their educational offerings and to the extent that they

1 needed swing space in order to move some of those people
2 around while they're engaging in the construction of the new
3 facility, that would also be something that they would need
4 to find elsewhere on campus.

5 So literal enforcement of the provisions of the
6 ordinance would preclude them from using 5 Buckingham to
7 resolve those issues.

8 And essentially, they'd be expending significant
9 financial and logistical resources and to merely perpetuate
10 an educationally suboptimal dispersion of their key
11 administrative functions and moving them off of the Lower
12 School campus itself.

13 With respect to the hardship being owing to the
14 shape and topography of the land and the structures, 5
15 Buckingham itself is preexisting, nonconforming. It's
16 significantly into its rear yard setback. It was built,
17 again, in 1893. Parking is also preexisting, nonconforming.
18 It has spots located in the front yard setback. It's on an
19 unaccepted public way.

20 Moreover, as we explained in more detail in our
21 petition, the hardship is owing more broadly to the shape
22 and topography of the land and structures that comprise

1 their campus.

2 As you can see from the overhead view, it's a
3 highly unusually shaped campus. It's been built into an
4 existing West Cambridge neighborhood. It's got an unusual
5 footprint.

6 And in order to adapt these structures and create
7 an educational experience for a primary school for the
8 current era, being able to, you know, use 5 Buckingham Place
9 is fairly essential for them. Otherwise, they're going to
10 be using these smaller buildings and Kelsey and Morrison to
11 house things that they're just not designed to house, and
12 don't effectively house anymore.

13 Desirable relief may be granted without
14 substantial detriment to the public good. Here the use of
15 the parcel for primary school purposes is entirely
16 compatible with the neighborhood in which they're located.

17 As you can see, Buckingham Place is a short dead-
18 end, on which the properties owned by BB&N have been used
19 for primary school uses for decades.

20 The reuse, as I mentioned, will involve
21 consolidation of existing administrative uses from other
22 locations on the campus -- again, literally most of them

1 from across the street.

2 So there's no expected change in the current
3 vehicular uses of Buckingham Place. We'll be driving in and
4 out of it. We're already driving in and out of it already.
5 There will be no change to parking.

6 Again, we're not increasing staff. Those staff
7 would be otherwise parking and traveling to Kelsey and
8 Morrison. They'll instead be taking a right instead of left
9 once they get onto Buckingham Place and walking into a
10 different building, they're doing the same thing.

11 And finally, we point out the use is compatible
12 with the City's Institutional Growth Management Plan. In
13 that plan, the City has said that "all else being equal --"
14 and that's a quote "-- concentration of new institutional
15 activity in areas of existing institutional development is
16 preferable to dispersion, where's scattered growth of those
17 new activities.

18 And here, obviously we are looking to consolidate
19 the use of these activities in one of location around
20 Buckingham Place. We're not trying to go further afield or
21 create scattered uses; we are trying to keep everything in
22 the same physical vicinity.

1 The last of the four statutory criteria,
2 obviously, is whether desirable relief can be granted
3 without substantial detriment to the public good, or
4 nullifying or substantially derogating from the intent and
5 purpose of this ordinance. Here, we would note that the
6 purpose of Institutional Use Regulations is in Section 4.52.

7 And it states that the purpose of the IUR is to
8 protect residential neighborhoods from unlimited expansion
9 of institutional activities to reduce pressures for
10 conversion of existing housing stock, to minimize the
11 development activities which are different from and
12 incompatible with activity patterns found in those
13 neighborhoods, and to provide a framework for allowing those
14 institutions which are compatible with residential
15 neighborhoods to locate and expand there.

16 Here, we would note that the granted relief would
17 not in any way constitute unlimited expansion. It would
18 merely allow primary school use of a single structure that
19 is physically adjacent to a century-old physical structure
20 of the existing primary school.

21 And far from it producing an incompatible activity
22 pattern into the neighborhood, the existing pattern on

1 Buckingham Place is that predominantly of a children's day
2 camp and primary school.

3 Again, the access to these parcels comes from
4 Buckingham Place, which already is almost entirely used by
5 BB&N because it owns those four buildings on the north side.
6 So the granted relief wouldn't cause congestion hazards or
7 substantial change in neighborhood character.

8 And for the same reasons, we don't believe that
9 there would be any additional traffic generated in the
10 neighborhood because of the use of #5, the current uses that
11 are in Kelsey and in Morrison.

12 So in sum, Mr. Chair, we believe that the School's
13 request for relief meets the requirements for a variance
14 under the ordinance.

15 We think the request is reasonable and tailored to
16 the existing neighborhood, and would relieve a significant
17 dimensional and educational hardship for the School. And we
18 would ask for the Board's favorable vote.

19 BRENDAN SULLIVAN: Great. Thank you. Any
20 questions by Members of the Board? Mr. Alexander?

21 CONSTANTINE ALEXANDER: No questions.

22 BRENDAN SULLIVAN: Jim Monteverde?

1 JIM MONTEVERDE: No questions, thank you.

2 BRENDAN SULLIVAN: Jason Marshall?

3 JASON MARSHALL: No questions at this time.

4 BRENDAN SULLIVAN: Matina, any questions or
5 comments at this time?

6 MATINA WILLIAMS: No questions.

7 BRENDAN SULLIVAN: Okay. Let me open it to public
8 comment. Any member of the public who wishes to speak
9 should now click the button that says, "Participants," and
10 then click the button that says, "Raise hand."

11 If you are calling in by phone, you can raise your
12 hand by pressing *9 and unmute or mute by pressing *6.
13 You'll have up to three minutes to comment.

14 OLIVIA RATAY: Michael Wiggins?

15 BRENDAN SULLIVAN: Michael, are you on the line?

16 MICHAEL WIGGINS: Yes, I am. Can you hear me?

17 BRENDAN SULLIVAN: Yes.

18 MICHAEL WIGGINS: Good evening, Mr. Chairman and
19 Members of the Board. I represent the abutters to this
20 project on Buckingham Street and Buckingham Place, Alain and
21 Veronique Curaudeau are at 7 Buckingham Place.

22 And if you look at the diagram, the birds eye view

1 of the existing campus, the Curaudeaus are just to the right
2 of #5. They're #7 Buckingham Place.

3 And to the left of #5 is #4 Buckingham Street.
4 It's kind of confusing, because the numbers, they look like
5 they line up, but actually #4 Buckingham Street is a
6 different street. Nevertheless, Buckingham Street faces
7 Buckingham Place, and of course, so does #7 Buckingham
8 Place.

9 And this is on the right side of Buckingham Place
10 a distinctly residential area. I would agree on the left
11 side, it's distinctly residential, but up until now, there's
12 always been a separation.

13 The Curaudeaus face the School on two sides
14 currently. If this relief is granted, they'll be facing it
15 on three sides. They'll be basically a bit of an island in
16 an institutional campus.

17 As the petitioner's attorney pointed out, this is
18 not the case where it's located in an Institutional Overlay
19 District, where a special permit is all that's needed, it's
20 a variance case, and stricter scrutiny is required here.

21 And when we speak about the hardship, the hardship
22 should arise out of the shape of the lot and the topography

1 of the lot and the soil conditions of the lot. There is no
2 such problem here. This is a rectangular lot, #5. So there
3 is no particular hardship now.

4 We do look at this case, though, with the --
5 through the lens, unfortunately, of the Dover Amendment,
6 which does favor use variances, and my clients in
7 considering this proposal actually do appreciate that it's
8 going to be an administrative use.

9 And I think if, you know, after I talked a little
10 bit about their perspectives, I'd like to be asking you for
11 a condition if you're inclined to grant the relief that
12 there be some conditions do it so that it is basically --
13 the relief is geared to exactly what they have said they are
14 intending to do, and not what they might choose to do at
15 some later time.

16 So my clients enjoy the view onto 5 Buckingham
17 Place from both their directions, the greenery it provides,
18 unlike the institutional use on the other side.

19 My clients at #4 Buckingham have zero side yard
20 setback, and their windows look right into the yard of #5
21 Buckingham. Steven Sands, one of the owners of Buckingham -
22 - #4 Buckingham -- has his practice, a home practice there

1 with clients visiting every day. It's important to him to
2 have quiet and tranquility, at least on the side facing #5.

3 The -- of course the School is directly across
4 from the middle of the din, and he has dealt with that over
5 the years. But is not interested in having that happen here
6 right beside him, where a place that, you know, has zero
7 setback is.

8 #7 Buckingham, as I said, is going to be
9 surrounded now with institutional buildings if #5 is allowed
10 to proceed with its use variance.

11 And so it would be important to both of my clients
12 to have the use pretty much in line with what's proposed,
13 and not have it be sort of an open sesame with just an
14 educational use variance with no guidelines as to what could
15 happen.

16 So they do appreciate that, you know, this would
17 be a good proposal for something much more, or much less
18 pleasing and more interfering with the use of the adjacent
19 two buildings.

20 If the Board's inclined to grant this relief, then
21 we would want to see conditions placed in the decision to
22 reflect the incorporation of the exact intent as stated.

1 And so those would include that there would be no
2 additional parking on this site at any time, that there be
3 no expansion of the structure other than the accessible
4 grants that we've been told will be needed for accessible
5 use...

6 That existing gardens and green space would be
7 maintained the way they are now, with no impervious surfaces
8 to be installed, and that the outdoor space be limited as
9 described by the proponent for plants and gardening and
10 experiential educational opportunities for kids, but not to
11 be turned into a large, yet again recreational area right
12 outside the windows of my client at #4 Buckingham Street,
13 and also right outside on the side facing #5 of the
14 Curaudeaus.

15 So that's sort of in a nutshell what we're talking
16 about. But I've been hoping it's good news for the
17 proponent to know that we're not proposing that this
18 variance be denied, but rather that it be carefully
19 described, that the conditions reflect exactly the intent as
20 described, and the use of the building be primarily for
21 administrative use, not primarily for classroom use or for
22 concerts and other things like that.

1 There is a description in the letter supporting
2 the project. And I think language from that letter could be
3 used as part of the conditions for the use variance.

4 BRENDAN SULLIVAN: Okay. On -- according to the
5 submittal by the petitioner, they state that on October 19,
6 2021, BB&N held an open community meeting, to which it
7 invited all abutters to the property and the campus, as well
8 as all residents of the Buckingham Street neighborhood to
9 explain the proposed Lower School campus Master Plan,
10 including the proposed acquisition and use of #5 Buckingham
11 Place, and respond to any questions.

12 Do you know if your client, Gerburg and Steve
13 attended that meeting, or had any conversations with BB&N at
14 all?

15 MICHAEL WIGGINS: I don't know. I know that
16 they're -- you're witness tonight I think observing. But --

17 TAD HEUER: I can answer that, Mr. Chair, if it
18 helps.

19 BRENDAN SULLIVAN: Yeah, if you identify yourself
20 for the record?

21 TAD HEUER: This is Tad Heuer, petitioner.

22 BRENDAN SULLIVAN: Oh, I'm sorry. I wasn't

1 looking at you, Ted. Okay.

2 TAD HEUER: No problem. So yes, Dr. Sands from #4
3 Buckingham Street did attend that meeting on the nineteenth.
4 In addition, in late January the School reached out
5 specifically again to both the direct abutters on Buckingham
6 Place -- Dr. Sands and Ms. Wulf at #4 Buckingham Street, a
7 and the Curaudeaus at #7 Buckingham Place.

8 They arranged to meet them in #5 Buckingham Place
9 on February 1. They were actually scheduled to meet on
10 January 25, but rescheduled that meeting at the express
11 request of Ms. Wulf to accommodate her schedule.

12 And both Ms. Wulf and Ms. Curaudeau did indeed
13 attend that meeting at #5 Buckingham Street with the School,
14 where they discussed their plans to end this application.
15 And that was before this application was submitted.

16 The School wanted to make sure that they had any
17 concerns or were able to incorporate those in the
18 application we submitted on February 7, a week later.

19 And no substantial -- I'm not sure any concerns
20 were raised, either then or subsequently until this evening.

21 TARA GOHLMANN: So if I could just add to that,
22 thank you very much, Tad. This is Tara Gohlmann. I am the

1 Chief Operating and Financial Officer of the School. I was
2 at that meeting with Cynthia Westerman and Jen Price, who
3 are also on this call. And we also offered at any time to
4 answer any questions and to meet with them if there were any
5 concerns and hadn't heard from them until this morning.

6 BRENDAN SULLIVAN: Well, I open it to public
7 comment. Anyhow, because we -- Michael, are you -- have you
8 concluded? I may continue anyhow, but --

9 MICHAEL WIGGINS: Yeah. I haven't -- actually I'd
10 like to respond to that briefly, if I could. The tenor of
11 my remarks are not that my client opposed this project, they
12 are more concerned about that the variance that if the Board
13 is inclined to grant the variance, that it be that it be
14 subscribed -- circumscribed so as to comport with what the
15 proponent said that they were going to be doing with the
16 property.

17 So again, it's not -- it's not an option, we're
18 not here to oppose the project, but rather to clarify how
19 it's going to be used, as described previously in previous
20 meetings.

21 BRENDAN SULLIVAN: Okay. We are in receipt of
22 communication from Ms. Wulf and Mr. Sands. And it's dated

1 Monday, March 7.

2 "We live on #4 Buckingham Street, and there will
3 be a meeting on March 10 about change of use via Buckingham
4 Place, our direct neighbor. We are still trying to
5 understand what the ramifications would be, and are hoping
6 that the meeting could possibly be postponed."

7 So it seems like I'm getting sort of conflicting
8 reports from different things as, you know, they were at the
9 meetings, and now there seems to be some hang-up.

10 And I guess Michael, you were just recently
11 retained, is that right, yesterday?

12 MICHAEL WIGGINS: That's correct. And what it
13 reflects is just, as you can understand, some anxiety about
14 the future of their building and this building, and how it
15 will impact into the future.

16 And again, they don't oppose -- neither of my
17 clients on either side are saying that we don't want this to
18 go forward. It's more that they want it to be -- that it be
19 lined up with the stated intent has been for the use of this
20 property.

21 In other words, the Board could just say we grant
22 you a use variance to use this property, however you may see

1 fit, and I don't think that would be fair, as you consider
2 the standards for a variance in the neighborhood at large to
3 give what I would call sort of an open sesame kind of use
4 variance, as opposed to something that is in accord with
5 what they were told.

6 And yes, they did attend those meetings, and they
7 didn't object to those uses at that time.

8 CONSTANTINE ALEXANDER: Mr. Chairman, I wonder
9 whether this is a case that should be continued? It seems
10 to me there needs to be more dialogue between the affected
11 neighbors and the School.

12 And maybe -- you know, I think at the end of the
13 day they will reach an agreement with some conditions or
14 protections for the neighborhood. And I think to try to
15 resolve the case tonight one way or another I think would be
16 a good mistake.

17 BRENDAN SULLIVAN: Well, I think it's sloppier and
18 not --

19 MICHAEL WIGGINS: I'm sorry?

20 BRENDAN SULLIVAN: I think it's -- I don't want to
21 do this sloppily.

22 MICHAEL WIGGINS: Yeah.

1 BRENDAN SULLIVAN: If that's a real word or
2 something like that. Mr. Heuer, would you entertain a
3 continuance, so that you and Mr. Wiggins can have
4 conversation, and then eventually come back to us with an
5 agreement, and more people? Okay, or an agree to
6 disagreement?

7 TAD HEUER: Mr. Chairman, again, when we're
8 talking about doing things on the fly, you know, because
9 we're in a remote setting, I don't have the ability to
10 confer with my clients the way I would if I were sitting at
11 the table, unfortunately.

12 I mean, I think I would reluctantly entertain a
13 continuance, but I'd ask for a bit of the Board's
14 consideration of the fact that we've had these discussions
15 available and have been made available to the applicant
16 since October. We're now five months since then.

17 And it wasn't just this public meeting, it was a
18 meeting where we followed it up with an individual meeting
19 custom tailored to them at their schedule, at the location,
20 where they could ask any questions they wanted. And that
21 was a month in -- you know, I almost a month and a week ago.

22 So to hear at the last minute that there are

1 things that, you know, they would like to do that
2 essentially, they're asking are you going to do what you
3 said your petition is going to do?

4 I'm not sure -- I mean, there is a certain level
5 of equity that I'm hoping that the Board will extend here to
6 recognize that, you know, this is not a situation where we
7 have, you know, as you had in the last case where the
8 petitioner simply didn't meet with their neighbors. We've
9 met with the neighbors and offered to meet them on multiple
10 occasions. So this is not for lack of trying.

11 I appreciate that the neighbors, you know, have
12 these concerns. And the School is of course always willing
13 to have discussions with any of its neighbors about
14 addressing issues and minimizing impacts. They've done so
15 for decades.

16 I just think there is a lot concern as I think the
17 Board has always recognized with, you know, issues like this
18 being raised at literally the last minute, particularly when
19 there's been an opportunity to do so and the abutters
20 haven't availed themselves of that opportunity. That's my
21 concern.

22 BRENDAN SULLIVAN: Okay. All right. There are

1 other people who are calling in. So let me defer to anybody
2 else who wishes to comment.

3 OLIVIA RATAY: Alain Curaudeau?

4 ALAIN CURAUDEAU: Can you hear me? Okay. So I am
5 one of the neighbors. And I think what we are asking --
6 first of all, I think as Michael already said, we are not
7 opposing to the proposal, what we are asking is just to
8 formalize as a condition what we were told at the meeting.

9 We were told at the meeting that it will be an
10 administrative use. There will be no change in the trees,
11 in the grass, in the open space, no change in the parking,
12 and this is the only thing that we are asking to formalize
13 as a condition to the petition. Very simple.

14 So we are not opposing, we are not -- I'm not --
15 our family is not questioning any further, we are just
16 asking to formalize what we were told.

17 BRENDAN SULLIVAN: Thank you.

18 OLIVIA RATAY: Gerburg Wulf?

19 BRENDAN SULLIVAN: Gerburg?

20 OLIVIA RATAY: Oh, Steven.

21 STEVEN SANDS: Hi. This is Steven Sands. I'm
22 here with Gerburg. I'd like to support what Mr. Curaudeau

1 just said. I would like to respond to what was said by the
2 lawyer representing the School, which is -- repeatedly this
3 evening, which is that these things are being sprung on the
4 School now as a surprise.

5 At the neighborhood meeting, this was brought up
6 and it was specified. And a couple of people from the --
7 representing the School said they thought it would be nice
8 to keep the green spaces around #5. So there's nothing new
9 or surprising about this.

10 We hope the School will stand by that. They
11 sometimes haven't stood by what they said -- example about
12 paving Buckingham Place, which is in very bad repair, saying
13 they would and then changing their mind saying they
14 wouldn't. And that's why we'd like to pin this down if we
15 can.

16 Thank you very much.

17 BRENDAN SULLIVAN: Thank you. That is the sum and
18 substance of anybody calling in. So now we have to make
19 some sense out of all of this.

20 MICHAEL WIGGINS: Mr. Chair, one final comment I'd
21 make, you know, I'm wondering if there is some slight
22 confusion and we're really all necessarily saying the same

1 thing potentially. As the Board is well aware, the petition
2 that goes in from the applicants is part and parcel of their
3 application, and is the statement of what is being requested
4 by the Board. That's the intent of the narrative.

5 You know, as the Board sees on page 3 of that
6 narrative, we've stated the functional uses to which we
7 expect to put the School. We've stated the functional uses
8 to which we expect to equip the School. We've said that we
9 believe that the garden space is something that we want to
10 maintain for educational purposes.

11 I'm fairly certain I can represent that there's no
12 intent to be paving the space to create additional parking
13 or quite frankly anything else.

14 If those -- and, you know, as the Board has
15 mentioned, there's, you know, likely to be a handicap ramp
16 that would be installed at some point in order to ensure
17 compliance with federal ADA requirements that under state
18 laws, under the purview of zoning it's exempted under 40A
19 Section 3.

20 To the extent that the Board writes its decision
21 consistent with the petition that has been submitted, I'm
22 not sure that anything more will be required in order to

1 address the petitioner's or the abutters' concerns.

2 BRENDAN SULLIVAN: Okay, good. Jim Monteverde,
3 what are your thoughts on all of this?

4 JIM MONTEVERDE: I will defer for a second. I'm
5 just going back to read all the particulars.

6 BRENDAN SULLIVAN: Okay. Jason Marshall, your
7 thoughts?

8 JASON MARSHALL: Yeah. I think just to respond,
9 Counsel, I think, to how you just postured, and I appreciate
10 your response and appreciate the outreach that the School
11 has made.

12 I think, though, the disconnect, it sounds like
13 it's a difference between, you know, you use words like
14 there's an expectation of what you expect the use might be,
15 or the intent. And what I'm hearing from neighbors is
16 they're looking for something that is more concrete, which
17 is why they're asking it sounds like for conditions that
18 would be very specific.

19 So I'm not sure that quite gets us there. I guess
20 I'd be interested in your response to the request for
21 specific conditions. Absent that, I think I'm inclined to
22 agree with my colleague Gus that this case may benefit from

1 a continuance, so that further discussion can be had.

2 BRENDAN SULLIVAN: All right. Okay. Matina, any
3 thoughts on the matter before us?

4 MATINA WILLIAMS: Yes. I'm actually in agreement
5 with Jason Marshall that, you know, the conversation still
6 needs to be had, and that -- you know, so that we are all on
7 the same page. I mean, this is long-term, sort of, you
8 know, changes that can happen. They want to make sure that
9 they're not now, you know, there's no parking lot or a 15-
10 story building built.

11 So I understand, you know, where they're going as
12 neighbors. And then they've had, you know, an experience
13 with BB&N of paving stuff when they said they weren't. So I
14 think it really needs to be hashed out.

15 BRENDAN SULLIVAN: Okay, thank you.

16 CONSTANTINE ALEXANDER: -- I would point out --

17 COLLECTIVE: We can't hear you, Gus.

18 CONSTANTINE ALEXANDER: I apologize. I was about
19 to say if we do continue this case, obviously it'll be a
20 case heard. And I know from earlier in this session this
21 evening, we would not be able to hear this case again until
22 May. And that's a few months off, and I don't know what

1 impact it has on the School's plans and timing.

2 But we should keep in mind that's what we're
3 looking at if we continue the case.

4 BRENDAN SULLIVAN: What's the very latest?

5 OLIVIA RATAY: Well, you have May 5. I don't know
6 if that's --

7 BRENDAN SULLIVAN: Jason cannot be here on the
8 fifth.

9 CONSTANTINE ALEXANDER: Oh, that's right.

10 BRENDAN SULLIVAN: So it'll be the end of May.

11 Well --

12 TAD HEUER: That would be a good significant --

13 JENNIFER PRICE: That would mean we can't use, it
14 right? We can't --

15 TAD HEUER: Yep.

16 JENNIFER PRICE: -- use it until May?

17 TAD HEUER: Right. That would be a significant
18 concern, Mr. Chairman. A three-month delay, particularly
19 where, again, you know, if they wanted conditions like this,
20 I'm fairly certain that, you know, we seem to be very close
21 on these things. And indeed, I don't believe there's any
22 real disagreement.

1 I think so brings it down where, you know,
2 predominantly the uses that we said we were going to use,
3 there would be no expansion of the structure. As you know,
4 we're not requesting dimensional relief, so there cannot be
5 expansion of the structure without further relief from this
6 Board.

7 That the existing gardens not to be paved or have
8 impervious surface placed within them, particularly to allow
9 for parking. That would not occur. And that -- I think I
10 can heard 15-story buildings.

11 Again, this is on a lot where nothing could be
12 built, particularly for an educational use, without relief
13 from this Board. Indeed, that's the purpose of this
14 petition tonight, to be able to use this parcel for
15 educational purposes. Any relief would require relief from
16 this Board.

17 So if those are the concerns, I think I would
18 suggest that they're either addressed because we're
19 constrained by the ordinance already, or because they've
20 been addressed in the petition, and the Board is entitled to
21 take the petition as true; that we will do what we have
22 requested to do.

1 And it is the extent of what we're requesting.

2 BRENDAN SULLIVAN: Yeah. I mean, I have read your
3 summary of the request of relief. And I think, Michael --
4 Mr. Wiggins -- the issues that you have raised have been
5 actually addressed in this memo.

6 Now, I don't know if you want anything more
7 concrete than that -- you know, specific bullet points. But
8 I think that the issues raised are, as Mr. Heuer point out,
9 as are addressed.

10 I think that to delay the matter knowing the
11 current climate out there -- not the temperature but
12 construction and the meanderings of comings and goings that
13 the three months would be I think quite severe.

14 I'm just wondering if where at March 10? Is there
15 anything that we can squeeze in in -- what are we on now,
16 the twenty-fourth of March?

17 OLIVIA RATAY: I mean there's three separate
18 cases. On the fourteenth of April, there's three continued
19 cases on Webster Avenue.

20 BRENDAN SULLIVAN: I'm sorry.

21 CONSTANTINE ALEXANDER: They're all related.
22 They're actually one case, as I recall.

1 BRENDAN SULLIVAN: Right, right, yeah.

2 CONSTANTINE ALEXANDER: So.

3 OLIVIA RATAY: This is all going to be --

4 BRENDAN SULLIVAN: Yeah.

5 OLIVIA RATAY: -- one case.

6 CONSTANTINE ALEXANDER: How about April?

7 BRENDAN SULLIVAN: April 14? Can we do that, Mr.

8 Heuer?

9 TAD HEUER: Let me use the magic of --

10 BRENDAN SULLIVAN: I say that, but now let me poll
11 the Board. Jason Marshall, are you available on the
12 fourteenth of April?

13 JASON MARSHALL: I am, Mr. Chair.

14 BRENDAN SULLIVAN: You are?

15 JASON MARSHALL: Yes.

16 BRENDAN SULLIVAN: Yeah. Jim Monteverde?

17 JIM MONTEVERDE: I am. Thank you.

18 BRENDAN SULLIVAN: You're in. Matina, are you
19 available on the fourteenth?

20 MATINA WILLIAMS: Yes, I am.

21 BRENDAN SULLIVAN: Okay. And Mr. Alexander is
22 available?

1 CONSTANTINE ALEXANDER: I am.

2 BRENDAN SULLIVAN: And I'm not going anywhere
3 anyhow. I think it would be in order to continue this
4 matter to have further discussions, Mr. Wiggins, in
5 deference to Counsel for the abutter has just retained
6 yesterday, and I don't want to do this on the fly, and I
7 don't want to ignore the neighbors.

8 After all, it is a use variance. And those should
9 be granted very, very sparingly, as the Boards have said in
10 the past.

11 So I really think we need to get this right, and
12 so that at the end of the day, that BB&N can continue to be
13 a good neighbor, and to address some of the issues that are
14 raised up here and not let this thing start to spin out of
15 control any further.

16 So I would make a motion, then, that we continue
17 this matter until April 14, 2022 at 6:00 p.m. on the
18 condition that the petitioner change the posting sign to
19 reflect the new date of April 14 and the new time of 6:00
20 p.m.

21 Any new submittals not currently in the file be in
22 the file by 5:00 p.m. on the Monday prior to the April 14

1 date.

2 And that the petitioner sign a waiver to the
3 statutory requirement for a hearing and a decision to be
4 rendered in the file thereafter.

5 And that that waiver shall be in the file by 5:00
6 p.m. a week from Monday.

7 TAD HEUER: Brendan, do we need a waiver, since
8 we're well before the 130 or the 110 days?

9 BRENDAN SULLIVAN: Well, I think we do it pro
10 forma anyhow, if you attach it --

11 TAD HEUER: That's fine.

12 BRENDAN SULLIVAN: -- so we have it, and it's a
13 little simple -- so he can, if -- that's another belt and
14 suspenders, anyhow. So --

15 TAD HEUER: No problem.

16 BRENDAN SULLIVAN: Anything else to add to it? So
17 on the motion then to continue this matter to allow the
18 petitioner -- petitioner's counsel, petitioner, petitioner's
19 counsel and the neighborhood counsel to have further
20 discussions and to come back to the Board with some form of
21 agreement, on the motion, then, to continue this matter, Jim
22 Monteverde?

1 JIM MONTEVERDE: In favor.

2 BRENDAN SULLIVAN: Matina Williams, on the matter
3 to continue?

4 MATINA WILLIAMS: [Vote] yes to continue.

5 BRENDAN SULLIVAN: Jason Marshall?

6 JASON MARSHALL: Yes, in favor of the continuance.

7 BRENDAN SULLIVAN: Mr. Alexander?

8 CONSTANTINE ALEXANDER: I'm in favor of the
9 continuance, but I think I would like to state for the
10 record that I think the petitioner is somewhat prejudiced by
11 what's happening tonight. They do have to proceed.

12 Bottom line what I'm trying to say is I would not
13 support any further continuances for this case. I think
14 we're making an accommodation as it is, and that's as far as
15 we should go.

16 BRENDAN SULLIVAN: I think that if there's a
17 sufficient time to give both parties --

18 CONSTANTINE ALEXANDER: Right.

19 BRENDAN SULLIVAN: -- the opportunity to act in
20 good faith, and we would expect that good faith to be on
21 display April 14. Brendan Sullivan on the motion to grant
22 the continuance.

1 [All vote YES]

2 BRENDAN SULLIVAN: Five votes, the matter is
3 continued until April 14 at 6:00 p.m. Goodnight.

4 MICHAEL WIGGINS: Thank you, Mr. Chairman.

5 CONSTANTINE ALEXANDER: Thank you. That's all she
6 wrote.

7 BRENDAN SULLIVAN: All right. Thank you, all.
8 Goodnight.

9 JASON MARSHALL: Good job, Mr. Chair. Goodnight,
10 everybody.

11 MATINA WILLIAMS: Goodnight.

12 JIM MONTEVERDE: Goodnight.

13 BRENDAN SULLIVAN: Goodnight, Matina.

14 [09:30 p.m. End of Proceedings]

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