

BOARD OF ZONING APPEAL  
FOR THE  
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY SEPTEMBER 22, 2022

6:00 p.m.

Remote Meeting

via

831 Massachusetts Avenue  
Cambridge, Massachusetts 02139

Brendan Sullivan, Chair  
Jim Monteverde, Vice Chair  
Wendy Leiserson  
Laura Wernick  
Jason Marshall

City Employees  
Olivia Ratay, Zoning and Building Associate



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P R O C E E D I N G S

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(6:00 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Laura Wernick, and Jason Marshall

BRENDAN SULLIVAN: Welcome to the September 22, 2022 meeting of the Cambridge Board of Zoning Appeals. My name is Brendan Sullivan, and I am the Chair for tonight's meeting.

This meeting is being held remotely, due to the statewide emergency orders limiting the size of public gatherings in response to COVID-19, and in accordance with Governor Charles D. Baker's Executive Order of March 12, 2020 temporarily amending certain requirements of the Open Meeting Law; as well as the City of Cambridge temporary emergency restrictions on city public meetings, city events, and city permitted events, due to COVID-19, dated [[May 27, 2020.

This meeting is being video and audio recorded and is broadcast on Cable television Channel 22 within Cambridge.

There will also be a transcript of the

1 proceedings.

2 All Board members, applicants, and members of the  
3 public will please state their name before speaking. All  
4 votes will be taken by roll call.

5 Members of the public will be kept on mute until  
6 it is time for public comment. I will give instructions for  
7 public comment at that time, and you can also find  
8 instructions on the City's webpage for remote BZA meetings.

9 Generally, you will have up to three minutes to  
10 speak, but that may change based on the number of speakers.

11 I'll start by asking the Staff to take Board  
12 members attendance and verify that all members are audible.

13 OLIVIA RATAY: Laura Wernick?

14 LAURA WERNICK: Here.

15 OLIVIA RATAY: Jason Marshall?

16 JASON MARSHALL: Here.

17 OLIVIA RATAY: Wendy Leiserson?

18 [Pause]

19 Jim Monteverde?

20 JIM MONTEVERDE: Here.

21 OLIVIA RATAY: Wendy Leiserson?

22 [Pause]

1                   BRENDAN SULLIVAN: All right. Let me begin. She's  
2 not on the first one anyway.

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2 (6:02 p.m.)

3 Sitting Members: Brendan Sullivan, Jim Monteverde, Laura  
4 Wernick, and Jason Marshall

5 BRENDAN SULLIVAN: All right. Let me begin by  
6 calling BZA Case No. 155114 -- 33 Webster Avenue. Dan?

7 DAN ANDERSON: Yes. Hello, Mr. Chair, and members  
8 of the Board. Dan Anderson, Partner at Anderson Porter  
9 Design.

10 BRENDAN SULLIVAN: Dan, before you begin and just  
11 for pro forma, the original hearing was heard by five  
12 members of the Board. One of the members who sat on that is  
13 not available to sit on tonight, or going forward. And so  
14 we will only have four members sitting.

15 You have the option to be heard by four members,  
16 or to continue this and then we could empanel a fifth member  
17 sometime in the future date. So it is your option.

18 DAN ANDERSON: Yeah, thank you. So in discussion  
19 with Mr. Parvizi, who's the owner, the request is that we  
20 have this heard -- I think particularly for Case No. 155114  
21 for 33 Webster we're asking for a fairly -- significantly  
22 modified and reduced special permit.

1           If there is a sense that there needs to be more  
2 discussion or more modification, we could request a  
3 continuance. But I think that the Board will be positive in  
4 its findings. So we'd like to move forward.

5           BRENDAN SULLIVAN: Okay, fine. Okay, you're on.

6           DAN ANDERSON: Excellent. So as we had presented  
7 this before, so 33 Webster is a single-family structure with  
8 a nonconforming front and side yard setback.

9           We've had numerous conversations with Mr. Parvizi,  
10 in particular with his neighbors at Lilac Court. We had  
11 been hoping to have a a large cow wall installation on that  
12 south-facing neighbor abutting side, but over some  
13 objections on their part that's been removed. So we're not  
14 asking for any request for new openings on that side yard.

15           And the only piece that we are requesting is a  
16 special permit for the construction of a single new entry  
17 landing and steps in the nonconforming front yard.

18           The design for the front façade -- although the  
19 openings are not held by requirement on the special permit,  
20 there were reductions in that based on neighborhood comments  
21 of trying to reduce the amount of glazing.

22           So the case in front of you is simply a request to

1 approve my special permit, an entry -- set of entry steps  
2 and landing for the front door.

3 BRENDAN SULLIVAN: Okay. So if you could just run  
4 through -- pull up the dimensional form to see what it is  
5 now and what we are going forward?

6 DAN ANDERSON: Yeah, so as the Board recalls,  
7 we're looking at three structures on one lot. The unit #33,  
8 which is the case that's in front of you at the moment is an  
9 existing building on the lot.

10 There have been changes by right permit that have  
11 been made, but essentially, it's been reduced overall in its  
12 total square footage. Some of its square footage has been  
13 reallocated to #37 at the rear, so the entire site remains  
14 conforming in regards to FAR.

15 The modifications to #33 have been done by right  
16 and have been run through in terms of overall reduction in  
17 FAR. There's an areaway at the rear, which increases the  
18 overall average height, but we've also commensurately  
19 reduced the length of the building, so that its degree of  
20 nonconformity is actually less at this point.

21 In addition, we've proposed and permitted a by-  
22 right dormer on that nonconforming side. We're placing



1 skylights on the roof of that dormer, but in overall massing  
2 I think there's some 200 square feet less of surface area,  
3 including dormer, facing my left court in that south  
4 elevation.

5 BRENDAN SULLIVAN: Okay. So then you are not  
6 creating any new nonconformities?

7 DAN ANDERSON: We are not creating any new  
8 nonconformities.

9 BRENDAN SULLIVAN: Hence the coming in under the  
10 application for a special permit? Okay. Let me open it up  
11 to members of the Board.

12 Jim Monteverde, any questions at this time?

13 JIM MONTEVERDE: Yeah. Dan, could you just walk  
14 me through the --

15 BRENDAN SULLIVAN: Okay, he will.

16 JIM MONTEVERDE: -- current elevations in the site  
17 plan, please?

18 DAN ANDERSON: Sure. So in terms of the site  
19 plan, we have a curb cut and drive, which is coming between  
20 #33, which is on the right and #35, which is on the left.  
21 Also there's been some demo of side entries in those  
22 locations. We have a permitted curb cut through the City

1 Council and parking, which accommodates three off-street  
2 parking spaces on the site.

3 #37 is a new by right single-family structure at  
4 the rear of the parcel conforming to FAR yard setbacks --  
5 height, et cetera. And this is probably the more pertinent  
6 --

7 JIM MONTEVERDE: There you go --

8 DAN ANDERSON: -- drawing to look at. So we are  
9 conforming in terms of open space. I apologize; this sheet  
10 does not have the updated calculations which we had  
11 submitted and this one probably will, yes. So this includes  
12 all the calculations for open space.

13 And we, as you can see, have -- there's some demo  
14 proposed to the rear of #35, but the reduction in length for  
15 #33, which we're discussing now, allows for a rear areaway,  
16 which happens between #33 and #35 and conforms to the  
17 building separation distance and allows for a parking space  
18 to happen between there.

19 The areaway down to the lower level of #33 does  
20 increase the average height of the building, as I had  
21 indicated, but it still remains at a conforming height of 35  
22 feet.

1           And that height formula to building length, even  
2           though the height has increased, because the length has  
3           decreased -- actually results in a lesser degree of  
4           nonconformity on that side yard. Still nonconforming but  
5           does not create any increase in any nonconformity.

6           BRENDAN SULLIVAN: Okay.

7           DAN ANDERSON: So would you like to -- we can  
8           review the elevations? That's probably --

9           JIM MONTEVERDE: I think just the elevation to the  
10          right on this sheet for #33, the one we had --

11          DAN ANDERSON: -- o the south elevation -- yeah,  
12          absolutely -- that is going to be Sheet --

13          JIM MONTEVERDE: That's an unfenestrated (sic)  
14          façade, correct?

15          DAN ANDERSON: That's correct.

16          JIM MONTEVERDE: Okay, thank you.

17          DAN ANDERSON: There are some existing openings  
18          there, but -- which could remain by right, but the current  
19          proposal is that -- certainly the area that was under  
20          review, which was a large, rectangular opening in the center  
21          aligned with the bay, just where the interior stair is... but  
22          neighbors were concerned about the degree of light emittance

1 that would happen there.

2 And the interpretation by the Commissioner was  
3 this that would -- even though it's a wall system, because  
4 it emits light, they were wanting to treat that as an  
5 opening. So that was the reason for the initial request.

6 So that -- in conversations with the abutters on  
7 Lilac Court -- that portion has been eliminated.

8 JIM MONTEVERDE: Okay. Thank you.

9 BRENDAN SULLIVAN: Laura Wernick, any questions at  
10 this point?

11 LAURA WERNICK: No, thank you.

12 BRENDAN SULLIVAN: Jason Marshall?

13 JASON MARSHALL: Thanks, Mr. Chair. No questions  
14 at this time.

15 BRENDAN SULLIVAN: And I have no questions at this  
16 point either. Let me open it to public comment. Any member  
17 of the public who wishes to speak should now click the  
18 button that says, "Participants," and then click the button  
19 that says, "Raise hand."

20 If you are calling in by phone, you can raise your  
21 hand by pressing \*9 and unmute or mute by pressing \*6, and  
22 you will have up to three minutes in which to comment.

1 OLIVIA RATAY: Graham McMahon?

2 GRAHAM MCMAHON: Hello, everybody. My name is  
3 Graham McMahon. I'm the owner at 5 Lilac Court, which is  
4 right abutting the property here. We have had several  
5 conversations with the applicant here, Mr. Parvizi, to try  
6 and understand the overall structure that's being developed  
7 here.

8 I understand this is a component of the overall  
9 application, but I'm worried that we're piecemealing  
10 ourselves towards approval of a structure that is not  
11 fitting with the community, is not fitting with the  
12 neighbors, and has been objected to repeatedly during the  
13 course of the development here.

14 So I'm worried that we're piecemealing ourselves  
15 into approval of an overall system that doesn't meet the  
16 needs of the neighborhood and community and is potentially  
17 being approved on my repeal in this process.

18 I would also try to remind the Committee that  
19 appeals should only be granted on an exceptional basis. And  
20 there does not appear to be anything exceptional about this  
21 particular application for this large, new structure, in  
22 what was previously a green and open space.

1           Our continuing concerns have been expressed to Mr.  
2 Parvizi about the light, the height of the structure. And  
3 I'm hearing now that the implications of the change that is  
4 being asked as part of this application change the height  
5 and overall volume of the property at #37.

6           All of these are potentially additional problems  
7 that are hard for neighbors to absorb in terms of the  
8 implications, and we rely on you as a Board to represent us  
9 and make right decisions that don't affect the surrounding  
10 neighbors to the extent that this structure and these group  
11 of structures is presenting.

12           So again, I ask the Appeals Committee, as you  
13 reviewed these back in March to be circumspect up against  
14 the application to approve this exception, because the  
15 overall implication of all of these piecemeal requests is to  
16 drive towards a structure that is not in keeping with the  
17 needs of the community or the neighborhood.

18           BRENDAN SULLIVAN: Great. Thank you. That is the  
19 sum and substance of people calling in. We are also in  
20 receipt of correspondence dated Monday, September 19 from Zi  
21 Wang.

22           "Dear Board of Zoning Appeals, we are the owners

1 of 6 Lilac Court abutting #33-#35 West Avenue. We strongly  
2 oppose the BZA No. 15114 (sic), BZA No. 155115, and No.  
3 155116, and No. 168852, the construction plans at 33-35  
4 Webster Avenue. We sent the last letter on June 6.

5 "Previously, we raised concerns, including issues  
6 on privacy, lighting, proximity of buildings, as well as the  
7 potentially incorrect calculation of total gross floor area,  
8 which should have included the basement floor area, given  
9 that 33-35 Webster Avenue is no longer a single-family or  
10 two-family home.

11 "Aside from those, one of the biggest concerns we  
12 had was the detrimental effect of the construction on the  
13 big elm tree at the border of 5 Lilac Court and 33-35  
14 Webster Avenue.

15 "The developer, Parviz Parvizi, c/o Daniel  
16 Anderson Architect pruned the roots in the New Year's  
17 holiday in 2022 as an undesired response to our concern, and  
18 now the tree is dead. I put together a document detailing  
19 what happened.

20 "Given the tree's relevance to BZA No. 155114, No.  
21 1115 and No. 116 and No. 168852, we strongly urge the Board  
22 of Zoning Appeal to consider the consequences of this tree

1 on safety and significant loss of canopy coverage. It is  
2 the responsibility of the developer to remove and replace  
3 the dead tree, and the Tree Protection Ordinance, as part of  
4 the decision-making process.

5 "Thank you in advance of your consideration. Best  
6 regards, "Xi Wang

7 6 Lilac Court"

8 There is previous reference to a June 6 letter.  
9 There is correspondence from Parviz Parvizi, basically as a  
10 summation of what has transpired in communication  
11 correspondence since we last met. I won't go into that in  
12 detail, just enter in the record by reference. And that  
13 seems to be the sum and substance of correspondence.

14 I will close the public comment part of the  
15 meeting and send it back to Dan. Anything else to add, Mr.  
16 Anderson?

17 DAN ANDERSON: Yeah, absolutely, if I might. Just  
18 to address the two concerns that were raised. I appreciate  
19 the perspective. So what we have here are currently three  
20 buildings on a lot, allowable and permitted by right.

21 The -- I can understand the neighbors who are used  
22 to having a green space in their view from the back yard now



1 have a structure there, but this structure is built exactly  
2 following the Guidelines of Zoning and the City of  
3 Cambridge.

4 We will have that case -- I believe it's #116 that  
5 we're requesting relief for a guardrail at the areaway on  
6 the north face, but with that -- with the exception of that  
7 request, the building fits all of the zoning requirements  
8 and is currently permitted and should be starting  
9 construction.

10 So we're not trying to piecemeal this specifically  
11 and respectfully, but really asking for particular pieces  
12 that are asking for relief under Zoning.

13 And so, for this particular case that we're  
14 looking at, No. 114 for 33 Webster, everything that you see  
15 is by right and permitted, with the exception of the front  
16 stoop and steps, which are a fairly minimal addition and  
17 would allow the front door not to be recessed into the  
18 building, but to remain on the face of this.

19 And it's a fairly typical and consistent feature  
20 on other buildings on the street, so it's consistent with  
21 the neighborhood character, and we would submit that it's a  
22 relatively minor ask and is not creating or addressing or

1       inconveniencing, I would think, any of the neighbors in the  
2       -- particularly to the concerns that have been raised.

3               In other words, it doesn't increase density, it's  
4       simply a set of front steps.

5               So because these cases are required to be heard  
6       one at a time, we have to present them one at a time. So  
7       I'm -- so the second comment came from the other neighbor at  
8       Lilac Court.

9               I've been through all of the Zoning calculations  
10       in particular the GFA calculations -- with Commissioner  
11       Singanayagam, and we are in agreement that they are  
12       correctly calculated. These are one- and two-family  
13       structures, which Zoning allows to have the basement space,  
14       the GFA, excluded from gross building area requirements.

15               So we've tried to address those corrections with  
16       the abutters, but they have continued to feel like we've not  
17       calculated those correctly.

18               But we've presented it, and we've double checked  
19       it, and triple checked it, and we're not asking for any  
20       relief -- again -- on any of the buildings, except for the  
21       very specific things that are in front of you per case.

22               BRENDAN SULLIVAN: Okay. Let me close the

1 presentation part and send it back to the Board. Jim  
2 Monteverde, your -- this is a request for a special permit,  
3 and the criteria of the special permit has to be found.  
4 Your thoughts, your comments?

5 JIM MONTEVERDE: No comments at this time, thank  
6 you.

7 BRENDAN SULLIVAN: Laura Wernick, any comments,  
8 questions?

9 LAURA WERNICK: So just so I'm clear in looking at  
10 this elevation, there will be -- the addition will be  
11 smaller than what was originally there? You're demolishing  
12 more than you're constructing? Is that correct?

13 DAN ANDERSON: That is correct.

14 LAURA WERNICK: Except for the stairs, except for  
15 the --

16 DAN ANDERSON: Yeah. So I haven't referred back  
17 to the original special permit application, but we were  
18 proposing that the entire eve line on this side be raised,  
19 effectively creating a full top story, rather than -- so  
20 what in response to neighbors and to Zoning considerations,  
21 we are only proposing a conforming dormer on that side.  
22 It's less than 15 feet, and only have removed the cow

1 (phonetic) wall opening in its entirety, and the stairs  
2 which do show up in this elevation are really part of the  
3 front yard.

4 But there's -- we've done our best to respond to  
5 neighbor concerns and to keep this as a predominantly by  
6 right application.

7 LAURA WERNICK: So when the neighbor referred to  
8 increased coverage and blocking of views, there's really no  
9 additional blocking of views in this proposal?

10 DAN ANDERSON: There is not.

11 LAURA WERNICK: There's less?

12 DAN ANDERSON: There's less.

13 LAURA WERNICK: Yeah. Okay. I just want to make  
14 sure I was clear. Thank you.

15 DAN ANDERSON: Yeah. This drawing as well -- if I  
16 may, Laura -- you can see the area where demolition has  
17 occurred in a cross set.

18 LAURA WERNICK: Right.

19 DAN ANDERSON: We removed 237 square feet of --

20 LAURA WERNICK: -- Right.

21 DAN ANDERSON: -- building face that was  
22 previously at -- you know, one and a half feet off the

1 property line, and we've added strictly the conforming  
2 dormer with about 63 square feet.

3 LAURA WERNICK: Yeah.

4 DAN ANDERSON: So it's a significantly less  
5 conforming -- less non-conforming both in actuality and due  
6 to the height and length calculations -- were actually also  
7 less nonconforming.

8 LAURA WERNICK: Okay. That was my understanding,  
9 I just didn't -- yeah, that helps clarify things. Thank  
10 you.

11 DAN ANDERSON: Thank you.

12 BRENDAN SULLIVAN: Jason, any comments, or  
13 questions at this time?

14 JASON MARSHALL: Yeah, Mr. Chair, just briefly I  
15 wanted to maybe respond to the comment that came in. You  
16 know, it's completely understandable for a neighbor to look  
17 at the project as a whole.

18 And just to state the obvious, you know, our  
19 review here -- it's not that it's piecemeal, it's that it's  
20 limited because we address the application that is before  
21 us, and it does appear that most of the development here is  
22 being done as of right.

1           The question before us tonight is really a minimal  
2 change under the lower -- the significantly lower special  
3 permit standard. This isn't a variance, which are supposed  
4 to be sparingly granted; this is a special permit.

5           It is anticipated that special permits will be  
6 granted. They're not always granted, but it is a much more  
7 flexible standard. So that's sort of the lens through which  
8 I view this application is that.

9           BRENDAN SULLIVAN: Great, thank you. I have no  
10 further comments. I think that Laura was able to flesh out  
11 some of any questions that I may have had anyhow.

12           So let me make a motion, then, to grant the  
13 requested relief based on the revised dimensional form  
14 application and the drawings that are dated September 19,  
15 2022. And the drawings are dated 2022-09-19, is that  
16 correct, Dan? Are you using -- I know one of the other  
17 buildings is being continued tonight, but are these drawings  
18 specific --

19           DAN ANDERSON: To this case, yes.

20           BRENDAN SULLIVAN: -- to this case, okay. All  
21 right.

22           DAN ANDERSON: Yep. And these are -- the revision

1 is 2022-09-19, particular to 33 Webster, which is Case No.  
2 155114.

3 BRENDAN SULLIVAN: Correct, okay. So the motion  
4 is to grant the relief requested as per the application, the  
5 dimensional form and also the new drawings dated 2022-09-19  
6 entitled, "35 Webster Avenue." We are seeking relief under  
7 8.22.c.

8 In residential districts, the Board of Zoning  
9 Appeal may grant a special permit for the alteration or  
10 enlargement of a nonconforming structure not otherwise  
11 permitted in 8.22.1, but not the alteration or enlargement  
12 of a nonconforming use.

13 Provided any enlargement or alteration of such  
14 nonconforming structure is not further in violation of the  
15 dimensional requirements of Article 5 or the off-street  
16 parking and loading requirements in Article 6.

17 For the district in which such structure is  
18 located and provided such non-conforming structure will not  
19 be increased in area or volume by more than 25 percent since  
20 it first became non-conforming. The Board finds that it  
21 does not.

22 In furtherance of that, special permits will

1 normally be granted where specific provisions of this  
2 ordinance are met, except when particulars of the location  
3 not generally true of the district or the uses permitted  
4 would cause granting the special permit to be a detriment to  
5 the public interest, because it appears that the  
6 requirements of the Ordinance cannot be met without the  
7 granting of a variance, special permit.

8           It appears that traffic generated or patterns of  
9 access or egress would not cause congestion, hazard, or  
10 substantial change in the established neighborhood  
11 character.

12           The Board finds that the continued operation of or  
13 development of adjacent uses, as permitted in the Zoning  
14 Ordinance, would not be adversely affected by the nature of  
15 the proposed use. There would not be any nuisance or hazard  
16 created to the detriment of the health, safety, and/or  
17 welfare of the occupant of the proposed use, or the citizens  
18 of the city.

19           The Board finds that the proposed use would not  
20 impair the integrity of the district or adjoining district,  
21 or otherwise derogate from the intent and purpose of the  
22 Ordinance.



1           The Board notes that it is an existing structure  
2 that has fallen into great disrepair. The proposal before  
3 us is a total renovation, modernization of the structure,  
4 and as such would not derogate from the intent and purpose  
5 of the ordinance to allow homeowners -- property owners to  
6 improve and to update their property.

7           On the motion, then, to grant the special permit,  
8 Jim Monteverde?

9           JIM MONTEVERDE: I vote in favor.

10          BRENDAN SULLIVAN: Laura Wernick?

11          LAURA WERNICK: In favor.

12          BRENDAN SULLIVAN: Jason Marshall?

13          JASON MARSHALL: In favor.

14          BRENDAN SULLIVAN: And Brendan Sullivan yes.

15          [All vote YES]

16          On the four affirmative votes, the special permit  
17 is granted.

18          DAN ANDERSON: Thank you very much, Mr. Chair. If  
19 I could just note that the drawings that are titled, Special  
20 Permit "33" Webster Ave not "35" Webster Ave just so there's  
21 no confusion.

22          BRENDAN SULLIVAN: I'm sorry, 33, correct. Yeah.

1 It's unusual that we have three structures with --

2 DAN ANDERSON: I confuse them all the time, so  
3 understandable.

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(6:30 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Laura Wernick, and Jason Marshall

BRENDAN SULLIVAN: The Board will now hear Case No. 155115 -- 35 Webster Avenue.

DAN ANDERSON: Thank you, Mr. Chair. So this is also called 35 Webster Avenue, because there is no official 37 Webster Ave on the official tax roll. So, again, not to confuse this with the actual 35 Webster -- which is the small workers cottage -- which is the case that we are requesting the continuance of.

BRENDAN SULLIVAN: Let me -- we are in receipt of correspondence dated Monday, September 19 to the Cambridge Board of Zoning Appeal.

"Dear Chair and members of the Board,

I'm writing on behalf of Parviz Parvizi, the owner of 35 Webster Avenue to request a continuance of the open case No. 155115. Mr. Parvizi is in conversation with his neighbor, Lin Yang, owner of 41 Webster Avenue, regarding additional modifications to the building's design to limit the potential shadow impact.

1            "We respectfully request additional time necessary  
2 to complete this work and reach an equitable agreement on  
3 the final design."

4            What would be a date? November 17. Does that  
5 work for you, Dan? November 17?

6            DAN ANDERSON: I'm quite sure that I can make that  
7 work.

8            BRENDAN SULLIVAN: Okay. Now, that was a case  
9 that was also heard by five members, and going forward, the  
10 -- we will inform you that only four members would sit on  
11 that case, and would you agree to go with the four members,  
12 or is it your request that we empanel a fifth member, or  
13 another member to be the fifth member, to sit that night?

14            DAN ANDERSON: I think it's at the pleasure of the  
15 Board. Certainly, we're happy to move forward in either  
16 case.

17            If I might, if -- I'd like to confer with Mr.  
18 Parvizi and just confirm if we could structure the date, and  
19 if it seems that we would like to have a fifth member, can I  
20 follow up with the Board at a very -- a date in the very  
21 near future?

22            BRENDAN SULLIVAN: Yes. What we would have to do

1 is we would have to reach out to another member of the  
2 Board. The other member of the Board would have to review  
3 all of the transcripts from the previous hearing, and then  
4 that person could be empaneled that particular night.

5 If you would let us know as soon as possible so  
6 that we can do what we have to do also. So let's set the  
7 date. Now, Jim, I sat on it -- Jim, Laura and Jason  
8 Marshall sat on it. Are we all available on November 19?  
9 Laura, are you available on the nineteenth?

10 LAURA WERNICK: Seventeenth, I think?

11 BRENDAN SULLIVAN: I'm sorry, 17.

12 LAURA WERNICK: Yeah.

13 BRENDAN SULLIVAN: Jim, are you available on the

14 --

15 JIM MONTEVERDE: Yeah.

16 BRENDAN SULLIVAN: -- seventeenth? Jason, are you  
17 available on the seventeenth of November?

18 JASON MARSHALL: Yeah. I'm good here.

19 BRENDAN SULLIVAN: Okay. And I will. So we have  
20 at least four. And if you could let us know Monday, you'll  
21 have maybe the weekend to discuss, and then so that we can  
22 go to Plan B if we have to.

1 DAN ANDERSON: Yes.

2 BRENDAN SULLIVAN: Okay.

3 DAN ANDERSON: Yeah, I'd like to be sensitive to  
4 additional workload to members of the Board. But I would  
5 like -- appreciate the weekend to confirm with Mr. Parvizi.

6 BRENDAN SULLIVAN: That's fine.

7 DAN ANDERSON: Yeah.

8 BRENDAN SULLIVAN: So on the motion, then, to  
9 continue this matter to November 17, 2022, on the condition  
10 that the petitioner change the posting sign to reflect the  
11 new date of November 17, 2022 and the new time at 6:00 p.m.?  
12 Any new submittals not currently in the file regarding 35  
13 Webster Avenue be submitted by 5:00 p.m. on the Monday prior  
14 to the November 17 hearing.

15 We have a waiver of statutory requirement for a  
16 hearing, so that is not necessary.

17 So on the motion, then, to continue this matter  
18 until November 17, Jim Monteverde?

19 JIM MONTEVERDE: In favor.

20 BRENDAN SULLIVAN: Laura Wernick?

21 LAURA WERNICK: In favor.

22 BRENDAN SULLIVAN: Jason Marshall?

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JASON MARSHALL: Yes.

BRENDAN SULLIVAN: Yes.

[All vote YES]

BRENDAN SULLIVAN: The matter is continued until  
November 17.

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(6:35 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Laura Wernick, and Jason Marshall

BRENDAN SULLIVAN: The next case we'll hear is BZA No. 155116 -- 35 Webster Avenue. And again, Dan, if you just introduce yourself for the record?

DAN ANDERSON: Surely. Dan Anderson, a Partner of Anderson Porter Design here to discuss 35 Webster Avenue, also known as 37 Webster Avenue. This is the structure at the rear of the site, a new single-family home.

BRENDAN SULLIVAN: Okay. And let me make the -- for the record, you are aware that five members sat on this case initially back in January, and that one member is not available, so you -- only four members will be hearing this case tonight if you want to go forward, or you have an option to continue to a further date and have another member be empaneled to sit that night?

DAN ANDERSON: I understand and appreciate it. We're prepared to be heard with four members.

BRENDAN SULLIVAN: Okay, fine. So note the record. Okay. If you'll present the case.



1           DAN ANDERSON: Yeah. So we have a permitted  
2 structure.

3           We reviewed in the previous case the site plan,  
4 but it might be helpful just to review that again. It's a  
5 new conforming, single-family structure at the rear of the  
6 lot, which is currently open space. We're still conforming  
7 in terms of overall open space, and we are conforming in  
8 height, yard setbacks, building separation distance.

9           And what we have as a request, which is a  
10 variance, because it's creating a new nonconformity, is for  
11 a guardrail at the left-hand side, the north side of the  
12 site abutting 41-44 Webster to protect the stair and areaway  
13 going down.

14           It's currently permitted, with a grate that  
15 provides code-required fall protection. And that grate is  
16 able to be hinged and opened up for access.

17           What we'd like to request as relief from Zoning is  
18 to have a permanent guardrail installed instead of the  
19 hinged grate. This is -- I guess a request that has been  
20 granted by the Board in similar cases in the past, but I  
21 note in this particular case we need to identify a hardship.  
22 And as best I can place to this is that we have looked at

1 all of the possible places to have basement area access, and  
2 there are no locations here given the building mass and  
3 footprint as its proposed to place that well that would not  
4 violate a setback.

5 And the reason that we have the building mass  
6 placed as it is is that while in order to conform with the  
7 overall limitations of gross floor area, if we had made it  
8 narrower in order to allow that stairway, the whole third  
9 floor would have been built out.

10 Currently on the south side at the upper level of  
11 the third floor is a deck area. And cutting that deck area  
12 back allows less shadow and other impacts to abutters at  
13 Lilac Court and elsewhere.

14 So the request is that the appeal be granted for a  
15 lack of other places to place an areaway and provide code-  
16 required fall protection for this new proposed structure.

17 BRENDAN SULLIVAN: Okay. I guess when I first  
18 looked at the proposal and the building, my initial  
19 impression was that you probably have an as-of-right  
20 solution by -- you need three and a half feet, is that  
21 correct?

22 DAN ANDERSON: That's correct.

1           BRENDAN SULLIVAN: That if you shorten the  
2 building down by the three and a half feet, then you could  
3 put in the areaway with also the guardrail.

4           What triggers the relief is the guardrail, which  
5 is a structure above grade. And that triggers -- and that's  
6 within the side yard setback. So that's what triggers the  
7 need for relief. And it is a variance and not a special  
8 permit.

9           DAN ANDERSON: That is also correct.

10          BRENDAN SULLIVAN: So if you were to reduce the  
11 building by three and a half feet, then you could get the  
12 areaway in with the surface guardrail. But you're now  
13 saying that the tradeoff of doing that would be greater  
14 height?

15          DAN ANDERSON: So there are two pieces at  
16 consideration. One is that the -- reducing the overall  
17 ground-floor footprint severely constrains the ground-floor  
18 living area, where we're also including -- you know, the  
19 garage space is as minimal as we can make it. So there's  
20 reduction in useable ground-floor area.

21          And the other would be that that three and a half  
22 feet of reduction -- that square footage if we stay within

1 or not exceed the allowable maximum for the site -- would  
2 likely to be reallocated to the right-hand side of the third  
3 floor. So if we were to look at the top floor, which is in  
4 the floor plans I think Sheet 15? So in the lower left is  
5 the top floor plan.

6 And you can see that about six feet -- I'm sorry,  
7 lower right -- so you can see that there's a balcony area  
8 that's about -- about six feet in depth. And that floor  
9 area would likely get reallocated to that portion of the  
10 building, which would then create additional shadow impact.

11 So we opted not for that, and obviously we have an  
12 as-of-right solution, which is the grate. It's not ideal.  
13 And this is a matter of discretion, I think, for the Board.

14 We're open to your feedback and conversation, and  
15 I think this is a -- would be a benefit to the project, but  
16 I think is open to the discretion of the Board.

17 BRENDAN SULLIVAN: So that the bottom line would  
18 be that the guardrail would be less obtrusive, less  
19 impactful on the overall project than the alternative, as  
20 you just described?

21 DAN ANDERSON: That is called.

22 BRENDAN SULLIVAN: Okay. Jim Monteverde, any

1 questions?

2 JIM MONTEVERDE: Is the areaway strictly for  
3 egress on the basement level?

4 DAN ANDERSON: Yes, that's correct.

5 JIM MONTEVERDE: So I think you said initially it  
6 could be -- it could be done with the areaway with a cover  
7 on it, grating cover on it left up?

8 DAN ANDERSON: It is, and it's currently permitted  
9 in that way.

10 JIM MONTEVERDE: Right. And the reason you want  
11 to substitute this?

12 DAN ANDERSON: Is that the guardrail is a safer  
13 solution. When the grate is hinged up, you have areas of  
14 that areaway which are unprotected.

15 JIM MONTEVERDE: Okay. Thank you.

16 BRENDAN SULLIVAN: Laura, any questions of the  
17 petitioner?

18 LAURA WERNICK: I don't think so, pondering the  
19 grate versus the stair conundrum. Yeah, please go ahead.

20 BRENDAN SULLIVAN: I'm sorry?

21 LAURA WERNICK: Go ahead. I do not have any  
22 questions.

1           BRENDAN SULLIVAN: Yeah, okay. Jason Marshall,  
2 any questions?

3           JASON MARSHALL: No questions right now. Your  
4 exchange with Mr. Anderson was helpful, I'm still  
5 considering that. Thank you.

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

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

13           OLIVIA RATAY: Shu-Hui Boyer?

14           JOSEPH BOYER: Hi, guys. I'm -- my name is Joseph  
15 Boyer. I'm with my wife, Shu-Hui Boyer. We are owners --  
16 or I am the owner -- registered as the owner -- of 2 Lilac  
17 Court. And I am kind of voicing concern right now.

18           Primarily -- I understand this is a pretty big  
19 project. It's also kind of segmented in parts, if you will.  
20 However, we have one element of this with regard to the  
21 tree. This kind of giant tree that we have that is over  
22 multiple properties is for all intents and purposes now

1 dead. It was not dead, you know, a year ago. It was  
2 thriving. Something happened. This work that has been done  
3 already is pretty well-documented and has affected it  
4 enormously.

5 The tree itself now, it poses a huge problem and a  
6 question for those of us who are living in this area kind of  
7 around and underneath the tree. What happens now?

8 The tree needs to be dealt with. And this project  
9 should not go forward until this tree is kind of figured  
10 out. So this is the concern I'm voicing right now.

11 And because the entire project involves this, I  
12 think it's important to acknowledge the steps in this  
13 process. So I would simply ask that we kind of figure out  
14 what's going on with the tree before we go forward with the  
15 rest of this project. Thank you.

16 BRENDAN SULLIVAN: Okay. Thank you for calling  
17 in.

18 OLIVIA RATAY: Graham McMahon?

19 GRAHAM MCMAHON: Hi, everybody. One of the things  
20 you just heard in the earlier petition was the reallocation  
21 of additional square footage from the property up at 33  
22 Webster to now 35 Webster. And you now also have the

1 description or indeed the threat that if the guardrail isn't  
2 allocated, that the balcony would be extended.

3 And of course those of us on the south of the  
4 property don't want the balcony extended, but it shouldn't  
5 be a threat that we will maximize all of our allocated space  
6 regardless of what the neighbors think if you don't give us  
7 our way. It just seems like a very unusual way for a  
8 petitioner to appeal to the Board.

9 We've voiced a whole variety of concerns about  
10 this particular structure, and for the Appeals Board to be  
11 granting an appeal in a situation where there's such  
12 widespread opposition to this overall structure seems  
13 inconsistent with the responsibilities of the Board to  
14 represent community and the community's values in the way in  
15 which you approach your work.

16 So I would again appeal to you to look at the  
17 overall details, avoid granting piecemeal elements to these  
18 requests, because they continue to support the development  
19 of this large structure that is not consistent with the  
20 neighbors or the neighborhood, and is widely opposed.

21 Just put yourselves in our condition, or our  
22 circumstance. It's not only just the tree, but the entire



1 structure, the development plan. We're trying to find a way  
2 to express to you as those that a acting on these motions  
3 that this is very upsetting and very concerning, and we  
4 would ask you to not grant these continued appeals or  
5 exceptions, because they are not appropriate to support the  
6 development of the overall project.

7 BRENDAN SULLIVAN: Great. Thank you for calling  
8 in.

9 OLIVIA RATAY: Liang Sun?

10 YULIANG SUN: Hello, hi, we are -- this is Liang,  
11 and this is the -- we're at 6 Lilac Court. And we just want  
12 to -- again, share our neighbors' concerns that, you know,  
13 this property really poses a lot of threat to both our -- I  
14 think sunlight as well as the dangers posed by the tree,  
15 which was actually thriving only about a year ago, until the  
16 developer -- Mr. Parvizi -- undertook air spading of this  
17 tree during the winter of 2021.

18 At which point when spring arrived, only a few  
19 branches bore leaves, which then subsequently died off as we  
20 approached the middle of summer. And now it's completely  
21 void of leaves, the tree.

22 And so, you know, we again share with our

1 neighbors Graham and our neighbors at 2 Lilac Court that  
2 this tree needs to be dealt with, whether it's by, you know,  
3 cutting down the tree or replacing the tree with other trees  
4 in Mr. Parvizi's property.

5 And that might dictate kind of what type of  
6 property that -- you know, what type of acreage or space  
7 will be allowed for the third property to be built. After  
8 the replacement trees have been planted.

9 ZI WANG: So this is Zi Wang, also at the corner  
10 of 6 Lilac Court. Two issues that made us very worried  
11 about this particular project is the proximity to nearby  
12 buildings.

13 We had quite a bit of concern, like the fire that  
14 actually appeared very close to the area that we had along,  
15 like, Prospect Street. And then very early this year, there  
16 was a huge fire actually right next to the 35 Western Ave,  
17 or like, 41 -- like, Webster Ave. And that resulted,  
18 actually, in the death of a resident there.

19 And as we increase the proximity of all the  
20 buildings together in our community, I don't know what we  
21 observe in the future, which might also threaten our safety.

22 The other point that we do want to raise is the

1 developers -- property currently for the 33 to 35 Western  
2 Ave it is already a two-family building. And as they  
3 increase one more: 33, 35 and 37, we do want to see some  
4 clarifications on why this is still a one- or two-family  
5 property, since there are [connection distortion]

6 BRENDAN SULLIVAN: We're losing you; you're  
7 breaking up. Concluded? Yeah, all right. Thank you for  
8 your comments. That is the sum and substance of people  
9 calling in. There is a correspondence from Zi Wang and  
10 Yuliang Sun, who just spoke, and let their commentary speak  
11 for the correspondence. But we will incorporate that by  
12 reference.

13 All right. Let me close the public comment part.  
14 Dan, any comments you wish to make?

15 DAN ANDERSON: Yeah. I'm not sure whether Mr.  
16 Parvizi is available to address any of the issues around the  
17 tree. I know this has been of concern.

18 BRENDAN SULLIVAN: Yeah, let me interject that as  
19 much as it is a major concern of the abutters, the tree is  
20 really not a zoning issue. And we can't make it such that  
21 the issue before us is whether or not to allow a guardrail  
22 around an areaway and weigh that proposal against the

1 alternative to have an as of right areaway with a guardrail  
2 as opposed to some other additional building on the opposite  
3 side of the building.

4 But the tree, as much as it is a great concern, is  
5 not a Zoning Board issue. And so, I don't think -- unless  
6 other members of the Board want to -- we need to get into  
7 the discussion -- long discussion or any discussion  
8 regarding the tree.

9 Any member of the Board wish to chime in  
10 differently?

11 JIM MONTEVERDE: I agree.

12 BRENDAN SULLIVAN: Okay.

13 DAN ANDERSON: Thank you for that, Mr. Chair. I  
14 was only going to not elaborate on it, but just to indicate  
15 that the tree and whatever safety it needs to its removal  
16 might present -- will need to happen before construction  
17 happens.

18 And I believe Mr. Parvizi is already reviewing  
19 that and will give his neighbors some update. But I agree  
20 that it's not germane to the variance.

21 There were concerns that were raised a little  
22 oddly about fire, but just in case the Board is concerned or

1 interested, the Fire Department does require a building that  
2 is in a rear yard on review to be fire protected. So this  
3 will have a sprinkler system.

4 It also conforms with all the building separation  
5 distances, and I think our zoning and ordinances are pretty  
6 good at addressing those kind of building separations. But  
7 just wanted to assure the Board that there is no fire hazard  
8 that this property presented.

9 The other piece -- it's not really super  
10 summative, but public keeps referring to Mr. Parvizi as a  
11 developer, and this is his own private residence. He has  
12 presented this in the past as his intention is to live here,  
13 and this is a family compound effectively that he's been  
14 looking for a long time for a property that met his needs  
15 for his extended family.

16 So not to cast aspersions, but sometimes calling  
17 somebody as a developer just means that they have some  
18 ulterior agenda here, and I just wanted to reiterate that  
19 that is not the case in this particular instance.

20 So I guess the final piece was that in describing  
21 what went into our thought process about the placement of  
22 the areaway and thinking about what was least impactful to

1 the neighborhood and structure, we weren't suggesting that  
2 somehow, we were asking for a -- or presenting a threat that  
3 if we didn't do this that this was going to happen.

4 Really, we did our best to meet Mr. Parvizi's  
5 program and goals, and really are left with the residual  
6 that on the north face of the building in a conforming --  
7 otherwise conforming side yard with a fairly high fence,  
8 that a rail around the areaway did not seem too big a lift.

9 And we are in acknowledgment that that is,  
10 however, a variance, and are interested to hear the Board's  
11 reaction to that. This will give us some sense about  
12 whether we want to continue with this effort or seek either  
13 a continuance or other avenue.

14 BRENDAN SULLIVAN: Great. Thank you. All right.  
15 Let me close that portion and let the Board discuss among  
16 themselves. Jim Monteverde, any comments?

17 JIM MONTEVERDE: No comments, no questions.

18 BRENDAN SULLIVAN: Laura Wernick, any comments?

19 LAURA WERNICK: My only question is actually Dan's  
20 last comment about the decision about the guardrail might  
21 impact the decision. It was said if the Board does not  
22 grant a handrail variance, that you would simply revert back

1 to using the grate. Is there some other calculation that  
2 comes up if the guardrail is not approved?

3 DAN ANDERSON: Thank you. There really is not. I  
4 think that the only piece in hand is that if the Board  
5 really is disinclined to hear this, we could either ask for  
6 a continuance or withdraw this without prejudice. So I'm  
7 really interested to hear.

8 I'm trying to cut through the noise a little bit  
9 and see if this is -- if we're meeting with a reasonable  
10 criteria for granting of this guardrail as an approval. I  
11 kind of think we are.

12 But, you know, if the Board really feels like this  
13 is somehow a very high lift, I'd like the opportunity to  
14 address the case and either continue it to further evaluate  
15 with Mr. Parvizi or strictly ask for it to be dismissed  
16 without prejudice.

17 LAURA WERNICK: Well, I mean, just what you're  
18 saying there would lead me to say if there's some other  
19 alternative, then I'd like to see it. If that's what you're  
20 indicating?

21 DAN ANDERSON: No, I'm just saying that  
22 procedurally we -- yeah. No, there is -- there really is no

1 other alternative. The project is permitted, and we'll  
2 start -- ready to start --

3 LAURA WERNICK: Yeah.

4 DAN ANDERSON: -- construction in a few weeks.

5 And we've been through multiple iterations of this and done  
6 our best in the way of shadow studies and impacts. I'm very  
7 hesitant to put any more program area up on the upper level  
8 for a whole variety of reasons. And Mr. Parvizi needs the  
9 basement egress, and I'm at a loss as to where else to put  
10 it.

11 So this is really kind of a procedural question.  
12 If the Board really feels like this is not an appropriate  
13 solution or doesn't reach the level of urgency to approve  
14 it, I just would -- I would like to avoid having it heard  
15 negatively and having to wait two years to come back with  
16 something in the future.

17 DAN ANDERSON: Laura, is it okay for me to jump in  
18 on your point?

19 LAURA WERNICK: Yeah, please, please.

20 DAN ANDERSON: Because I'm -- you know, having not  
21 been part of your internal process of vetting various  
22 alternatives, I'm trying to understand why it seems like



1 we're presented with -- I want to make sure it's not a false  
2 choice between a variance and a design that may burden  
3 neighbors on the other side.

4 So it's -- I am struggling with this one and  
5 trying to understand a little more sort of what alternatives  
6 you have considered. And maybe we can continue to talk it  
7 through here tonight or maybe you can come back. But I  
8 think I'm a little bit where Laura is at the moment.

9 DAN ANDERSON: Sure, sure. No, I appreciate that  
10 very much. It's always hard to fully read you in to the  
11 process. So I did my best to summarize it in terms of where  
12 square footage would be allocated.

13 I think that if the Board needs more time to look  
14 at the kind of resultant ground-floor plan and -- you know,  
15 again just -- really just not wanting to not present this as  
16 a kind of -- you know, threat to neighbors, but somehow if  
17 this wasn't granted that we'd be adding more square footage  
18 up at the top. But I don't see that as being the case. Mr.  
19 Parvizi is very happy with the design.

20 And we have a permitted solution, which is a  
21 grate, which is hinged and it's really strictly a safety  
22 factor that when the grate is hinged up, certain areas

1 around the areaway are not protected. So it's a little less  
2 than, you know, an ideal solution.

3 But, you know, we as designers are struggling  
4 with, you know, the zoning definition of a -- you know,  
5 safety guardrail as a structure. So I have to -- you know,  
6 follow what that interpretation is and -- yeah.

7 BRENDAN SULLIVAN: My -- in a perfect world I  
8 would probably prefer that to be just open space. But it's  
9 not going to be. You have been permitted for an as of right  
10 building, so the building can go there.

11 I would look somewhat cautiously at granting any  
12 kind of relief, because you're starting with a blank piece  
13 of paper on that corner of that section of the lot.

14 So if -- I would -- my preference would be as  
15 small a building as possible in an as of right solution.  
16 And as of right solution means that you get a little bit  
17 smaller building by tucking it in, but then it goes up. And  
18 that you can do that as of right. Is that correct, Dan?

19 DAN ANDERSON: That is correct, yes.

20 BRENDAN SULLIVAN: Yes. Which then we wind up  
21 getting more building, and the impact of that more building  
22 as of right has more of an impact on the adjoining

1 properties by casting a greater shadow. Is that correct?

2 DAN ANDERSON: That is also correct.

3 BRENDAN SULLIVAN: That's correct. Okay. So  
4 that's the balancing act that we're facing. Jim, did you  
5 want to --

6 JIM MONTEVERDE: Dan, just to address your couple  
7 comments before. At the moment, I would not be in favor of  
8 granting relief, based on the presentation.

9 DAN ANDERSON: Appreciate the honesty. Thank you.

10 JIM MONTEVERDE: Yep. Thank you.

11 BRENDAN SULLIVAN: All right. Jason, Laura, do  
12 you want maybe Dan to go back to the drawing board a little  
13 bit, rather than us -- he's going to need four affirmative  
14 votes to get approval tonight. What is your sense? Is  
15 there some hesitation that you would like to see more  
16 evidence of an alternative? Laura? We'll start with you.

17 LAURA WERNICK: Thank you. I certainly would  
18 prefer not to do them, really. But I do think that there's  
19 a tradeoff between railing and higher building. I prefer to  
20 have a railing.

21 I'd assumed from your initial presentation that it  
22 was kind of a done deal, either it would be a railing, or it

1 would be a grate, and we'd finish tonight. And if it was  
2 that clear, then I would say, okay, let's just go for the  
3 grate and we're done.

4 So now I'm hearing that I'd said, while I'm not  
5 granting relief, that we're going to come back with some --  
6 there's some -- there's potential for an alternative to show  
7 up. I would just prefer to not put the -- I certainly don't  
8 want to see the building go any taller. So maybe there's  
9 some other alternative that you'd want to explore other than  
10 that.

11 So I was inclined to say, "Let's go with the  
12 grate, and then it's just emergency egress" and leave it  
13 like that. So I think that's where my -- that's where I'm  
14 just in that slight quandary. I mean, I really don't want  
15 to see a building that's any taller and go through this --  
16 have another hearing, if that's going to be an outcome.

17 BRENDAN SULLIVAN: Okay. And not approve the  
18 railing, then, and have them do an as of right grate?

19 LAURA WERNICK: An as of right grate, yeah.

20 BRENDAN SULLIVAN: Okay, yeah. Because the legal  
21 standard for a hardship has not been met?

22 LAURA WERNICK: Correct.

1           BRENDAN SULLIVAN: Okay. Jason? Your thoughts?  
2 I don't think I need to add to discussion in terms of the  
3 tension that exists here.

4           You know, Dan, I do think it would be helpful  
5 probably to come back and to see what alternatives you might  
6 explore. Maybe there's a more fulsome explanation of the  
7 alternatives. I'm -- I think I'm where Jim is; I'm not  
8 inclined to support this tonight.

9           BRENDAN SULLIVAN: So Dan, what's out there is the  
10 option of coming back on, say, November 17?

11          DAN ANDERSON: Yes.

12          BRENDAN SULLIVAN: With the other case?

13          DAN ANDERSON: Since we have already set that  
14 date, and we've identified that the Board members are --

15          BRENDAN SULLIVAN: Will be present? Right?

16          DAN ANDERSON: -- available --

17          BRENDAN SULLIVAN: Right.

18          DAN ANDERSON: -- I will take all of your comments  
19 very much to heart and appreciate a continuance.

20          BRENDAN SULLIVAN: Okay. And then again notify us  
21 as well as the other case whether or not we would prefer --  
22 and again, we've been advised by legal that there was no

1 statutory requirement that you be heard by five. You can be  
2 heard by four and the Board can proceed with four.

3 However, it's always been the courtesy, as I've  
4 pointed out in the past, of this Board to allow petitioners  
5 to have a full five-member Board. And so, even though we  
6 are not bound by I think it's a courtesy that we will  
7 extend.

8 So anyhow, let me make a motion, then, that we  
9 continue this matter to November 17, 2022, on the condition  
10 that the petitioner change the posting sign to reflect the  
11 new date of November 17 and the new time of 6:00 p.m.

12 That that any new submittals not currently in the  
13 file be in the file submitted by 5:00 p.m. on the Monday  
14 prior to the November 17 hearing. We already have a waiver  
15 of statutory requirement, so that is not necessary at this  
16 point.

17 On the motion, then, to continue this matter, Jim  
18 Monteverde?

19 JIM MONTEVERDE: In favor.

20 BRENDAN SULLIVAN: Laura Wernick?

21 LAURA WERNICK: In favor.

22 BRENDAN SULLIVAN: Jason Marshall?

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JASON MARSHALL: Yes.

BRENDAN SULLIVAN: And Brendan Sullivan yes.

[All vote YES]

This matter is continued until November 17, 2022.

DAN ANDERSON: Thank you very much.

1 \* \* \* \* \*

2 (7:09 p.m.)

3 Sitting Members: Brendan Sullivan, Jim Monteverde, Laura  
4 Wernick, and Jason Marshall

5 BRENDAN SULLIVAN: We have one more item, I guess,  
6 No. 168852?

7 DAN ANDERSON: Yes, that's correct, and we're --  
8 Attorney Rhatigan on behalf of Mr. Parvizi, I believe,  
9 submitted a request to continue that. That addresses the  
10 substance of some of the requested special permit for the  
11 case that's already been continued at 35 Webster, No.  
12 155115.

13 BRENDAN SULLIVAN: Okay. The Board will hear --  
14 I'm sorry, the Board is in receipt of correspondence from  
15 Trinity Law, September 16.

16 "Dear Mr. Alexander and members of the Board, on  
17 behalf of the petitioner, we respectfully request a  
18 continuance of the hearing of this appeal currently  
19 scheduled for 6:30, September 22, 2022. Thank you very  
20 much.

21 "Sincerely, Sarah Rhatigan."

22 And that was the sum and substance of any



1 correspondence. We will accept the request for a  
2 continuance. On the motion, then, to continue this matter  
3 to same date?

4 LAURA WERNICK: Same date.

5 DAN ANDERSON: That will be fine.

6 BRENDAN SULLIVAN: Same date will be okay?

7 DAN ANDERSON: Yes.

8 BRENDAN SULLIVAN: Okay. On the motion, then, to  
9 continue this matter to November 17, 2022 continue this  
10 matter to November 17, 2022 at 6:00 p.m. on the condition  
11 that any new material pertinent to this appeal be in the  
12 file by 5:00 p.m. on the Monday prior to the November 17  
13 hearing?

14 And that there is no posting sign. I don't  
15 believe an appeal -- is there? No, there is not. So we  
16 don't have to change anything. On the motion, then, to  
17 continue this matter, Jim Monteverde?

18 JIM MONTEVERDE: In favor.

19 BRENDAN SULLIVAN: Laura Wernick?

20 LAURA WERNICK: In favor.

21 BRENDAN SULLIVAN: Jason Marshall?

22 JASON MARSHALL: Yes.

1 BRENDAN SULLIVAN: Brendan Sullivan yes.

2 [All vote YES]

3 BRENDAN SULLIVAN: This matter is continued until  
4 November 17. Goodnight. Thanks, Dan.

5 DAN ANDERSON: Thank you very much. Thank you for  
6 your patience and have a good evening.

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2 (7:12 p.m.)

3 Sitting Members: Brendan Sullivan, Jim Monteverde, Laura  
4 Wernick, Jason Marshall and Wendy  
5 Leiserson

6 BRENDAN SULLIVAN: The next case the Board will  
7 hear is Case No. 017219, 2019, 544 Mass Avenue.

8 CLIFFORD SCHORER: Yes, good evening. Can you  
9 hear me?

10 BRENDAN SULLIVAN: If you would introduce yourself  
11 for the record?

12 CLIFFORD SCHORER: Yes. My name is Clifford  
13 Schorer, and I'm appearing on behalf of 544-550 Mass Ave.

14 BRENDAN SULLIVAN: Okay.

15 CLIFFORD SCHORER: And I thank the Board, of  
16 course, for the two years of continuance. And obviously we  
17 received some advice at the beginning that the processes  
18 should run in parallel with the Planning Board's process.

19 Subsequently, we learned it was probably better  
20 given the extent of the Planning Board operations to have  
21 that matter conclude. So we're back now having concluded  
22 our discussions with the Planning Board.

1           But I would like to say that, you know, our first  
2 meeting, which was some two years ago, I heard loud and  
3 clear that there's extreme sensitivity to the granting of  
4 any zoning variance, and that I should come back with some  
5 extremely good information. And I hope I've done so.

6           So if you don't mind, I'd like to put up the  
7 slides that I provided to you. Thank you. So the building  
8 has gone through some extreme modifications.

9           I won't go through all the particular details that  
10 the Planning Board saw fit to address. There were quite a  
11 few aesthetic changes. There really are no overall massing  
12 changes to the building itself. There are many finished  
13 changes. There was a reduction in units from 29 to 27,  
14 which does have the effect of modifying this application  
15 from 29 to 27.

16           We can skip to the next slide.

17           So here are the changes that occurred at the very  
18 end. There were many changes along the way, but -- you  
19 know, most importantly was the 27 instead of 29, the  
20 increase in size of units, bicycle storage changes,  
21 transportation copays, the elimination of all vehicles and  
22 parking, and also the requirement that residents participate

1 in a transportation program of one kind or another.

2 If we can go to the next one?

3 There were an extensive number of façade  
4 improvements. I believe there are two architects on the  
5 Planning Board. So there was quite a bit of vivacious  
6 discussion on those matters. And I think we've come to  
7 agreement much more satisfying appearance of the building.

8 I would agree that there are a number of  
9 modifications that they made that really have improved the  
10 building. We've taken a lot of advice from them.

11 The next one?

12 We've created a larger mural area on the side of  
13 the building. We've eliminated all the fenestration on that  
14 side of the building except for a slight small row of  
15 windows in the stairwell to provide some stairwell light for  
16 the future potential that the Target building would be  
17 expanded to its allowable FAR, which will also encompass the  
18 same number of floors.

19 The next one?

20 There were quite a few changes to the rear  
21 elevation -- changing materials, et cetera. The next one is  
22 retail improvements. We went back to the 1938, 1939 design,

1 which was actually when there -- this was originally a  
2 Woolworth's five-and-dime. Before that, it was another  
3 five-and-dime. And we went back to some of those details to  
4 improve where there because of the present appearance is  
5 quite unappealing.

6 We can just quickly go through the next one. The  
7 next one is the site plan, which I just put up to show you  
8 some -- we have. And the next ones we can actually jump  
9 through to Number 11, just to show.

10 So this is a rendering to give you the scale.  
11 There was a really strong understanding of the stepback from  
12 the façade of the Oddfellows Hall would dramatically improve  
13 and create less conflict between the buildings.

14 Our building is actually shorter than the  
15 Oddfellows Hall, and it's under the 70-foot height so that  
16 here it's stepping back, so it appears to be tall, but it's  
17 not.

18 And then the next one is just a massing program,  
19 just so you can see it from a higher elevation. You can see  
20 that the Oddfellows Hall is taller.

21 So now I'd like to go through just a couple of the  
22 questions on this variance specifically. So the -- what is

1 allowable by right under the lot area per dwelling unit is  
2 20 units with the inclusionary zoning applied. And what  
3 we're seeking is 27. All of the other aspects of the  
4 project are by right or have been granted by the Planning  
5 Board as special permits.

6 And as a matter of fact, at the last Planning  
7 Board meeting, the Board voted on this as a, quote, unquote,  
8 "no-brainer" for approval as it provides many benefits. And  
9 after all of their input, the Planning Board saw no  
10 identifiable downsides.

11 Now, to address the actual zoning issue, the  
12 singular issue that is the zoning variance is -- again --  
13 this minimal lot area per dwelling unit.

14 And I'd like to talk first -- this is one of the  
15 rare occasions, I believe, where we take all four boxes  
16 required for you to see clear to a variance. And I'll go  
17 through those in detail, just so that I'd like to -- you  
18 know, make the case. Because I know that was raised as an  
19 early issue and I had to come back with some good  
20 information.

21 So first let's talk about site-specific hardships,  
22 which are generally limited to soil conditions, shape of the

1 lot and topography of such land that affects the land but  
2 doesn't -- but doesn't affect other lots in the area.

3 So, you know, simply put, #1, we have a lot shape  
4 that involves a historic easement that serves the street  
5 behind us. And all of the buildings that were built around  
6 us actually created an enclosed and unescapable area where  
7 the Target extends behind us, blocks in the Oddfellows Hall,  
8 and it blocks in Target.

9 So emergency egresses were provided in the 19th  
10 century through this lot, and that varies in width from  
11 eight feet to five feet and runs from the rear of the lot to  
12 the front of the lot. So it creates approximately 10  
13 percent of the ground area that is unusable for us as ground  
14 area.

15 And it is something that is unique to this lot,  
16 that preexists the formation of the lot, as a matter of  
17 fact, and is unique to this lot and not something you see  
18 with the other lots in the area.

19 So that's something that I believe falls under the  
20 question of -- you know, unique characteristics of the lot.

21 Secondly, the subsurface soil conditions, which I  
22 was able to address with you briefly at the beginning, but



1 the area around the building where there were undergraduate  
2 storage tanks that were there since the 1930s, there was  
3 extensive environmental leaking and damages there.

4 And the building was excavated down to 16 feet  
5 below grade on both sides of the interior wall, the  
6 retaining wall that holds up the side of the building.

7 And those disturbed soils, which have been  
8 remediated and removed, they are now soils upon which we  
9 have to do specially engineered footings in order to carry a  
10 building.

11 So the challenge we have is that we really are  
12 limited in our footprint size by the fact that, you know,  
13 we're going to be footing our building in a very unique way,  
14 which is to create a series of columns that carry a platform  
15 upon which the building would be built.

16 So, again, you know, subsurface soil conditions  
17 and I understand that in some senses one could argue that  
18 that was created by the property owner, but in fact it is  
19 contamination from adjacent sites as well.

20 So these are -- these are contamination subsurface  
21 soil conditions that are out of our control, but that we  
22 with cooperation of the DEP and at a great expense to

1 ourselves before we bought the property, we helped the prior  
2 owner to remediate them so that the DEP could close the file  
3 on the building.

4 But the ramification of that, of course, is that  
5 the soils are disturbed to 16 feet below grade, which makes  
6 them basically on compacted soils at this point. So we have  
7 to use special systems to hold off the building, as it were.  
8 So, you know, those are the two that address specific  
9 hardship to the lot.

10 And then the next thing that's very important in  
11 your consideration is that it has to meet the intention and  
12 is no detriment to the original -- no derogation of the  
13 original variance -- you know, original ordinance that we're  
14 seeking a variance of.

15 And I think here it's extremely interesting to  
16 point out that your ordinance reads that it's lot area per  
17 dwelling unit. And the legal definition of density is  
18 actually the maximum amount of development permitted or  
19 maximum persons per unit of land.

20 So what happens in this context is we're limited  
21 to very small units, and we've decided to go for SROs or  
22 studios or very, very small one-bedrooms. And the issue

1 arises that the dwelling units can be up to any number of  
2 bedrooms.

3 So in fact we don't really create a derogation of  
4 the intent of this at all, because if one uses the 300-foot  
5 of ground area per dwelling unit, and assumes a three-  
6 bedroom unit, then there are 45 bedrooms of density that  
7 could be developed on the site, and we are in fact  
8 developing 27 bedrooms of density.

9 So I understand that your definition of density is  
10 merely dwelling unit, but I do think that in the legal sense  
11 of the word, "density" it speaks to the number of residents  
12 per area. So -- per unit of land area.

13 So I think that's an interesting way that we could  
14 look at this to say it doesn't actually -- you know, it  
15 doesn't detract from the intention, which is a limitation on  
16 density -- of your ordinance. So I think that's a very  
17 important consideration.

18 And then lastly, something that the Planning Board  
19 spent a great deal of time on that it creates no detriment  
20 to the public good, which -- again, in their final  
21 consideration and their final vote, I believe their exact  
22 quote was, "They see no identifiable downsides and the

1 project is a no-brainer."

2           So I think that in a sense, you know, it was a  
3 really worthwhile process to spend two years with them to  
4 really refine the question that comes back to you. I do  
5 believe also that the Planning Board had put together a  
6 memorandum that did come back to the BZA suggesting that the  
7 BZA would be in favor of this project, and that it met the  
8 criteria.

9           Again, most projects of this type don't have this  
10 issue because they have the ground barrier to create FAR  
11 that creates larger units. And we simply don't. We need to  
12 go slightly taller and smaller on our lot, despite the fact  
13 that we could have done a four-story building with larger  
14 units, which would have given us more bedrooms.

15           So I believe that's -- you know, that's the best  
16 summary I can give, just to give it in numbers the allowable  
17 land area per unit under the zoning is 300 square feet, with  
18 our particular permit and our inclusionary zoning units,  
19 that number goes down to 236 square feet per unit, which  
20 would be allowable without a variance.

21           And under our request, we're asking for 164 square  
22 feet. However, again, we are asking for 27 residential

1 bedrooms versus 45, which would be permitted under the  
2 dwelling unit per land area.

3 So I hope that's a clear and concise argument, and  
4 I certainly owe it to debate on our discussion on the  
5 subject.

6 BRENDAN SULLIVAN: The -- specifically, I think  
7 you're asking us is for a variance because of the setback,  
8 and that's it. You have received basically approval for the  
9 entire project, except for that you need a variance because  
10 of the setback. Is that correct?

11 CLIFFORD SCHORER: No, that is not correct as far  
12 as I understand it. The Planning Board has issued all of  
13 the other required -- so I believe the Planning Board is  
14 allowed to cover a number of items in their permitting, but  
15 the one area that could not waive is the land area per  
16 dwelling unit. So again, that seems to be the singular  
17 variance that we are seeking.

18 And that's what we were sent back to the Planning  
19 Board from our first engagement two years ago to address all  
20 of the other issues that you could do cooperatively -- they  
21 could do as a Planning Board matter. And the only thing  
22 they're coming back to you -- I believe if you read the memo

1 from the Planning Board, they are just coming back with --  
2 everything else has been approved.

3 BRENDAN SULLIVAN: Let me read that memo dated  
4 August 17.

5 "At its regular meeting of August 16, the Planning  
6 Board granted the requested special permits with conditions  
7 for the revised proposal, plan set title, 'Revised graphic  
8 package Section 2,' prepared by Clifford Schorer and Carl  
9 Lynch and Sandell Architects dated 04/22" -- I'm sorry,  
10 04/24/2022 and revised through July 2022, --"for a mixed-use  
11 project containing 27 residential units at 544 Massachusetts  
12 Avenue.

13 "Planning Board 381 conditions included continuing  
14 review of design details by Community Development Department  
15 and Cambridge Historical Commission Staff.

16 "The special permits are also conditioned on the  
17 project receiving the necessary zoning relief from the BZA.

18 "The Planning Board supports the revised proposal  
19 and voted to forward a favorable recommendation to the BZA  
20 on the variance request for this project."

21 So I had asked the Commissioner exactly, because I  
22 noticed that the Planning Board had granted a number of

1 special permits to you. They had a special permit to  
2 increase the building height and the floor area ratio in the  
3 Central Square Overlay District.

4 They granted a special permit for a waiver of  
5 setback and open space requirement, they granted a special  
6 permit for a waiver of parking and loading requirements in  
7 the Central Square Overlay District. They asked for a  
8 continuation. It's quite lengthy, their decision.

9 A special permit for exemption of basement area in  
10 the calculation of gross floor area, and the Project Review  
11 special permit traffic impact findings. And Project  
12 Compliance special permit Urban Design findings, and General  
13 Criteria for issuance of a special permit, which basically  
14 sums up all of their grants and so now I'm trying to  
15 determine --

16 And I asked the Commissioner exactly what is it  
17 that we need because in the description it says, "To build  
18 29-unit micro studio apartment building Article 5, 5.33  
19 Table of Dimensional Requirements." And what actually is  
20 that? Can we pull up the dimensional form?

21 CLIFFORD SCHORER: Mr. Chairman, you should have  
22 that as part of the full submittal package, but it should be

1 --

2 BRENDAN SULLIVAN: I don't have it.

3 CLIFFORD SCHORER: If I may, I can help a little  
4 bit, because I know that there is no setback -- there was no  
5 setback waiver we sought. So the only -- the only item that  
6 the Planning Board couldn't act on was dwelling units per  
7 land area. That's the only thing they couldn't act on.

8 BRENDAN SULLIVAN: Lot area for each dwelling unit  
9 --

10 CLIFFORD SCHORER: Correct, lot area for each  
11 dwelling unit.

12 BRENDAN SULLIVAN: -- requested is 151 square feet,  
13 and the ordinance requirement is 300?

14 CLIFFORD SCHORER: Yes. And actually with due  
15 respect, we already were granted a waiver to make that 240  
16 because of the inclusionary.

17 So the Ordinance requirement is 240 square feet  
18 now, and because of the reduction of units from 29 to 27,  
19 the requested condition is 164. And that's revised in the  
20 package I sent you. This is the original application.

21 BRENDAN SULLIVAN: Can you -- Olivia's going to  
22 pull up a pertinent document.



1 CLIFFORD SCHORER: Sure. That's in Section 1.

2 BRENDAN SULLIVAN: Yeah, the Community  
3 Development. Special permit application, special permits --  
4 all right. So that variance for lot area per dwelling unit  
5 from the BZA, all right, that is not in our files. So  
6 unfortunately that's where my hesitation is, anyhow.

7 So we basically -- okay, so that's what we need to  
8 do. I just want to make sure that we're considering  
9 potentially granting the proper relief. So it is lot area  
10 for dwelling unit. Okay.

11 All right. Anything else to add, Cliff, at this  
12 point?

13 CLIFFORD SCHORER: No, I stand by for any  
14 questions.

15 BRENDAN SULLIVAN: Okay. Let me open it to  
16 members of the Board. Jim, any questions?

17 JIM MONTEVERDE: No questions, thank you.

18 BRENDAN SULLIVAN: Laura? Laura Wernick, any  
19 questions?

20 LAURA WERNICK: Sorry, I was on mute. Good  
21 presentation. Can I just see a typical floor plan? I'm  
22 just curious to have you walk through why the units are

1 small?

2 CLIFFORD SCHORER: Sure, yeah.

3 LAURA WERNICK: I think I understood what you were  
4 saying, but I'd just like to see a visual.

5 CLIFFORD SCHORER: Sure. So here's actually a  
6 good -- the problem with the lot is twofold. There is a  
7 building behind us which is the Target building.

8 LAURA WERNICK: Mm-hm.

9 CLIFFORD SCHORER: And then there's an out massing  
10 that's on the back of the building that has to stay low for  
11 a number of reasons. So if you look how the first-floor  
12 plan is large, it goes all the way to the back of the lot?

13 LAURA WERNICK: Mm-hm.

14 CLIFFORD SCHORER: After the first floor, we can  
15 only -- if you see on the right side of the screen, we have  
16 the second-floor plan. And actually if you go to the next  
17 page, you can see all the upper floors.

18 LAURA WERNICK: Sure.

19 CLIFFORD SCHORER: So what we had to do there is  
20 we have to step in from the back of the lot -- both for the  
21 weight of the building and for the subsurface soil  
22 conditions -- we have to step in from the back of the lot.

1 It was also favored by the Planning Board because it  
2 wouldn't cast any shadows in the rear of the building. And  
3 that's why as you see as you go up --

4 LAURA WERNICK: Yep.

5 CLIFFORD SCHORER: -- the units themselves have to  
6 use the existing window line, there are three windows on  
7 each floor in the front, and they have to add an extra  
8 staircase and elevator shaft. And the floor plates  
9 basically are most suitable to studio apartments or very  
10 small SRO-type units.

11 LAURA WERNICK: So -- okay, so I'm going to  
12 interrupt just --

13 CLIFFORD SCHORER: Sure.

14 LAURA WERNICK: So you could -- and I'm not  
15 opposed to the 27 units, I'm just going to probe in here a  
16 little bit -- you could --

17 CLIFFORD SCHORER: Sure.

18 LAURA WERNICK: -- conceivably have had instead of  
19 five units per floor, or in some cases as on your fifth  
20 floor, six units per floor --

21 CLIFFORD SCHORER: Right.

22 LAURA WERNICK: -- you could conceivably have had

1 four one-bedroom units. But you -- I guess what you're  
2 saying is that even with four you're not getting more beds?

3 CLIFFORD SCHORER: The problem would be as  
4 follows: We have a certain number of windows, which are  
5 required for the bedrooms, and the bedrooms have to be a  
6 certain shape.

7 LAURA WERNICK: Oh.

8 CLIFFORD SCHORER: So we have -- as you can see --

9 LAURA WERNICK: I got you. Okay.

10 CLIFFORD SCHORER: -- we have sort of zigzag  
11 shapes.

12 LAURA WERNICK: Yep.

13 CLIFFORD SCHORER: So we could make for example in  
14 the front of the building, we could make a three-bedroom on  
15 each floor, but we would lose a great deal of area in the  
16 building to do that.

17 And as a result, the econometric metric wouldn't  
18 work, because we'd end up with the same density -- precisely  
19 the same density of people, but we had end up with only one  
20 unit on the floor. So that would really be the only logical  
21 way to do the whole front of the building as one three-  
22 bedroom unit.

1           And in this --

2           LAURA WERNICK: You couldn't do --

3           CLIFFORD SCHORER: I'm sorry, go ahead.

4           LAURA WERNICK: -- you couldn't do the front of  
5 the building as two one-bedroom units?

6           CLIFFORD SCHORER: Not legally with the window  
7 out, with the window line. So we have to preserve the  
8 original window line of the building.

9           LAURA WERNICK: Okay.

10          CLIFFORD SCHORER: So we have three windows.

11          LAURA WERNICK: Okay.

12          CLIFFORD SCHORER: Yep.

13          BRENDAN SULLIVAN: Anything else, Laura?

14          LAURA WERNICK: No. That was -- I was interested  
15 in how that --

16          BRENDAN SULLIVAN: Yeah, no, good question.

17          LAURA WERNICK: -- looked.

18          BRENDAN SULLIVAN: Jason Marshall, any questions?

19          JASON MARSHALL: Yeah, just quick. And thank you  
20 so much for the really comprehensive presentation and quite  
21 a journey to get back here to us, obviously. As you were  
22 presenting, I was thinking about the provision in the

1 ordinance that states the purpose of the zoning bylaws. And  
2 there's a provision that talks about promoting or  
3 encouraging housing for persons of all income levels. Do  
4 you feel that this project helps to promote that purpose?

5 CLIFFORD SCHORER: That was a key feature of the  
6 proposal, which is that it will be the least expensive new  
7 development in the city for stock. Because there's a real  
8 penalty to making small SRO units.

9 And as those of you who are housing advocates -- I  
10 was President of a non-profit for housing for many years --  
11 the biggest loss in housing in Boston and Cambridge is  
12 single resident units; it's lodging houses, it's small  
13 apartments. Because the money is in the larger apartments.  
14 And the condo conversions always are in the larger units.

15 So most of the proposals have completely neglected  
16 studios for almost all new development in Central Square,  
17 and the number one loss in housing in Central Square is  
18 lodging units.

19 So I think this address better than any other  
20 project you'll see the need for small units. You know, even  
21 if we assume the market rate of \$45 per square-foot per  
22 year, you know, on the unit -- I mean, I'm sorry, per month

1 on the unit, we end up with -- we end up with the lowest  
2 rents of any new development. So, you know, and we're  
3 aiming for below that.

4 So, you know, that plus the inclusionary -- and we  
5 create more inclusionary units by having smaller units. So  
6 we really do -- as a small project, we have a very large  
7 impact on -- you know, affordable housing relative to other  
8 projects, for sure.

9 JASON MARSHALL: All right. Thank you for that  
10 response. No other questions right now, Mr. Chair.

11 BRENDAN SULLIVAN: Wendy Leiserson?

12 WENDY LEISERSON: No questions at this time.

13 BRENDAN SULLIVAN: I don't have any questions at  
14 this time. Let me open it to public comment. Any member of  
15 the public who wishes to speak should now click the button  
16 that says, "Participants," and then click the button that  
17 says, "Raise hand."

18 If you are calling in by phone, you can raise your  
19 hand by pressing \*9 and unmute or mute by pressing \*6, and  
20 you will have up to three minutes, or depending upon the  
21 number of speakers at the Chair's discretion, we may limit  
22 the time.

1           OLIVIA RATAY: James Williamson?

2           JAMES WILLIAMSON: Can you hear me?

3           BRENDAN SULLIVAN: Yes.

4           JAMES WILLIAMSON: Okay, thanks. So James  
5 Williamson, 1000 Jackson Place in North Cambridge -- soon to  
6 be demolished Jefferson Park, actually. So I have tagged  
7 along in this process and had -- endured the same extensive  
8 -- you know, postponements as others.

9                   And so I wanted to sort of stay with it. I sort  
10 of felt like I wanted to stay with it, even though the thing  
11 I was most keenly interested in kind of became academic  
12 after a time.

13                   My biggest interest in this was what to do with  
14 the venerable institution that was there for many years, the  
15 Center for Marxist Education. I actually went to hear one  
16 of the Hollywood 10 give a talk about his autobiography many  
17 years ago, Lester Cole, head of the Screenwriters Guild, one  
18 of the Hollywood 10. He wrote a book called, The Hollywood  
19 Red years later, when it was safe to have an a book with  
20 that title, I guess.

21                   So for -- you know, there were many interesting  
22 things that happened there at the center; different



1 speakers, activities... Pictures of Laura Ross up on the  
2 wall, who ran in the Congressional races vis-à-vis Tip  
3 O'Neill in the old Eighth Congressional District, as a  
4 candidate of the Communist Party, someone I actually voted  
5 for occasionally, I'll confess [laughter], since this isn't  
6 HUAC.

7           So I was glad that Cliff made an effort to try to  
8 work with the sort of remnant group at the Center for  
9 Marxist Education. And then they kind of disappeared. They  
10 kind of vanished. They were hard to get in touch with.  
11 They were hard for me to be in touch with. I think Cliff  
12 had some difficulty.

13           And that leaves the question, the attempt to  
14 accommodate them was I think maybe a little -- not the best  
15 arrangement, but a small room in the basement.

16           Now that they're out of the picture, I'm not sure  
17 if that space -- and it's up to Cliff and his partner to  
18 make those -- sort of make some judgments about it, but that  
19 space, you know, maybe it can be used for something else,  
20 something better -- maybe a reconfiguration that would allow  
21 maybe a little more space for something else in the  
22 building.

1           And so, you know, I just wanted to mention that.  
2 I think I've mentioned it before.

3           And a couple other quick observations. I am --  
4 I'm not against your granting a permit; I think you guys  
5 have to deal with some of the details about variances that  
6 I, frankly, can't follow that well from tonight's  
7 presentation.

8           But two things: One, I'm really disappointed with  
9 the direction that the design has taken. I don't think it's  
10 Cliff's fault necessarily, I think he got -- you know,  
11 advice and pressure and maybe was comfortable with that.

12           But I think the result is not a great design up on  
13 the roof. It looks like one of those modern day, you know,  
14 Aegis destroyer battleships that's got -- you know, this  
15 strange Mansard kind of roof that looks more like a modern-  
16 day --

17           BRENDAN SULLIVAN: And in conclusion?

18           JAMES WILLIAMSON: And in conclusion -- I'm not --  
19 I don't have a three-minute clock in front of me, the other  
20 point is I just think -- I'm glad there's been at least a  
21 slight increase. These are going to be very small units.  
22 I know, because I'm dealing with it myself in my relocation

1 what a small unit is, and what the dimensions of it are.

2 If there's a market for it, I'm fine with that.

3 But I do think the comparison to SROs is probably a little  
4 bit erroneous in that SROs -- because I knew -- I lived in  
5 one, I lived in a rooming house in Central Square a few  
6 blocks away, and I knew people who lived right down the  
7 block, and those SROs were like -- of course this is years  
8 ago, \$15 a month.

9 So these are not going to be really like those  
10 SROs, you know, with an inflater. These are going to be  
11 small apartments that will meet the demand, I think.

12 But I think I just want to make that observation.  
13 I don't really think it's accurate to compare these units to  
14 SROs, because those were really, really low rent.

15 BRENDAN SULLIVAN: Okay.

16 JAMES WILLIAMSON: And this -- these are going to  
17 be modest, but now low.

18 BRENDAN SULLIVAN: All right, thank you.

19 JAMES WILLIAMSON: Thank you.

20 BRENDAN SULLIVAN: Thank you, James. That is the  
21 sum and substance of any call-ins.

22 And again, the other correspondence is from the

1 Planning Board, and obviously the Community Development  
2 Department. I will close public comment part and Cliff, let  
3 me turn it back to you for any comments, for which he'll  
4 turn it back over to the Board.

5 CLIFFORD SCHORER: Well, I just would like to  
6 thank the folks that did -- I mean, like the caller who just  
7 spoke, the folks that followed along for the full two years  
8 and were involved -- you know, they like some of the  
9 modifications the Planning Board made, they didn't like  
10 others.

11 But certainly that basement room, which was  
12 raised, we have been trying -- we've got a great idea for it  
13 as a music practice room, because it's separated from the  
14 residential floors by the retail. So it would actually be -  
15 - you know, a good sound insulator.

16 But, again, we originally created that purpose-  
17 built for the Center for Marxist Education, who insisted  
18 that they stay in the building. And then unfortunately  
19 their director moved to the south and disappeared on us.

20 So, you know, obviously I tried my best on that  
21 but --

22 BRENDAN SULLIVAN: Yeah.

1 CLIFFORD SCHORER: -- I believe it will -- that  
2 room will only be available for a community use we have yet  
3 to determine, and we'll work that out with one of the local  
4 non-profits.

5 BRENDAN SULLIVAN: All right, thank you. All  
6 right. Let me close the presentation part and discuss it  
7 among the members of the Board. Any member of the Board  
8 have any questions for the petitioner at this time?

9 LAURA WERNICK: It's Laura. I do have just one  
10 very small question about the roof. How will tenants have  
11 access to the roof? Is there a roof garden on top, or is  
12 that a programmed area?

13 CLIFFORD SCHORER: Yes, the programmed area on  
14 this -- if you look at the roof plan on this page, you'll  
15 see the dotted line area. So that area is accessible both  
16 by that staircase and by the elevator. There's a house on  
17 the -- you know, an elevator house on it that you can see  
18 from the side.

19 And it is -- it qualifies as part of the open  
20 space. It's a small, terraced deck with a trellis wall  
21 front. I think in the other pages I sent you there's a  
22 color rendering of it, which gives you a better, three-

1 dimensional perspective.

2 But yes, that will be accessible only, though, if  
3 you have a key card for the building to use the elevator to  
4 that floor, because if we do make the community room in the  
5 basement, that will be accessible from the street. So that  
6 will be keyed off, so that only the residents can use the  
7 roof.

8 LAURA WERNICK: Okay, thank you. That's it.

9 BRENDAN SULLIVAN: Anybody else any questions for  
10 the petitioner? Okay. Let me make a motion, then. Let me  
11 make a motion, then, to grant the relief requested and  
12 relief from Section 5 -- Article 5, Section 5.23, Table of  
13 Dimensional Requirements -- to allow for a variance to the  
14 lot area for dwelling units, as per the application and the  
15 dimensional form.

16 The Board finds that a literal enforcement of the  
17 provisions of the ordinance would involve a substantial  
18 hardship to the petitioner, because it would preclude the  
19 petitioner from repurposing and retrofitting, modernizing a  
20 building which has fallen into great disrepair, and has been  
21 aged needs a tremendous amount of upgrading.

22 The Board notes that there is substandard soil

1 conditions, due to years of infiltration of contaminated  
2 materials, adding to the onerous cost of reconstructing and  
3 rebuilding this building.

4 The Board notes that the desire of the petitioner,  
5 developer to have smaller units to find and fill a much need  
6 (sic) for such units in the community.

7 The Board finds that denying this would deny the  
8 ability to create this type of development. It would  
9 require the petitioner to build larger units, which will  
10 displace adjoining tenants and also reduce the housing stock  
11 and the number of units available.

12 The Board finds that the hardship is due to the  
13 unusual shape of this building, and the age of the building.  
14 The Board notes that there is an easement for public  
15 emergency access that runs through the property alley which  
16 reduces the size and the availability to produce more units.

17 The Board finds that the area per floor is broken  
18 up by the requirements to add elevator and emergency egress,  
19 thus constricting the ability to provide somewhat larger  
20 units, and the number that is proposed.

21 The Board finds that the substantial -- the Board  
22 may grant relief, that there would not be any substantial

1 detriment to the public good.

2           The Board notes the vetting over the past two  
3 years with community groups, the Central Square Advisory  
4 Committee, the Planning Board, which has rendered its  
5 approval, the number of special permits that the Planning  
6 Board has granted to this project and finds that there is --  
7 it would serve a public good in providing some lower-priced,  
8 yet smaller units, which are desirable in the area.

9           The Board finds that relief may be granted without  
10 nullifying or substantially derogating from the intent and  
11 purpose of the ordinance. As was stated earlier by a member  
12 that the ordinance was enacted to provide housing for all  
13 income groups.

14           And the Board finds that -- well, I guess that  
15 would be the sum and substance, sorry, that we may grant  
16 relief without derogating from the intent and purpose of the  
17 ordinance on the condition that the work comply with the  
18 drawings submitted to the Board, initialed by the Chair,  
19 revised July 2022, revised graphic package Section 2  
20 initialed by the Chair.

21           On the motion, then, to grant the relief  
22 requested, Jim Monteverde?



1 JIM MONTEVERDE: In favor.

2 BRENDAN SULLIVAN: Laura Wernick?

3 LAURA WERNICK: In favor.

4 BRENDAN SULLIVAN: Jason Marshall.

5 JASON MARSHALL: In favor?

6 BRENDAN SULLIVAN: Wendy Leiserson?

7 WENDY LEISERSON: In favor.

8 BRENDAN SULLIVAN: And Brendan Sullivan yes.

9 [All vote YES]

10 BRENDAN SULLIVAN: On the five affirmative votes,  
11 the variance is granted.

12 CLIFFORD SCHORER: Thank you so much.

13 BRENDAN SULLIVAN: Good luck with it.

14 CLIFFORD SCHORER: Thank you.

15 BRENDAN SULLIVAN: Okay. Now to the regular  
16 agenda.

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2 (7:48 p.m.)

3 Sitting Members: Brendan Sullivan, Jim Monteverde, Laura  
4 Wernick, Jason Marshall and Wendy  
5 Leiserson

6 BRENDAN SULLIVAN: The Board will hear Case No.  
7 183218 -- 2 Ellsworth Park.

8 NIEN-HE HSIEH: Good evening.

9 BRENDAN SULLIVAN: Hi. If you could introduce  
10 yourself for the record?

11 NIEN-HE HSIEH: Yes. Thank you. So my name is  
12 Nien-he Hsieh, together with Dr. Sarah Toomey, my wife,  
13 we're residents here at 2 Ellsworth Park, and very grateful  
14 for the chance to come before you to ask for a special  
15 permit to rebuild and expand the deck at the rear of our  
16 house.

17 BRENDAN SULLIVAN: Okay. If we could pull up the  
18 pertinent drawing?

19 NIEN-HE HSIEH: So should I just sort of briefly  
20 describe the nature of our application, is that right?

21 BRENDAN SULLIVAN: Yes.

22 NIEN-HE HSIEH: Yeah, okay, great.

1           JASON MARSHALL: Just, hold on Mr. Chair -- just  
2 before we get into the substance, I just -- I have a -- I  
3 guess maybe it's a procedural question?

4           BRENDAN SULLIVAN: Yes.

5           JASON MARSHALL: If you could pull up the  
6 dimensional form? This is an application for a special  
7 permit, but looking at this form, it appears that there  
8 would be a new nonconformity created for GFA. Am I  
9 understanding that correct?

10          BRENDAN SULLIVAN: That would be correct.

11          JASON MARSHALL: And so, that would have to come  
12 in as a variance. It would have to be noticed as a variance  
13 application.

14          BRENDAN SULLIVAN: Hm. Yeah, didn't pick up on  
15 that. Yeah, you're adding --

16          NIEN-HE HSIEH: yeah, so we had originally -- I  
17 guess I want to thank you for raising that.

18                 When I spoke with the Staff, whom have been very  
19 helpful in the whole process, I think originally, we thought  
20 we had to put in for a variance, but then were told that a  
21 special permit would probably be okay for the situation.  
22 And so, that was the reason for putting in for a special

1 permit.

2 BRENDAN SULLIVAN: That's funny, I did not pick up  
3 on that. And you're correct, Jason, if that number is  
4 correct, yeah. Do you know? But it's a new nonconformity?  
5 The ordinance -- right now it's compliant.

6 NIEN-HE HSIEH: Yeah.

7 BRENDAN SULLIVAN: By one foot. And adding square  
8 footage, which then triggers that it would be out of  
9 compliance.

10 NIEN-HE HSIEH: Right, so --

11 LAURA WERNICK: The new square footage is the  
12 deck? It's only the deck?

13 BRENDAN SULLIVAN: This is the deck, yeah. And  
14 it's probably --

15 OLIVIA RATAY: You only require 3439.

16 BRENDAN SULLIVAN: Well, we're just double  
17 checking here. The Ordinance requirement is wrong. Okay.  
18 Olivia's saying that the Ordinance requirement should be  
19 "three four" I'm sorry, "three four three nine." Okay.

20 Top row, "Existing conditions 40 to 49, requested  
21 condition is 4305." The Ordinance requirement max is 3439.  
22 And so, that that 4250 is not correct. So they're already

1 over and in non-compliance with the GFA.

2 JASON MARSHALL: That's an important piece of the  
3 puzzle.

4 BRENDAN SULLIVAN: Yeah. Because we -- if you go  
5 by the GFA to the lot area, the gross floor area to lot area  
6 -- well anyhow, the total gross floor area, the -- that 4250  
7 is not correct. It should be 3439. So they're already in  
8 noncompliance, so that they're not creating any new  
9 noncompliance, and as such they could go under 8.22.2.d.

10 Do you follow that, Jason?

11 JASON MARSHALL: I do, yep. That's helpful. That  
12 -- as I said --

13 BRENDAN SULLIVAN: Yeah, no, no. That's --

14 JASON MARSHALL: -- that really makes -- that  
15 makes a difference, so thank you for --

16 BRENDAN SULLIVAN: Yeah.

17 JASON MARSHALL: -- going through the exercise.

18 BRENDAN SULLIVAN: Okay.

19 JASON MARSHALL: I'm comfortable with proceeding.

20 BRENDAN SULLIVAN: Okay, great. All right.

21 Proceed.

22 NIEN-HE HSIEH: So everything's okay then, to

1 proceed?

2 BRENDAN SULLIVAN: Where were we?

3 NIEN-HE HSIEH: Oh, no, no, no, I just want to  
4 make sure. Is it -- so it's okay, then, so we can -- so we  
5 don't -- we can sort of proceed, then, is that right? Just  
6 sort of explain the situation then, is that right?

7 BRENDAN SULLIVAN: I'm sorry. I didn't get half  
8 of that what you said.

9 NIEN-HE HSIEH: I'm sorry, sir. So I apologize.  
10 I'm sort of a bit confused. So it's okay for me to explain?

11 BRENDAN SULLIVAN: You're okay to go ahead --

12 NIEN-HE HSIEH: Okay.

13 BRENDAN SULLIVAN: -- with the special permit.

14 NIEN-HE HSIEH: Great. No, no, thank you. Thank  
15 you very much.

16 BRENDAN SULLIVAN: Yep.

17 NIEN-HE HSIEH: I appreciate that. And thanks to  
18 Olivia for her help in sorting this out. So basically, the  
19 deck at the back of our house is in poor condition and is  
20 falling apart.

21 And so, when we discovered that to repair the deck  
22 we needed to apply for a special permit because it was built

1 with a variance, what we thought we would do is sort of  
2 square off the edges a little bit and then simply add a  
3 small extension to the back by a foot that would not impact  
4 our neighbors -- as we have spoken to you about -- but  
5 certainly would make the deck much more useable on the  
6 second floor.

7 And then at the same time, would want to build  
8 sort of a deck at the ground level to make that space more  
9 usable as well in terms of reconfiguring the steps from the  
10 back door unit.

11 So we don't think it should impact our neighbors'  
12 views or effect anything for them. And certainly, if we  
13 were able to do this, would add a great deal of benefit,  
14 usability and utility to the back of the house.

15 BRENDAN SULLIVAN: Okay. I might ask Olivia to  
16 pull up the -- there's a photo that was submitted with the  
17 application -- yeah, that's sort of one picture. And then  
18 if we could pull up what is proposed, which is Sheet A30, or  
19 that right there, yeah. So gives you a perspective of it.  
20 Okay. Anything else to add at this point?

21 NIEN-HE HSIEH: No. I'm certainly happy to answer  
22 any questions and --

1 BRENDAN SULLIVAN: Okay. Any -- Jim Monteverde,  
2 any questions?

3 JIM MONTEVERDE: No questions.

4 BRENDAN SULLIVAN: Laura, any questions?

5 LAURA WERNICK: No questions, thank you.

6 BRENDAN SULLIVAN: Wendy?

7 WENDY LEISERSON: No questions.

8 BRENDAN SULLIVAN: Jason Marshall?

9 JASON MARSHALL: No questions.

10 BRENDAN SULLIVAN: And I have no questions. Let  
11 me open it to public comment. Any member of the public who  
12 wishes to speak should now click the button that says,  
13 "Participants," and then click the button that says, "Raise  
14 hand."

15 If you are calling in by phone, you can raise your  
16 hand by pressing \*9 and unmute or mute by pressing \*6, and  
17 you'll have up to three minutes in which to speak. There's  
18 nobody calling in. We are in receipt of correspondence.

19 "To whom it may concern, as abutters to 2  
20 Ellsworth Park, we write in support of the property owners  
21 in their application to the Board of Zoning Appeals for a  
22 variance to rebuild a deck at the rear of their house.



1            "They have discussed their plan with us to rebuild  
2 the deck to the existing width and one foot further out from  
3 the back of the house.

4            "Signed 16 Ellsworth and 14 to 16 Ellsworth."

5            There is also correspondence from the Mid  
6 Cambridge Neighborhood Conservation on the Certificate of  
7 Non-applicability.

8            "The Mid Cambridge Neighborhood Conservation  
9 hereby certifies in order of establishing said district that  
10 the work described below does not involve any activity  
11 requiring issuance of a Certificate of Appropriateness or  
12 Hardship.

13           "All improvement shall be carried out as shown in  
14 the plans and specifications submitted by the applicant,  
15 except as modified, and approved plans and specifications  
16 are incorporated by reference into this certificate."

17           And that is basically the sum and substance of any  
18 correspondence. I will close public comment, send it back  
19 to the petitioner. Anything else to add, or --

20           NIEN-HE HSIEH: No. I appreciate it.

21           BRENDAN SULLIVAN: No, okay. That's great. Okay.  
22 Any further questions of the petitioner, or ready for a

1 motion?

2 JIM MONTEVERDE: Ready.

3 BRENDAN SULLIVAN: Ready for a motion. Seeking to  
4 replace a second-floor deck with the expansion and to build  
5 a near grade-level deck directly below it. Let me make a  
6 motion, then, to grant the relief requested as per the  
7 application, the dimensional form, and the drawings  
8 initialed by the Chair.

9 The Board finds under Section 8.22.d that the  
10 Board may grant a special permit for the alteration or  
11 enlargement of a preexisting dimensionally nonconforming,  
12 detached single-family dwelling or two-family dwelling not  
13 otherwise permitted in Section 8.22.1 above, but not the  
14 alteration or enlargement of a preexisting, non-conforming  
15 use.

16 Provided that there is no change in use, and that  
17 any enlargement or alteration of such preexisting,  
18 nonconforming detached single-family dwelling or two-family  
19 may only increase a pre-existing dimensional non-conformity  
20 but does not create a new dimensional non-conformity.

21 In order to grant the special permit, the Board of  
22 Zoning Appeal is required to find and does find that the

1 alteration or enlargement shall not be substantially more  
2 detrimental than the existing non-conforming structure to  
3 the neighborhood, and that the alteration or enlargement  
4 satisfies the criteria in 10.43.

5 Under 10.43, special permits will normally be  
6 granted where specific provisions of this ordinance are met,  
7 except when particulars of the location or use not generally  
8 true of the district or the uses permitted in it would cause  
9 granting such special permit to be a detriment to the public  
10 interest. It appears that the requirements of the Ordinance  
11 can be met with the granting of the special permit.

12 That traffic generated or patterns of access or  
13 egress would not cause congestion, hazard, or substantial  
14 change in the established neighborhood character.

15 The Board notes that it is an existing house that  
16 -- you know, has fallen into disrepair, and that the  
17 proposed work is really a rebuilding slight expansion, which  
18 will allow more outdoor space and a building of a ground  
19 level, which would be a benefit to any occupant of the  
20 structure.

21 The Board finds that continued operation of or  
22 development of adjacent uses, as permitted in the Zoning

1 Ordinance, would not be adversely affected by the nature of  
2 the proposed use.

3 The Board notes the letter of support from an  
4 abutter. There would not be any nuisance or hazard created  
5 to the detriment of the health, safety, and/or welfare of  
6 the occupant of the proposed use -- in fact, the proposed  
7 use would enhance the health and safety of any occupant of  
8 the structure.

9 And that the proposed use would not impair the  
10 integrity of the district or adjoining district, or  
11 otherwise derogate from the intent and purpose of the  
12 ordinance to allow homeowners to improve their property and  
13 to make it far more livable.

14 And the Board finds that the requested relief is a  
15 fair and reasonable request.

16 On the motion, then, to grant the special permit,  
17 Wendy Leiserson?

18 WENDY LEISERSON: I vote in favor.

19 BRENDAN SULLIVAN: Jim Monteverde?

20 JIM MONTEVERDE: In favor.

21 BRENDAN SULLIVAN: Laura Wernick?

22 LAURA WERNICK: In favor.

1 BRENDAN SULLIVAN: Jason Marshall?

2 JASON MARSHALL: In favor.

3 BRENDAN SULLIVAN: And Brendan Sullivan yes.

4 [All vote YES]

5 BRENDAN SULLIVAN: On the five affirmative votes,  
6 the special permit is granted. Good luck.

7 NIEN-HEI HSIEH: Thank you very much. And thanks  
8 to all the Staff who have been very helpful as well.

9 BRENDAN SULLIVAN: All right. They're the best.  
10 Thank you.

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(8:02 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Laura Wernick, Jason Marshall and Wendy Leiserson

BRENDAN SULLIVAN: The Board will now hear Case No. 187648 -- 65 Foster Street. Whitney and Christopher, if you introduce yourself for the record?

CHRISTOPHER BINGHAM: Yes, it's Christopher Bingham here and Whitney Allen. And we're the homeowners at 65 Foster and residents for 23 years.

BRENDAN SULLIVAN: Okay. And tell us what you'd like to do.

CHRISTOPHER BINGHAM: So we have a proposal to build a 55 square-foot single-story addition to add a bathroom to the first floor. The house is a two-story house now, three bedrooms. There's a single bathroom upstairs. And so, we would like to add a second bathroom on the first floor.

BRENDAN SULLIVAN: Okay.

CHRISTOPHER BINGHAM: The space proposed to use for this -- I think if you go to the second page -- there's

1 a bit of a, you can see sort of that the -- yeah, top center  
2 here just the left where you see the shed, there's this  
3 empty space bounded on three sides -- on two sides by our  
4 house and the third side by the neighbor's garage.

5 So we propose to use -- utilize that space for  
6 this addition. The addition will be below the existing  
7 rooflines on all sides, and then does not protrude beyond  
8 that existing space, where the cursor is right now. So  
9 there's no impact on site lines or access from any  
10 direction.

11 BRENDAN SULLIVAN: Okay. If we can pull up the  
12 one slide?

13 CHRISTOPHER BINGHAM: So yeah, so this --

14 BRENDAN SULLIVAN: Yeah.

15 CHRISTOPHER BINGHAM: -- this picture is rotated  
16 90 degrees from the one that we just saw, and that sort of  
17 circled area there is showing the -- where the bathroom  
18 would be.

19 BRENDAN SULLIVAN: Okay. If we could pull up A21?  
20 Yep. No, that's not it. Okay, right there. Yeah.

21 CHRISTOPHER BINGHAM: Yeah, so that's the view  
22 sort of looking straight at the house. That's the

1 neighbor's garage, which you can see is the structure on the  
2 right.

3 And then the sort of lower structure just to the  
4 left of the existing garage is the -- is the proposed  
5 extension. The higher roofline just to the left of that  
6 garage is the existing part of -- existing roofline of the  
7 house, of our house.

8 BRENDAN SULLIVAN: Okay. All right. Any  
9 questions by members of the Board? Jim Monteverde?

10 JIM MONTEVERDE: No questions.

11 BRENDAN SULLIVAN: Wendy Leiserson?

12 WENDY LEISERSON: No questions.

13 BRENDAN SULLIVAN: Laura Wernick?

14 LAURA WERNICK: No questions.

15 BRENDAN SULLIVAN: Jim -- I'm sorry, Jason  
16 Marshall?

17 JASON MARSHALL: No questions.

18 BRENDAN SULLIVAN: And I have no questions either.  
19 Let me open it to public comment. Any member of the public  
20 who wishes to speak should now click the button that says,  
21 "Participants," and then click the button that says, "Raise  
22 hand."



1           If you are calling in by phone, you can raise your  
2 hand by pressing \*9 and unmute or mute by pressing \*6.

3           OLIVIA RATAY: Seth Bruder?

4           SETH BRUDER: Hi. My name is Seth Bruder. I am  
5 -- along with my wife -- own and reside at 63 Foster Street.  
6 So our garage is the one that is right next to the proposed  
7 bathroom.

8           And we enthusiastically support the application  
9 and think it will -- you know, this is like a notch in their  
10 property, and it will be an improvement for everybody to  
11 have that there.

12           BRENDAN SULLIVAN: Great. Thank you for calling  
13 in. That's the only caller. We are in receipt of  
14 correspondence from Sophia Navickas -- N-a-v-i-c-k-a-s. I  
15 apologize if I butchered that.

16           "On behalf of 32 Spark Street we would like to  
17 express our support for our neighbors' petition for an  
18 addition of a bathroom to their home.

19           "Sincerely,

20           Sophia and Leon."

21           We are in receipt of Certificate of Non-  
22 applicability from the Half Crown-Marsh Neighborhood

1 Conservation District.

2 "The Half Crown-Marsh Neighborhood Conservation  
3 District hereby certifies in order that they are established  
4 and in order establishing said District that the work  
5 described below does not involve any activity requiring  
6 issuance of a Certificate of Appropriateness or Hardship."

7 They go on to list constructing a 55 square foot,  
8 single-story addition for a bathroom, and the work is not  
9 visible from the street.

10 "All improvements shall be carried out as shown on  
11 the plans and specifications submitted by the applicant,  
12 except as approved plans and specifications are incorporated  
13 by reference to this certificate. Date of Certificate:  
14 08/04/22."

15 And that's the sum and substance of any  
16 correspondence. And I will close the public comment part.  
17 Let me turn it back to the petitioner. Any final words at  
18 all, or --

19 SETH BRUDER: No, I don't think so.

20 BRENDAN SULLIVAN: Okay. any questions by members  
21 of the Board, or are we ready for a vote?

22 LAURA WERNICK: Ready.

1           BRENDAN SULLIVAN: Let me make a motion, then, to  
2 grant the special permit to construct a 55-square-foot  
3 single-story addition for a bathroom, as per the  
4 application, supporting statements to dimensional form, and  
5 the drawings entitled, '65 Foster Street, Progress Set July  
6 21, 2021 -- July 21, 2021, initialed by the Chair, on the  
7 condition that the work comply with the drawings and  
8 dimensional forms, supporting statements.

9           In granting a special permit, the Board may grant  
10 one for the alteration or enlargement of a preexisting  
11 dimensionally nonconforming, detached single-family dwelling  
12 or two-family dwelling not otherwise permitted in 8.22.1,  
13 but not the enlargement or alteration of a preexisting,  
14 nonconforming use...

15           Provided that there is no change in use, and that  
16 any enlargement or alteration of a preexisting,  
17 nonconforming detached single-family or two-family may only  
18 increase a preexisting dimensional nonconformity but does  
19 not create a new dimensional nonconformity.

20           In order to grant the special permit, the Board of  
21 Zoning Appeal is requested to find and does find that the  
22 alteration or enlargement shall not be substantially more

1 detrimental than the existing nonconforming structure to the  
2 neighborhood, and that the alteration or enlargement  
3 satisfies the criteria in 10.43.

4 Under 10.43, special permits will normally be  
5 granted where specific provisions of the ordinance are met,  
6 except when particulars of the location or use not generally  
7 true of the district or uses permitted in it would cause  
8 granting of such permit to be the detriment of the public  
9 interest.

10 It appears that the requirements of the ordinance  
11 can be met with the granting of the special permit. That  
12 traffic generated, or patterns of access or egress would not  
13 cause congestion, hazard, or substantial change in the  
14 established neighborhood character.

15 The Board finds that continued operation of or  
16 development of adjacent uses, as permitted in the Zoning  
17 Ordinance, would not be affected by the nature of the  
18 proposed use. The Board notes the comment by the next-door  
19 neighbor who has called in to voice its support.

20 The Board finds that there would not be any  
21 nuisance or hazard created to the detriment of the health,  
22 safety and/or welfare of the occupants of the proposed use

1 -- in fact, it would be enhanced.

2 The Board finds that the proposed use would not  
3 impair the integrity of the district or adjoining district,  
4 or otherwise derogate from the intent and purpose of the  
5 ordinance to allow the petitioners even by using the  
6 granting of the special permit the ability to improve,  
7 update their property.

8 And the Board finds that the proposal before it is  
9 a fair and reasonable request.

10 On the motion, then, to grant the relief  
11 requested, Laura Wernick?

12 LAURA WERNICK: In favor.

13 BRENDAN SULLIVAN: Wendy Leiserson?

14 WENDY LEISERSON: In favor.

15 BRENDAN SULLIVAN: Jim Monteverde?

16 JIM MONTEVERDE: In favor.

17 BRENDAN SULLIVAN: Jason Marshall?

18 JASON MARSHALL: In favor.

19 BRENDAN SULLIVAN: In favor.

20 [All vote YES]

21 BRENDAN SULLIVAN: Five affirmative votes, the  
22 special permit is granted. Good luck.

1                   CHRISTOPHER BINGHAM: Great. Thank you very much.

2    Have a good evening.

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(8:11 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Laura Wernick, Jason Marshall and Wendy Leiserson

BRENDAN SULLIVAN: The Board will hear Case No. 187324 -- 60 Rindge Avenue.

CHRISTOPHER ALPHEN: Good evening, Mr. Chairman. With me, for the record Attorney Christopher Alphen, Blatman, Bobrowski, Haverty & Silverstein. Also with me is the members of SKA; and Karina, who's the architect for the project; and the applicants, Leah, and Bryce.

We are before you tonight for a special permit and a variance. We need the special permit because, surprisingly, we have a pre-existing, non-conforming structure and we are not creating or worsening any non-conformities. But we are extending one portion of the property, which is in the non-conforming setback, which is the kitchen. So we need a special permit under the Ordinance to extend or alter the pre-existing, non-conforming structure.

Almost to be viewed separately, we need a

1 variance. And we need a variance in order to demo the  
2 garage and replace it with two parking spaces in the  
3 southwest portion of the property that doesn't meet the  
4 setback requirements. So we need a variance pursuant to  
5 6.44.1.

6 So we don't -- of course we don't need the  
7 variance to taken down from the preexisting, nonconforming,  
8 detached garage, but we do need a variance to relocate those  
9 parking spaces in an area that doesn't meet the setbacks.

10 So with that, I will turn it over to Karina, who  
11 will go through the plans with you.

12 KARINA MELO: Good evening, members of the Board.  
13 This is Karina Melo from SKA. I'm here with my colleagues,  
14 and I'm happy to walk you through the floor plans. Starting  
15 from the cover page, you'll find the top left existing part  
16 of the house, and to the top right, a proposed render of the  
17 house

18 Next slide, please?

19 On this slide you'll find on the bottom left an  
20 existing parcel plan of the corner lot at 60 Rindge  
21 highlighted in yellow.

22 Next slide, please?



1           Here you'll find our FAR calculations, where we're  
2 existing FAR of 0.44, show a proposed FAR of 0.49. And also  
3 included is our open space calculation, where we're going  
4 from 60 percent to 67 percent.

5           And our existing building height is at 30 feet 7  
6 inches, and we're increasing that height 32 feet 11 inches,  
7 which is below the maximum requirement of 35 feet from the  
8 Zoning Ordinance.

9           Next slide, please?

10          Here you'll find to the left an existing render of  
11 the house. And to the right a proposed render of the house.  
12 The proposed dormers have been designed standing in the  
13 space. This way we just see the impact from the street  
14 view. And also, you'll see on the bottom the proposed two  
15 parking spaces from Rindge Ave.

16          Next slide, please?

17          Here in this existing site plan, you find the  
18 required setback lines highlighted in red.

19          Next slide, please?

20          And in this proposed site plan, you'll see the  
21 projection of the existing garage to be demolished, along  
22 with the two parking spots below highlighted in yellow. The

1 proposed driveway will maintain the existing 2'9" from the  
2 property line and will extend over to Haskell Street to  
3 provide space for a second parking spot.

4 Next slide, please?

5 Here you're going to find the shadow studies  
6 showing no impacts to the abutters.

7 Next slide, please?

8 Here you'll find on the top an existing photo of  
9 the streetscape looking from Rindge Ave, and at the bottom a  
10 proposed streetscape of Rindge Ave showing the proposed  
11 dormers and a new design for the front porch, along with the  
12 two parking spaces looking from Rindge Ave.

13 Next slide, please?

14 Here on the top you'll find an existing photo of  
15 the streetscape looking from Haskell Street, and at the  
16 bottom our proposed streetscape from Haskell Street showing  
17 the change from the gable roof -- going to a gable roof, and  
18 the two windows flanking the chimney are being enlarged in  
19 height, no zoning relief required.

20 Next slide, please?

21 Here you'll find on the top left an existing floor  
22 plan of the basement, and on the bottom center a proposed

1 floor plan of the basement. No zoning relief required.

2 Next slide, please?

3 Here you'll find on the top left an existing floor  
4 plan of the first floor. Highlighted in red is the area  
5 where we're seeking relief tonight. And on the bottom  
6 center floor plan, you'll have the proposed work within that  
7 extended area. Please note that the bump out, it's been  
8 extended sidewise, and we're maintaining the existing depth,  
9 or the existing building setback.

10 Next slide, please?

11 Here's an existing plan of the second floor on the  
12 top and on the bottom, a proposed floor plan of the second  
13 floor. Highlighted in red, it's just a portion of the roof  
14 where we're seeking relief in the floor below.

15 Next slide, please?

16 Here you'll find on the top left an existing floor  
17 plan of the third floor. And on the bottom right a proposed  
18 floor plan of the third floor. The proposed two dormers  
19 have been designed under the Cambridge Guidelines being 50  
20 feet wide.

21 Next slide, please?

22 Here you'll find on the top left an existing roof

1 plan, and on the bottom center a proposed roof plan showing  
2 the two proposed dormers with zoning with solar panels. I  
3 believe no zoning relief required.

4 Next slide, please?

5 You'll find the existing and proposed elevations  
6 from Rindge Ave showing the demolition of the garage and the  
7 proposed two dormers.

8 Next slide, please?

9 You'll find at the top left an existing elevation  
10 from the side yard, and on the bottom right a proposed  
11 elevation from the side yard. Please note that the bump out  
12 that is being extended is maintaining the alignment with the  
13 gridline gate. So the existing setback, it's been  
14 maintained.

15 Next slide, please?

16 Here you'll find existing and proposed elevations  
17 from the rear yard, where we can see the expansion of the  
18 kitchen bump out in between grid line 2 and 5.

19 Next slide, please?

20 And here you have the existing and proposed  
21 elevation looking from Haskell. No zoning relief requested.

22 Next slide, please?

1           In this slide, please refer to the bottom section  
2 to the left, to see the projection of the existing roof  
3 highlighted in red, versus the proposed between -- along  
4 with the dormers being at 32'11", which is below the  
5 requirement of 35'.

6           Next slide, please?

7           This is the end of our presentation. Please feel  
8 free to scan this QR code. Here a render of the proposed  
9 work and below you're going to find supplementary pages,  
10 which includes the certified plot plan and the dimensional  
11 form. Thank you.

12           BRENDAN SULLIVAN: Okay, so -- all right, I was  
13 just going to say the dimensional form. So you're adding  
14 104 square feet total?

15           KARINA MELO: Correct.

16           BRENDAN SULLIVAN: Oh, I'm sorry. Wait a minute,  
17 now. I have the wrong form here, then.

18           KARINA MELO: We have 234, 235 -- 235 square feet.

19           BRENDAN SULLIVAN: All right. The wrong form is  
20 in the --

21           KARINA MELO: No, no, that should be the correct  
22 dimensional form. Yeah. We're going from 2048 to 2285.

1 That's the right form, yeah.

2 BRENDAN SULLIVAN: All right. Let me get to the  
3 -- oh, all right. There was a revised form. I see. Okay.

4 CHRISTOPHER ALPHEN: Yeah, after there was a --

5 BRENDAN SULLIVAN: All right. So there are no new  
6 nonconformities; hence you can ask for relief under 8.22d  
7 regarding the main house. And the variance is the fact that  
8 you're taking down the garage, but that you're parking  
9 within the fairly stable, and that triggers the variance  
10 relief, is that correct, Counselor?

11 CHRISTOPHER ALPHEN: That is absolutely correct,  
12 yep.

13 BRENDAN SULLIVAN: Okay.

14 CHRISTOPHER ALPHEN: You have it right.

15 BRENDAN SULLIVAN: All right. Let me open it up  
16 to the Board, to see if they have any questions. Jim  
17 Monteverde, any questions?

18 JIM MONTEVERDE: Yes, I have two. Can you go to  
19 the sheet that showed the -- I guess the upper floor plan,  
20 or one that shows the dormer? I couldn't read the dimension  
21 to the dormer, if you could help me there, please?

22 CHRISTOPHER ALPHEN: 15B?

1           JIM MONTEVERDE: 15E. So there are two 15-foot  
2 dormers, one on each side of the structure, correct?

3           KARINA MELO: Correct.

4           JIM MONTEVERDE: Okay. And my first question was  
5 on your site plan when you take down the garage and you then  
6 place the parking toward the street, is there any reason why  
7 they can't be pushed back and keep the front yard setback?

8           KARINA MELO: So in reality, we were trying to  
9 gain space -- more open space and green area. And making it  
10 that far will be not in compliance with the rear setback  
11 yard, because of the 18-foot length that we will need to  
12 make that happen.

13          JIM MONTEVERDE: So to be compliant you'd have to  
14 park one car in front of the other within --

15          CHRISTOPHER ALPHEN: Essentially that --  
16 potentially, right. And it just doesn't make logical sense  
17 to have them stacked up like that. And, as Karina said, you  
18 end up losing a lot of valuable green space in their back  
19 yard by setting it up that way.

20          JIM MONTEVERDE: Mm-hm. Okay. Thank you.

21          BRENDAN SULLIVAN: Wendy, any questions?

22          WENDY LEISERSON: Not at this time.

1 BRENDAN SULLIVAN: Laura, any questions.

2 LAURA WERNICK: Could you just show the section  
3 through the dormers again? It looked like they touched at  
4 the top. It is a continuous roof, or is there a break  
5 between the two? There's a little bit of a break, okay.

6 CHRISTOPHER ALPHEN: I believe it's 5'6 that  
7 they're below the ridge.

8 KARINA MELO: Yeah. 1 point (sic), 1'3" below the  
9 proposed ridge.

10 LAURA WERNICK: Okay. And that's in the core  
11 zone, right? I don't recall what the exact -- I think there  
12 is some dimensional requirement from the peak to the top of  
13 the dormer. I don't know what that is.

14 KARINA MELO: It's one foot.

15 SAM KACHMAR: It's one foot, and so, there --

16 LAURA WERNICK: Okay.

17 KARINA MELO: Yeah.

18 SAM KACHMAR: -- more than --

19 LAURA WERNICK: Okay. Great. That's all. Thank  
20 you.

21 BRENDAN SULLIVAN: All right. Jason, any  
22 questions?



1           JASON MARSHALL: No questions at this time. I  
2 thought the application was clear and well-prepared and  
3 appreciate the explanations around hardship. So nothing  
4 now. Thank you.

5           BRENDAN SULLIVAN: Okay. And Wendy, I'm sorry. I  
6 asked you, did I? Yes?

7           WENDY LEISERSON: Yes, you asked me.

8           BRENDAN SULLIVAN: Okay. And I have no further  
9 questions. Let me open it to public comment. Any member of  
10 the public who wishes to speak should now click the button  
11 that says, "Participants," and then click the button that  
12 says, "Raise hand."

13           If you are calling in by phone, you can raise your  
14 hand by pressing \*9 and unmute or mute by pressing \*6.

15           There's nobody calling in. We are in receipt of  
16 correspondence from David Albert. You have -- and this is  
17 to Bryce Carey regarding plans for 60 Rindge Avenue.

18           "You have my support for everything in this  
19 variance and special permit. My only concern is the fence,  
20 which is not part of the permit. Just hoping it will stay  
21 as open and short as possible out at the sidewalk. I'm sure  
22 you will want a taller one for back yard part where the

1 garage now is, where your kids will be playing. And that of  
2 course is not a problem."

3 Bryce responds, "Great feedback. Thank you so  
4 much for bringing this to our attention. It makes it a ton  
5 of sense. Indeed, our kids use that sidewalk daily as well.  
6 We will work with our architect to develop some ideas around  
7 that corner in particular. Not pressure, but it would be  
8 great to have your support for the BZA."

9 And I think that is the sum and substance of any  
10 correspondence. Yes, that is. Well, no, there is from Jean  
11 and John.

12 "Let me start by saying, I do not oppose work is  
13 to be going -- to be performed at 60 Rindge Avenue.

14 "When I spoke with Bryce, the owner of 60 Rindge  
15 Avenue, he told me he was not sure what the work was going  
16 to be done. The demolishing of the garage is listed in the  
17 BZA, so I wanted to send you my comments and concern.

18 "My comments and concern before you demolish the  
19 garage: Will the garage be tested for asbestos? On  
20 occasion the concrete and cinder block years ago had  
21 asbestos mixed in to prevent cracking and loosening."

22 And it goes on about the contractor to prevent

1 dust. And that is also a construction matter. Are you  
2 aware of the letter from Jean Libitz-Flynn?

3 CHRISTOPHER ALPHEN: We are. And we've been  
4 actually working with them directly with the applicant's  
5 contractors to make sure that all the conditions are  
6 satisfactory to the neighbors.

7 BRENDAN SULLIVAN: Yeah, okay. All right. That  
8 is the sum and substance of any correspondence. I will  
9 close the public comment part. Anything else, Chris, before  
10 we turn it back over to the Board?

11 CHRISTOPHER ALPHEN: nothing to add, Mr. Chairman,  
12 thank you.

13 BRENDAN SULLIVAN: All right. Let me close the  
14 presentation part. Any comments by members of the Board or  
15 should we take it to a vote? My only comment, I guess,  
16 would be that Danny Hayes, former Mayor, City Councillor for  
17 many, many years lived there, and I go by the house many,  
18 many times. I'm not sure if he ever parks in the garage. I  
19 think historically that people have always parked in the  
20 spot that is now being proposed. So --

21 CHRISTOPHER ALPHEN: A fine observation, a fine  
22 observation and that's an observation made by the clients as

1 well.

2 BRENDAN SULLIVAN: Well, I think the -- yeah, the  
3 historical use of it has always been having cars parked  
4 there, because people tend not to use their garages. They  
5 become catch-alls for whatever they become catch-alls for.  
6 So let me take the variance first, which is to allow parking  
7 within the front yard setback, and let me make a motion,  
8 then, to grant the relief requested.

9 The Board finds that a literal enforcement of the  
10 provisions of the Ordinance would involve a substantial  
11 hardship to the petitioner, because it would preclude the  
12 petitioner from allocating other space to open space, which  
13 is a benefit to anybody who occupies the building.

14 Also, it would have a beneficial effect to  
15 adjoining properties to have more green and more open space.  
16 It would be able -- the granting of this relief to take down  
17 the garage and to delegate that to open space would have a  
18 beneficial effect, because it removes an unsightly structure  
19 that has fallen into disrepair, and whose usefulness has  
20 really ceased to exist.

21 The Board finds that the hardship is owing to the  
22 fact that this is a corner lot, so it's encumbered by the

1 divisions of the existing ordinance, and that the premises  
2 lack space to provide new parking area that would meet the  
3 dimensional requirement, and that the location of the  
4 existing old garage has created somewhat of a hardship  
5 related to any kind of maintenance or repair and is owing  
6 directly to the shape of the lot.

7           The Board finds that desirable relief may be  
8 granted without substantial detriment to the public good,  
9 and that parking -- placing two parking spaces, which I  
10 believe has historically been the historical use of the  
11 property, in lieu of the existing non-conforming garage will  
12 not be any substantial detriment to the public good; that  
13 the proposal to substitute the garage into an open green  
14 space has a beneficial effect to all.

15           And that desirable relief may be granted without  
16 substantial detriment to the public good or nullifying or  
17 substantially derogating from the intent and purpose of the  
18 ordinance to allow the petitioner to repurpose the side yard  
19 and the back yard of the property to their benefit, and any  
20 occupant, and to have a more open space is a benefit to all.

21           On the motion, then, to grant the relief requested  
22 as per the dimensional requirements -- the dimensional form,

1 supporting statement and plan as submitted to the Board, and  
2 Jim Monteverde?

3 JIM MONTEVERDE: In favor.

4 BRENDAN SULLIVAN: Wendy Leiserson?

5 WENDY LEISERSON: In favor.

6 BRENDAN SULLIVAN: Laura Wernick?

7 LAURA WERNICK: In favor.

8 BRENDAN SULLIVAN: Jason Marshall?

9 JASON MARSHALL: In favor.

10 BRENDAN SULLIVAN: Yes.

11 [All vote YES]

12 BRENDAN SULLIVAN: Five affirmative votes, the  
13 variance -- that portion of the work is granted. On the  
14 special permit, the special permit would be to allow for the  
15 additions as per the application -- dimensional form,  
16 supporting statements and the drawings initialed by the  
17 Chair.

18 The Board makes a motion, then, to grant the  
19 relief requested, provided that the work comply with the  
20 supporting statements, dimensional form and the drawings  
21 entitled, "Carey Cohen Residence, 60 Rindge Avenue,"  
22 prepared by SKA Architects, and initialed by the Chair.

1           The Board finds that in all districts, the Board  
2 may grant a special permit for the alteration or enlargement  
3 of a pre-existing dimensionally non-conforming, detached  
4 single-family dwelling or two-family dwelling not otherwise  
5 permitted in 8.22.1, but not the alteration or enlargement  
6 of a pre-existing, non-conforming use.

7           Provided that there is no change in use, and that  
8 any enlargement or alteration of such preexisting,  
9 nonconforming detached single-family dwelling or two-family  
10 dwelling may only increase a pre-existing dimensional non-  
11 conformity but does not create a new dimensional non-  
12 conformity.

13           In order to grant the special permit, the Board of  
14 Zoning Appeal is required to find -- and does find -- that  
15 the alteration or enlargement shall not be substantially  
16 more detrimental than the existing non-conforming structure  
17 to the neighborhood, and that the enlargement or alteration  
18 satisfies the criteria in 10.43.

19           Under 10.43, special permits will normally be  
20 granted, where specific provisions of the ordinance are met,  
21 except when the particulars of the location are used not  
22 generally through the district or uses permitted in it would

1 cause granting of the special permit to be a detriment to  
2 the public interest.

3 The Board finds it appears that the requirements  
4 of the ordinance can be met with the granting of the special  
5 permit.

6 Traffic generated or patterns of access or egress  
7 would not cause congestion, hazard, or substantial change in  
8 the established neighborhood character.

9 The Board finds that continued operation of or  
10 development of adjacent uses, as permitted in the Zoning  
11 Ordinance, would not be adversely affected by the nature of  
12 the proposed use, and references the letters of support from  
13 adjoining properties.

14 There would not be any nuisance or hazard created  
15 to the detriment of the health, safety, and/or welfare of  
16 the occupants of the proposed use -- in fact the revised and  
17 the repurposing, remodeling of this -- updating of this  
18 structure would be a great benefit to their health, safety  
19 and welfare of any occupant who uses this property.

20 And that the proposed use would not impair the  
21 integrity of the district or adjoining district, or  
22 otherwise derogate from the intent and purpose of the



1 ordinance to allow homeowners to improve their property.

2 The Board finds that the proposal before it is a  
3 fair and reasonable request.

4 On the motion, then, to grant the special permit  
5 as per the proposal, Jim Monteverde?

6 JIM MONTEVERDE: In favor.

7 BRENDAN SULLIVAN: Wendy Leiserson?

8 WENDY LEISERSON: In favor.

9 BRENDAN SULLIVAN: Laura Wernick?

10 LAURA WERNICK: In favor.

11 BRENDAN SULLIVAN: Jason Marshall?

12 JASON MARSHALL: In favor.

13 BRENDAN SULLIVAN: And Brendan Sullivan yes.

14 [All vote YES]

15 BRENDAN SULLIVAN: Five affirmative votes, the  
16 special permit is granted.

17 CHRISTOPHER ALPHEN: Thank you very much.

18 BRENDAN SULLIVAN: Yep, good luck.

19 COLLECTIVE: Thank you so much.

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(8:35 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Laura Wernick, Jason Marshall and Wendy Leiserson

BRENDAN SULLIVAN: The Board will hear Case No. 188397 -- 236 Prospect Street.

JOSEPH BARBADO: Hello. Joseph Barbado here representing the Palmer family at 236 Prospect Street. Thank you to the Chair and Board for your time. We are seeking a special permit to relocate an existing window on an existing non-conforming façade.

BRENDAN SULLIVAN: Okay. If Olivia can pull up All? It appears that you're rearranging the interior layout of it. Is that what it is or you're just -- yes.

JOSEPH BARBADO: Yep, yeah, exactly. There's an interior renovation and it's small spaces. So we're moving one thing, we can move another.

BRENDAN SULLIVAN: Okay. Seems pretty straightforward. Any questions by members of the Board? Let me open it to public comment, then. Any member of the public who wishes to speak should now click the button that

1 says, "Participants," and then click the button that says,  
2 "Raise hand."

3 If you are calling in by phone, you can raise your  
4 hand by pressing \*9 and unmute or mute by pressing \*6, and  
5 you'll have up to three minutes in which to comment. There  
6 appears to be nobody calling in. We are in receipt of  
7 correspondence from Elizabeth Palmer.

8 "Hi, Joe. Here is the e-mail from John Reilly.  
9 'To whom it may concern, we are abutters to 236 Prospect  
10 Street, Cambridge, and I support the relocation of the  
11 first-floor window. Please find this e-mail as letter of  
12 support from us. Thanks, John and Liese Reilly."

13 That is the sum and substance of the  
14 correspondence. I will close the public comment part.  
15 Anything else to add, or think you've said it all, Joe, have  
16 you?

17 JOSEPH BARBADO: That's it. It's pretty  
18 straightforward.

19 BRENDAN SULLIVAN: Okay. Let me make a motion,  
20 then, to grant the relief requested, which is a special  
21 permit. Under 8.22.d, the Board finds that the Board may  
22 grant a special permit for the alteration or enlargement of

1 a pre-existing dimensionally non-conforming, detached  
2 single-family dwelling or two-family dwelling not otherwise  
3 permitted in Section 8.22.1, but not the alteration or  
4 enlargement of a preexisting, nonconforming use.

5           Provided that there is no change in use, and that  
6 any enlargement or alteration of such preexisting,  
7 nonconforming detached single-family dwelling or two-family  
8 dwelling may only increase a pre-existing dimensional non-  
9 conformity but does not create a new dimensional non-  
10 conformity.

11           In order to grant the special permit, the Board of  
12 Zoning Appeal is required to find -- and does find -- that  
13 the alteration or enlargement shall not be substantially  
14 more detrimental than the existing non-conforming structure  
15 to the neighborhood, and that the alteration or enlargement  
16 satisfies the criteria in Section 10.43.

17           Under 10.43, special permits will normally be  
18 granted where specific provisions of this ordinance are met,  
19 except when particulars of the location or use not generally  
20 true of the districts or the uses permitted in it would  
21 cause granting of such permit to be the detriment of the  
22 public interest, because it appears that the requirements of

1 the Ordinance can be met with the granting of the special  
2 permit.

3 The Board finds that traffic generated or patterns  
4 of access or egress would not cause congestion, hazard, or  
5 substantial change in the established neighborhood  
6 character. The relocation of the window -- just going what,  
7 two or three feet? It's going --

8 JOSEPH BARBADO: Two feet, two inches lateral.

9 BRENDAN SULLIVAN: -- yeah, will not cause any  
10 kind of congestion or change in the established neighborhood  
11 character.

12 Continued operation of or development of adjacent  
13 uses, as permitted in the Zoning Ordinance, would not be  
14 adversely affected by the nature of the proposed use. The  
15 Board notes by reference the letter from an abutter giving  
16 full support.

17 There would not be any nuisance or hazard created  
18 to the detriment of the health, safety, and/or welfare of  
19 the occupants of the proposed use -- in fact, centering this  
20 window on the newly created room -- dimensional room -- will  
21 have a direct benefit for air and fenestration -- air, light  
22 and fenestration.

1           For other reasons, the proposed use would not  
2   impair the integrity of the district or adjoining district,  
3   or otherwise derogate from the intent and purpose of the  
4   ordinance to allow petitioners -- homeowners to improve the  
5   property, and the Board finds that the proposal is a fair  
6   and reasonable request.

7           I might add, though, that this is within three  
8   feet of the property line on the adjoining building. So we  
9   can give zoning relief for it; there may be able to building  
10   code issue, even though it's in the existing opening,  
11   relocating it into a new opening -- but the Building  
12   Inspector will have to chime in on that.

13           JOSEPH BARBADO: We're aware and are speaking to  
14   the Building Inspector about that.

15           BRENDAN SULLIVAN: Great. Okay. So on the  
16   motion, then, to grant the special permit, Jim Monteverde?

17           JIM MONTEVERDE: In favor.

18           BRENDAN SULLIVAN: Wendy Leiserson?

19           WENDY LEISERSON: In favor.

20           BRENDAN SULLIVAN: Laura Wernick?

21           LAURA WERNICK: In favor.

22           BRENDAN SULLIVAN: Jason Marshall?

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JASON MARSHALL: In favor.

BRENDAN SULLIVAN: In favor.

[All vote YES]

BRENDAN SULLIVAN: Five affirmative votes, the special permit is granted. Good luck with it.

JOSEPH BARBADO: Thank you for your time.

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(8:41 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Laura Wernick, Jason Marshall and Wendy Leiserson

BRENDAN SULLIVAN: The Board will hear Case No. 185245, 1900 Massachusetts Avenue.

[Pause]

BRENDAN SULLIVAN: 1900 Mass. Avenue?

[Pause]

BRENDAN SULLIVAN: Well, let me leave this open, then. Let me make the motion, then, to continue this matter, and possibly hear it toward the end of the night or wait until the petitioner calls in.

On the motion, then, to recess this matter to later on in the evening, Jim Monteverde?

JIM MONTEVERDE: Agreed.

BRENDAN SULLIVAN: Wendy Leiserson?

WENDY LEISERSON: Agreed.

BRENDAN SULLIVAN: Laura Wernick?

LAURA WERNICK: Agreed.

BRENDAN SULLIVAN: Jason Marshall?



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JASON MARSHALL: Yes.

BRENDAN SULLIVAN: I agree.

[All vote YES]

BRENDAN SULLIVAN: Five affirmative votes, this matter is continued to further in the evening.

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(8:43 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Laura Wernick, Jason Marshall and Wendy Leiserson

BRENDAN SULLIVAN: The Board will hear Case No. 189578 -- 18 Rindge Avenue. Ms. Levin? 18 Rindge Avenue?

JUDITH LEVIN: Hello?

BRENDAN SULLIVAN: Yeah, okay, we can hear you now.

JUDITH LEVIN: Yeah. All right. Let me see if I can get back to the screen I was in. Hello. I'm having trouble connecting with you.

OLIVIA RATAY: Fine.

JUDITH LEVIN: Can you hear me?

BRENDAN SULLIVAN: Yeah.

OLIVIA RATAY: Yes.

BRENDAN SULLIVAN: Okay, we can hear you.

JUDITH LEVIN: Okay, no, it showed I was on hold. I'm sorry, I really had tried to log in so that I could present visuals or at least follow along and make sure that you have the visuals that are relevant to this, and I was

1 not able to do that. I was afraid that would happen.

2 BRENDAN SULLIVAN: That's all right. All right.  
3 Judith, if you could just introduce yourself, give your  
4 address for the record, that's all.

5 JUDITH LEVIN: Okay. My name is Judy Levin, I  
6 live at 18 Rindge Ave. I am the homeowner. It's a single-  
7 family dwelling that I -- for which I filed a petition for a  
8 permit because the house needs to be resided.

9 During this work, my best opportunity -- I have,  
10 you know, the opportune time to add some decorative windows  
11 I have recently restored. This is the time I would like to  
12 be able to fold this all into one job. Therefore, I require  
13 the special permit before the Building Department will grant  
14 me the building permit.

15 BRENDAN SULLIVAN: Okay. All right. So the ones  
16 that are x'd out, that's going away, and I don't know -- can  
17 you --

18 JUDITH LEVIN: Well, being replaced.

19 BRENDAN SULLIVAN: That would --

20 JUDITH LEVIN: The one, there's an X, I think it's  
21 -- there's a letter K next to it indicating that the kitchen  
22 window --

1           BRENDAN SULLIVAN: Okay, yes.

2           JUDITH LEVIN: -- that's one of them, okay. And I  
3 highlighted it in yellow, because what's going in there is a  
4 smaller, casement-style window.

5           The reason I'm changing that very large, broken  
6 old window to a casement is that will enable me eventually  
7 to make a work area in the kitchen at a height that makes  
8 sense for countertops.

9           BRENDAN SULLIVAN: Okay. All right. So you're  
10 replacing that window, and then you're also providing some  
11 pantry windows, is that correct?

12          JUDITH LEVIN: That's correct. There's currently  
13 a small window, which is not original either. There's a  
14 six-pane rectangular window. It's probably a cellar set.  
15 In any case, it's not original.

16          What I would like to do is take the triplet that I  
17 have restored and for which you have some drawings, mount it  
18 on thick piece of salvaged, old lumber onto a single sill,  
19 and mount it high enough on the wall that I will put -- can  
20 have storage cabinetry inside the pantry.

21          BRENDAN SULLIVAN: Okay.

22          JUDITH LEVIN: Not much -- a sink and a dishwasher

1 and a lot of broken junk.

2 BRENDAN SULLIVAN: Yeah. Okay.

3 JUDITH LEVIN: But --

4 BRENDAN SULLIVAN: All right.

5 JUDITH LEVIN: So there are three there, a triplet  
6 of arts and craft style windows, so they're not completely  
7 period appropriate, but they're nearly period appropriate.

8 BRENDAN SULLIVAN: Okay.

9 JUDITH LEVIN: And the other two are a square  
10 inside squares motif that's a Queen Anne style, which is  
11 completely consistent with what used to be here in the  
12 house. The larger of the two goes on the forward corner,  
13 where there once was a similar window. The smaller is  
14 intended as a new opening in the wall in the stairway going  
15 into the attic.

16 BRENDAN SULLIVAN: Okay. You've spoken to your  
17 neighbors regarding the addition of the windows and --

18 JUDITH LEVIN: I have. They love them [laughter]

19 BRENDAN SULLIVAN: Okay. Well, they're -- and  
20 they're also well aware of -- okay, any questions by members  
21 of the Board? Jim Monteverde?

22 JIM MONTEVERDE: No questions.

1 BRENDAN SULLIVAN: Wendy?

2 WENDY LEISERSON: No questions.

3 BRENDAN SULLIVAN: Laura Wernick?

4 LAURA WERNICK: No questions.

5 BRENDAN SULLIVAN: Jason Marshall?

6 JASON MARSHALL: No questions.

7 BRENDAN SULLIVAN: And I don't have any questions  
8 at this time. Let me open it to public comment. Any member  
9 of the public who wishes to speak should now click the  
10 button that says, "Participants," and then click the button  
11 that says, "Raise hand."

12 If you are calling in by phone, you can raise your  
13 hand by pressing \*9 and unmute or mute by pressing \*6, and  
14 you'll have up to three minutes in which to comment. There  
15 appears to be nobody calling in. We are -- no  
16 correspondence was submitted, so I will close the public  
17 comment part. Is there anything else, Ms. Levin, that you  
18 wish to add, or you don't have to --

19 JUDITH LEVIN: Well, yes, there was a question.  
20 Since the building permit is pending, and I think that I  
21 have resolved all of the remaining questions as to where the  
22 exact boundary is, is it actually three feet, is it less

1 than three feet? The inspector and I have had quite a lot  
2 of discussion about that.

3 I think I've successfully proven to him that it is  
4 three feet, in which case he will approve the fire hazard,  
5 the fire safety code issue.

6 BRENDAN SULLIVAN: Okay.

7 JUDITH LEVIN: But my remaining question is  
8 whether I need to wait until your transcript has been  
9 produced, or may I contact the contractor I was going to  
10 work with and commence the work?

11 BRENDAN SULLIVAN: Well -- the real answer is that  
12 should we approve --

13 JUDITH LEVIN: Assuming if you approve it.

14 BRENDAN SULLIVAN: -- yeah, should we approve this  
15 tonight that it will have to -- the decision has to be typed  
16 up. It has to go to the Legal Department. They have to  
17 review it.

18 If it comes back, I have to sign it, and then it  
19 has to be filed with the City Clerk, and then there is a 20-  
20 day appeal period. So I guess the short answer is that it's  
21 not immediate, and it may take several weeks before --

22 JUDITH LEVIN: Okay.

1 BRENDAN SULLIVAN: -- this --

2 JUDITH LEVIN: All right.

3 BRENDAN SULLIVAN: -- before you can do the window  
4 work, as per the application tonight. So --

5 JUDITH LEVIN: So I cannot commence anything until  
6 --

7 BRENDAN SULLIVAN: Until this -- yeah, you --

8 JUDITH LEVIN: -- there are several other legal  
9 processes that --

10 BRENDAN SULLIVAN: Correct. Yeah. There is,  
11 unfortunately, a bureaucracy. And some -- your credit  
12 proceedings that have to happen -- I mean, it's a legal  
13 matter, which, you know, basically goes with the house.

14 And so, there's a number of documents that have to  
15 be put together and signed and then filed with the City  
16 Clerk. And you will get a letter notifying you of that. So  
17 you cannot do the work until that has run its course.

18 JUDITH LEVIN: Okay. That may make the work --  
19 that may make me have to postpone this until next spring,  
20 because I can't go -- until December, obviously.

21 BRENDAN SULLIVAN: Yeah. Well, there's nothing --

22 JUDITH LEVIN: The house -- I mean, the house



1 needs repair. There's water coming in siding. Apparently,  
2 I can't do this job to protect the envelope of the house, or  
3 I could do the envelope and then tear it apart again next  
4 year to do the windows in two separate parts. That seems to  
5 be my only solution?

6 BRENDAN SULLIVAN: Yep, essentially. Okay. Let  
7 me -- if there's no further questions by members of the  
8 Board, let me make a motion, then, to grant the relief  
9 requested as per the dimensional form, the supporting  
10 statements, the sketches submitted and initialed by the  
11 Chair.

12 The Board finds that in a resident district the  
13 Board may grant a special permit for the enlargement,  
14 alteration of a non-conforming structure not otherwise  
15 permitted in 8.22.1 above, but not the alteration or  
16 enlargement of a non-conforming use.

17 Provided that any enlargement or alteration of  
18 such non-conforming structure is not in further violation  
19 dimensionally of Article 5 or off-street parking Article 6  
20 for the district in which such structure is located and  
21 provided such nonconforming structure will not be increased  
22 in area or volume by more than 25 percent, as it first

1 became non-conforming.

2           The Board finds that under -- also on the special  
3 permit requirements, it appears that the requirements of the  
4 Ordinance can be met.

5           Traffic generated or patterns of access or egress  
6 would not cause congestion, hazard, or substantial change in  
7 the established neighborhood character, and the addition of  
8 some windows would not cause any substantial change in the  
9 established neighborhood character.

10           The continued operation of or development of  
11 adjacent uses, as permitted in the Zoning Ordinance, would  
12 not be adversely affected by the nature of the proposed use.  
13 There would not be any nuisance or hazard created to the  
14 detriment of the health, safety, and/or welfare of the  
15 occupant of the proposed use -- in fact it would be a  
16 benefit by introducing some additional windows into the  
17 structure.

18           And that the proposed use would not impair the  
19 integrity of the district or adjoining district, or  
20 otherwise derogate from the intent and purpose of the  
21 ordinance to allow homeowners to improve or alter their  
22 structure with a fair and reasonable request.

1           On the motion, then, to grant the special permit,  
2 Lou Bacci Jim Monteverde?

3           JIM MONTEVERDE: In favor.

4           BRENDAN SULLIVAN: Wendy Leiserson?

5           WENDY LEISERSON: In favor.

6           BRENDAN SULLIVAN: Laura Wernick?

7           LAURA WERNICK: In favor.

8           BRENDAN SULLIVAN: Jason Marshall?

9           JASON MARSHALL: In favor.

10          BRENDAN SULLIVAN: And Brendan Sullivan in favor.

11          [All vote YES]

12          BRENDAN SULLIVAN: Five affirmative votes; the  
13 special permit is granted, Ms. Levin. Good luck.

14          JUDITH LEVIN: Thank you for your time and your  
15 attention, everybody. I appreciate it very much.

16          BRENDAN SULLIVAN: Thank you. Okay.

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2 (8:53 p.m.)

3 Sitting Members: Brendan Sullivan, Jim Monteverde, Laura  
4 Wernick, Jason Marshall and Wendy  
5 Leiserson

6 BRENDAN SULLIVAN: The Board will hear Case No.  
7 189951 -- 100 and 150 Cambridgepark Drive. Mr. Rafferty?

8 JAMES RAFFERTY: Good evening, Mr. Chair and  
9 members of the Board. For the record, my name is James  
10 Rafferty. I'm an attorney with offices located at 903 Mass  
11 Avenue in Cambridge.

12 I'm appearing this evening on behalf of the  
13 applicant, the owner of the subject property, represented  
14 this evening by Matthew Lerner of Longfellow Real Estate  
15 Partners, who's also present.

16 I believe Mr. Lerner is the Vice-President with  
17 the company. If he's not, he should be. He is also --  
18 joining us is the architectural firm OJB Landscape  
19 Architects, which designed this space.

20 As noted in the application, Mr. Chair, this is an  
21 application to allow for a variance for increased GFA that  
22 is represented in a pavilion that is being constructed as

1 part of an overall landscape improvement project at the  
2 property.

3 Board members may be familiar: Cambridgepark  
4 Drive has a series of 1980s era office buildings that were  
5 constructed when priorities around open space, stormwater  
6 infiltration and permeability were not at the top of the  
7 list.

8 Longfellow has been repositioning the properties  
9 for the last few years. The last project that has been  
10 retaken involves an extensive landscape effort.

11 Portions of the site were in the -- are in the  
12 floodplain, so it was necessary to obtain a special permit  
13 for the Planning Board. It will implement the landscaping,  
14 not due to any construction of the structure.

15 The Planning Board did approve that, but it was  
16 determined when Longfellow went to apply for a building  
17 permit that one of the components of the landscape area  
18 included a covered pavilion, which I believe is depicted in  
19 in some of the renderings, if Ms. Rattay might be able to  
20 share them with the Board.

21 It's really a very -- there you go right there.  
22 There's the covering right there. This is going to be an

1 open space to be shared by occupants of the building, an  
2 office building that -- as Ms. Lerner has noted, its  
3 attention to the space would be accessible to members of the  
4 public, particularly in the weekends, when the office  
5 tenants tend not to be at the property.

6 There's been a number of residential units  
7 developed on Cambridgepark Drive in the last decade, so this  
8 would be a welcome Central Park or not just the three  
9 buildings that consist of the campus -- the office campus,  
10 but for the larger neighborhood as well.

11 It is GFA because it's covering, and it's being  
12 treated in zoning parlance as a covered porch, but as the  
13 Board well knows, not all GFA is alike. There's no other  
14 enclosure other than the roof, the roof surge. There's a  
15 sun shading device, a public amenity, and something that  
16 will enhance the public's use and enjoyment of this space.

17 And so, for those reasons, we would ask the Board  
18 to make a finding that the proposed request for a variance  
19 is reasonable, based on the hardship associated with the  
20 size and shape of the lot, and the fact that the buildings  
21 on the lot were constructed prior to a significant  
22 downzoning, so that there is simply no GFA available on the

1 lot.

2           Doing this will not have any adverse effect --  
3 will not result in any increased density or intensity of use  
4 on the lot -- quite the contrary, it will provide  
5 significant public benefit.

6           Happy to have the landscape team walk you through  
7 all the wonderful features here, but I think they're rather  
8 self-evident. And the area for the Board's attention would  
9 be this pavilion roof element.

10           All other aspects of the landscape have been  
11 improved by the Planning Board, and the special permit that  
12 was granted in March of this year.

13           BRENDAN SULLIVAN: All right. Thank you. Let me  
14 open it to the Board. Jim Monteverde, any questions?

15           JIM MONTEVERDE: No questions.

16           BRENDAN SULLIVAN: Wendy Leiserson, any questions?

17           WENDY LEISERSON: No questions.

18           BRENDAN SULLIVAN: Laura Wernick?

19           LAURA WERNICK: No questions.

20           BRENDAN SULLIVAN: Jason Marshall?

21           JASON MARSHALL: No questions.

22           BRENDAN SULLIVAN: I have no questions. Let me

1 open it to public comment. Any member of the public who  
2 wishes to speak should now click the button that says,  
3 "Participants," and then click the button that says, "Raise  
4 hand."

5 If you are calling in by phone, you can raise your  
6 hand by pressing \*9 and unmute or mute by pressing \*6.

7 [Pause]

8 There is nobody calling in.

9 The Board is in receipt of correspondence  
10 basically from the Planning Board, which is a notice of  
11 their decision. And it is dated March 22, 2022, which  
12 basically approves amendments to the special permit decision  
13 granted on February 19, 1985 for development in the  
14 Floodplain Overlay District, Section 20.70 to allow  
15 landscaping improvements including planting, stonework,  
16 natural sculptural elements, and a pavilion. And it was  
17 granted.

18 There are some conditions, but it has to do with  
19 the Conservation Commission -- and anyhow, not pertaining to  
20 us. Okay. That is the sum and substance of any  
21 correspondence.

22 I will close the public comment part. Mr.



1 Rafferty, turn it back to you. Any other --

2 JAMES RAFFERTY: No, thank you, Mr. Chair.

3 Nothing further to add.

4 BRENDAN SULLIVAN: Okay. Any questions by members  
5 of the Board? Ready for a motion? Okay. I think the --  
6 going out there and looking at this, and obviously looking  
7 at the proposal -- and I keep going back to the fact that  
8 we're going through the pandemic, maybe we're still in it,  
9 but that the creation of outdoor space is much desirable now  
10 and has a direct public benefit. We see it with people  
11 wanting to put on decks and other outdoor activity --  
12 outdoor spaces.

13 And I think that this is sort of another benefit,  
14 another benefit to the general public, but also to the  
15 people that occupy those office buildings. And to have a  
16 covering over it is another plus -- protection from the  
17 elements. So I would be greatly in favor of this.

18 Let me make a motion, then, to grant the relief  
19 requested as per the dimensional form, supporting statements  
20 and the plan initialed by the Chair.

21 The Board finds that a literal enforcement of the  
22 provisions of the Ordinance would involve a substantial

1 hardship to the petitioner. The Board finds that the  
2 particular site was rezoned after the construction of the  
3 existing building in the 1980s, and the existing FAR is pre-  
4 existing, non-conforming.

5 Installing a sun shading roof over the new  
6 pavilion will -- is an increase slightly more than 1000  
7 square feet of gross floor area.

8 That the literal enforcement of the ordinance  
9 would preclude the installation of the roof on the  
10 petitioner -- of the pavilion, which actually has a direct  
11 benefit to the public.

12 The Board finds that the hardship is owing to the  
13 shape of the existing structure on the lot, the downzoning  
14 so that the existing structure is encumbered by the new  
15 ordinance. And as such, any additional FAR -- especially of  
16 this nature -- would require some relief from this Board.

17 The Board finds that relief may be granted without  
18 substantial detriment to the public good, and as I said, I  
19 think that the public good would be enhanced by having a  
20 covering over it -- protection from the elements -- and  
21 would allow more use, even during some potential inclement  
22 weather.

1           That desirable relief may be granted without  
2 nullifying or substantially derogating from the intent and  
3 purpose of the ordinance to allow the petitioners by the way  
4 of relief from this Board to provide a public amenity of  
5 this nature and has a direct public benefit and public good.

6           So on the motion, then, to grant the variance as  
7 per the application and the work comply and be consistent  
8 with the drawings, Jim Monteverde?

9           JIM MONTEVERDE: In favor.

10          BRENDAN SULLIVAN: Wendy Leiserson?

11          WENDY LEISERSON: In favor.

12          BRENDAN SULLIVAN: Laura Wernick?

13          LAURA WERNICK: In favor.

14          BRENDAN SULLIVAN: Jason Marshall?

15          JASON MARSHALL: In favor.

16          BRENDAN SULLIVAN: Yes.

17          [All vote YES]

18          BRENDAN SULLIVAN: On the five affirmative votes;  
19 the variance for the work is approved.

20          JAMES RAFFERTY: Thank you very much, Mr. Chair  
21 and members. Have a good evening.

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(9:03 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Laura Wernick, Jason Marshall and Wendy Leiserson

BRENDAN SULLIVAN: The Board will hear Case No. 189716 -- 137 Allston Street.

GABRIEL CIRA: Hello. Can you hear me?

BRENDAN SULLIVAN: Are you there?

GABRIEL CIRA: I am here.

BRENDAN SULLIVAN: Okay. If you would introduce yourself for the record, please?

GABRIEL CIRA: Sure. This is Gabriel Cira. I'm the architect working for Saint Augustine's African Orthodox Church at 137 Allston Street.

BRENDAN SULLIVAN: Okay. If you just tell us what you would like to do?

GABRIEL CIRA: Sure. So -- and you will show the drawings and photograph? Okay, yeah. So I've submitted to the Zoning Board of Appeals the drawing set for this exterior preservation and access project, for which we already have a building permit and we've already started

1 construction, with the exception of one opening that we  
2 would like to build -- one arched window that is in a  
3 preexisting, nonconforming façade of the building.

4 And this pre-existing, non-conforming façade is in  
5 the side of the side vestibule, and we'd like to put the  
6 window into that. It's actually a reconstruction of a  
7 historical window that is an arched window that was in that  
8 location originally.

9 And you can actually see that in the -- in the  
10 oldest depiction of the church that we have available, which  
11 is actually on -- included in the drawing set that I gave  
12 you on the title page, actually. So just the -- I believe  
13 it's the second page, sorry, not the title page.

14 Yeah. So that is from the Cambridge Chronicle in  
15 1888, which if you look closely, has a very similar window  
16 in the exact location that we would like to install our  
17 arched window.

18 So actually, I consider this to be just a  
19 restoration of the original condition. And so, we need a  
20 special permit for that based on the fact that this façade  
21 is within the setback and is therefore pre-existing, non-  
22 conforming. Thank you.

1           BRENDAN SULLIVAN: Okay. Thank you. Jim  
2 Monteverde, any questions?

3           JIM MONTEVERDE: No questions.

4           BRENDAN SULLIVAN: Wendy Leiserson, any questions?

5           WENDY LEISERSON: No questions.

6           BRENDAN SULLIVAN: Laura Wernick, questions?

7           LAURA WERNICK: No questions.

8           BRENDAN SULLIVAN: Jason Marshall?

9           JASON MARSHALL: No questions.

10          BRENDAN SULLIVAN: I have no questions. It seems  
11 pretty simple. Let me open it to public comment. Any  
12 members of the public who wish to speak should now click the  
13 button that says, "Participants," and then click the button  
14 that says, "Raise hand."

15           If you are calling in by phone, you can raise your  
16 hand by pressing \*9 and unmute or mute by pressing \*6, and  
17 you will have up to three minutes in which to comment.

18           [Pause] There appears to be nobody calling in. We  
19 are in receipt of communication from Jennifer Albrecht -- A-  
20 l-b-r-e-c-h-t.

21           "To the Board of Zoning Appeal, I am writing in  
22 regard to BZA Case No. 189716 specific to St. Augustine's

1 Church on Allston Street. As direct neighbor of St.  
2 Augustine's Church, we are pleased to express our support  
3 for the restoration of the side vestibule window that is  
4 being brought before you for special permitting.

5 "We reviewed the window plans as shared by the  
6 project architect. We have no concerns.

7 "Thank you for your consideration,

8 "Jane and Brian Albrecht  
9 239 Brookline Street."

10 And that is the sum and substance of any  
11 correspondence. I'll close the public comment part of the  
12 hearing, send it back to the petitioner. Anything else to  
13 add, or you don't have to if you think you --

14 GABRIEL CIRA: I don't have anything else to add,  
15 thank you very much.

16 BRENDAN SULLIVAN: Great. All right. Thank you,  
17 Gabriel. Ready for a motion?

18 JIM MONTEVERDE: Ready.

19 BRENDAN SULLIVAN: It's a special permit seeking  
20 relief under 8.22.2.c and 1040 special permit. The Board of  
21 Zoning Appeal -- and this is a Residence C Zone -- the Board  
22 of Zoning Appeal may grant a special permit for the

1 alteration or enlargement of a non-conforming structure not  
2 otherwise permitted in 8.22.1, but not the alteration or  
3 enlargement of a non-conforming use.

4           Provided any enlargement or alteration of such  
5 non-conforming structure is not further in violation of the  
6 dimensional requirements of Article 5 or the off-street  
7 parking and loading requirements in Article 6 for the  
8 district in which such structure is located.

9           And provided such non-conforming structure will  
10 not be increased in area or volume by more than 25 percent  
11 since it first became non-conforming.

12           Under 10.43, it appears that the requirements of  
13 the ordinance can be met -- the granting of a special  
14 permit.

15           It appears that traffic generated or patterns of  
16 access or egress would not cause congestion, hazard, or  
17 substantial change in the established neighborhood  
18 character.

19           The Board finds that continued operation of or  
20 development of adjacent uses, as permitted in the Zoning  
21 Ordinance, would not be adversely affected by the nature of  
22 the proposed use. The Board notes the letter of support



1 from an abutter.

2 There would not be any nuisance or hazard created  
3 to the detriment of the health, safety, and/or welfare of  
4 the occupant of the proposed use -- in fact the addition of  
5 this window would have a benefit.

6 The Board finds that the proposed use would not  
7 impair the integrity of the district or adjoining district,  
8 or otherwise derogate from the intent and purpose of the  
9 ordinance to allow petitioners -- homeowners -- to improve  
10 their property. This is a small part of a larger project to  
11 restore the building to its former glory and aesthetic  
12 value.

13 On the motion, then, to grant the special permit,  
14 Jim Monteverde?

15 JIM MONTEVERDE: In favor.

16 BRENDAN SULLIVAN: Laura Wernick?

17 LAURA WERNICK: In favor.

18 BRENDAN SULLIVAN: Wendy Leiserson?

19 WENDY LEISERSON: In favor.

20 BRENDAN SULLIVAN: Jason Marshall?

21 JASON MARSHALL: In favor.

22 BRENDAN SULLIVAN: And Brendan Sullivan in favor.

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[All vote YES].

BRENDAN SULLIVAN: Five affirmative votes, the special permit is granted. Good luck.

GABRIEL CIRA: Thank you so much --

BRENDAN SULLIVAN: Yep.

GABRIEL CIRA: -- to the Board. Very much appreciated.

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(9:10 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Laura Wernick, Jason Marshall and Wendy Leiserson

BRENDAN SULLIVAN: Let me reopen Case No. 185245 -- 1900 Mass Avenue. You may be on mute. We can see you but can't hear you.

[Pause]

BRENDAN SULLIVAN: No, we can't --

JIM MONTEVERDE: You're still on mute.

BRENDAN SULLIVAN: Yeah. You're still on mute somehow.

MEHMET SAHIN: Hello?

BRENDAN SULLIVAN: Yeah, there you go.

JIM MONTEVERDE: Good.

BRENDAN SULLIVAN: Okay.

MEHMET SAHIN: Good evening, gentlemen.

BRENDAN SULLIVAN: All right, if you intro --

MEHMET SAHIN: Mehmet Sahin from Falcon Graphics.

BRENDAN SULLIVAN: All right, if you introduce yourself for the record, name, and address?

1           MEHMET SAHIN: Yes. My name is Mehmet from Falcon  
2 Graphics. I present Jo's Indian Kitchen signage, 1900 Mass  
3 Ave.

4           BRENDAN SULLIVAN: Okay.

5           MEHMET SAHIN: Any questions?

6           BRENDAN SULLIVAN: All right. Well, tell us what  
7 you'd like to do.

8           MEHMET SAHIN: Yes. We are doing -- try to  
9 enlargen the existing sign. We just painted the face. We  
10 took it off, the old letters, and then we're going to put  
11 similar type of letters on the storefront, and then the --  
12 just name changing, Jo's Indian Kitchen. This is a 10, 11  
13 font width, LED lighting inside. And then we'll install  
14 letters, storefront, as on picture.

15           BRENDAN SULLIVAN: Is it basically the same size  
16 as the existing?

17           MEHMET SAHIN: A little smaller, maybe, similar  
18 size, yeah.

19           BRENDAN SULLIVAN: So it basically goes from the  
20 corner of the building to the corner of the building, if you  
21 were to --

22           MEHMET SAHIN: Using the same boards, and then we

1 just paint it a different color. We're going to apply  
2 letters --

3 BRENDAN SULLIVAN: Okay. Yeah, it's too bad that  
4 these things aren't grandfathered in, but apparently, they  
5 are not. And it does not conform to Article 7, and it --  
6 Community Development has decided that it requires a special  
7 permit.

8 So the total signage for this premise is limited  
9 to one square-foot per one linear foot of sign frontage, or  
10 26.8 square feet. The total proposed sign is 64 square  
11 feet, which exceeds the sign frontage formula.

12 MEHMET SAHIN: Right, but our neighbors -- size --  
13 like almost bigger than us, you know, everyone has it -- so  
14 why not -- we are not having it?

15 BRENDAN SULLIVAN: Yeah. So they're basically  
16 treating it like it's a new signage, when in fact it's  
17 really replacing existing signage?

18 MEHMET SAHIN: Right.

19 BRENDAN SULLIVAN: Yeah. Okay. Any questions?  
20 Jim Monteverde, any questions from members?

21 JIM MONTEVERDE: No questions.

22 BRENDAN SULLIVAN: Laura Wernick?

1 LAURA WERNICK: No questions.

2 BRENDAN SULLIVAN: Wendy, any questions?

3 WENDY LEISERSON: No questions.

4 BRENDAN SULLIVAN: Jason Marshall?

5 JASON MARSHALL: Nothing right now.

6 BRENDAN SULLIVAN: And I have no further comments.

7 Let me open it to public comment. Any member of the public  
8 who wishes to speak should now click the button that says,  
9 "Participants," and then click the button that says, "Raise  
10 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, and  
13 you'll have up to three minutes in which to comment.

14 [Pause]

15 BRENDAN SULLIVAN: There appears to be nobody  
16 calling in. I will close. And we have no submittals,  
17 correspondence. So I will close the public comment part.  
18 All right. Is there anything else that you wish to add?

19 MEHMET SAHIN: Not further.

20 BRENDAN SULLIVAN: You're okay?

21 MEHMET SAHIN: Yes, yes.

22 BRENDAN SULLIVAN: All right.

1           MEHMET SAHIN: Thank you very much.

2           BRENDAN SULLIVAN: Yep. Any comments by members  
3 of the Board? Ready for a motion? Ready for a motion? Let  
4 me -- this is a variance. Let me make a motion, then, to  
5 grant the relief requested as per the application,  
6 supporting statements.

7           The Board finds that a literal enforcement of the  
8 provisions of the ordinance would involve a substantial  
9 hardship to the petitioner.

10          The Board finds that under the formula limiting  
11 the size to 26.8 square feet will make -- will have a severe  
12 detrimental effect on the establish, as it will greatly  
13 limit its visibility.

14          The Board finds that this is an extremely busy  
15 section of Mass Avenue -- major intersection, Porter Square,  
16 the T stop, Fresh Pond Shopping Center, and that visibility  
17 is desirable. The Board finds that this is not garish or  
18 otherwise over the top signage. That it is replacing an  
19 existing sign -- merely replacing lettering and color.

20          The Board finds that the hardship is owing to the  
21 size of the building -- that somewhat narrow building, tall  
22 -- narrow and tall for this particular section of

1 Massachusetts Avenue.

2 The placement siting of this particular building  
3 in a busy section, which severely limits its notoriety and  
4 also any business that is in there has diminished visibility  
5 because of the location of this particular building.

6 The Board finds that desirable relief may be  
7 granted without substantial detriment to the public good,  
8 and that desirable relief may be granted without nullifying  
9 or substantially derogating from the intent and purpose of  
10 this ordinance.

11 The City Sign Ordinance does allow signage to  
12 places of business such as this restaurant, and that the  
13 increase in area will not have any detrimental effect but  
14 will potentially allow the establishment -- or any  
15 establishment at this location to be economically viable  
16 because of the presence of a sign in identifying the  
17 establishment.

18 On the motion, then, to grant the relief requested  
19 on the condition that the work comply with the dimensional  
20 forms, also the sketch of the existing sign and initialed by  
21 the Chair, Jim Monteverde?

22 JIM MONTEVERDE: In favor.



1 BRENDAN SULLIVAN: Jason Marshall?

2 JASON MARSHALL: I vote in favor of the requested  
3 relief and note that my support is based on the hardship  
4 owing to the shape of the building.

5 BRENDAN SULLIVAN: Thank you. Wendy Leiserson?

6 WENDY LEISERSON: In favor.

7 BRENDAN SULLIVAN: Laura Wernick?

8 LAURA WERNICK: In favor.

9 BRENDAN SULLIVAN: In favor.

10 [All vote YES]

11 BRENDAN SULLIVAN: Five affirmative votes; the  
12 variance is granted. Good luck.

13 MEHMET SAHIN: Thank you very much.

14 BRENDAN SULLIVAN: Yep.

15 MEHMET SAHIN: Have a good night.

16 BRENDAN SULLIVAN: And goodnight to all. Thank  
17 you. And that's it for tonight.

18 COLLECTIVE: Thanks, Mr. Chair. Thank you. Great  
19 job. Goodnight. Bye.

20 BRENDAN SULLIVAN: Thank you, thank you.

21 [9:18 p.m. End of Proceedings]

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CERTIFICATE

Commonwealth of Massachusetts  
Middlesex, ss.

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

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

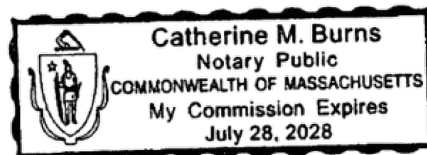
In witness whereof, I have hereunto set my hand this 30th day of September, 2022.



Notary Public

My commission expires:

July 28, 2028



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