

BOARD OF ZONING APPEAL  
FOR THE  
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY JUNE 9, 2022  
6:00 p.m.  
Remote Meeting  
via  
831 Massachusetts Avenue  
Cambridge, Massachusetts 02139

Brendan Sullivan, Chair  
Jim Monteverde, Vice Chair  
Andrea Hickey  
Wendy Leiserson  
Laura Wernick  
Matina Williams  
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

\* \* \* \* \*

(6:00 p.m.)

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

BRENDAN SULLIVAN: Welcome to the June 9, 2022,  
meeting of the Cambridge Board of Zoning Appeal. My name is  
Brendan Sullivan, and I am 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 state their names before speaking. All votes  
4 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 might change based on the number of speakers  
11 and at the discretion of the Chair.

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

14 OLIVIA RATAY: Jim Monteverde?

15 JIM MONTEVERDE: Here.

16 OLIVIA RATAY: Laura Wernick?

17 LAURA WERNICK: Here.

18 OLIVIA RATAY: Wendy Leiserson?

19 WENDY LEISERSON: Here.

20 OLIVIA RATAY: Andrea Hickey?

21 ANDREA HICKEY: Present.

22 OLIVIA RATAY: Jason Marshall?

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JASON MARSHALL: Here.

OLIVIA RATAY: Brendan Sullivan.

BRENDAN SULLIVAN: Present and audible.

\* \* \* \* \*

(6:03 p.m.)

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

BRENDAN SULLIVAN: First case I'm going to call  
tonight is continued case No. 155114, and also in  
conjunction with that No. 155115 -- No. 155116; 33 Webster  
Avenue, 33 Webster Avenue, 35 Webster Avenue, and 35 Webster  
Avenue.

Mr. Anderson, are you on the line, or shall I read  
the transcript?

DAN ANDERSON: Hello, Mr. Chair. Dan Anderson,  
Partner at Anderson, Porter Design. I am present.

BRENDAN SULLIVAN: Okay. We are in receipt of  
correspondence from Mr. Anderson.

"Dear Chair and members of the Board, I am writing  
on behalf of Parviz Parvizi, the owner of 33-35 Webster  
Avenue to request a continuance of the open cases No.  
155114, No. 115115 (sic), and No. 155116.

"Mr. Parvizi has been in conversation with his  
abutters regarding his proposed plans, and is now in receipt  
of building site location plans from the property owner at

1 41 Webster.

2 "A copy of the certified plot plan of the recently  
3 constructed structures was delivered to him on May 23, 2022,  
4 from Len Yang, his abutter at 41 Webster Avenue.

5 "This information is being incorporated into our  
6 site model to provide updated sun shadow information, and  
7 more accurately address questions regarding the impact of  
8 the proposed addition and renovation work.

9 "In addition to updated shadow studies, Mr.  
10 Parvizi has requested alternative design studies from  
11 Anderson Porter design to respond to abutters.

12 "We respectfully request additional time necessary  
13 to complete this work and further communications with the  
14 neighbors regarding the Anderson Porter Design."

15 That basically sums it up. That hasn't changed,  
16 Dan?

17 DAN ANDERSON: That has not changed. No, thank  
18 you.

19 BRENDAN SULLIVAN: Okay. So there's a motion on  
20 the floor then to continue this matter, conclusively Case  
21 No. 155114, No. 115115 (sic), No. 155116 on Webster Avenue  
22 until September 8, 2022 at 6:00 p.m. on the condition that

1 the petitioner change the posting signs to reflect the new  
2 date of September 8, 2022 and the new time of 6:00 p.m.

3 That any new submittals pertaining to the  
4 aforementioned three cases that are not currently in the  
5 file be in the file by 5:00 p.m. on the Monday prior to the  
6 September 8 hearing.

7 There is one other thing, we are in receipt of  
8 correspondence --

9 JASON MARSHALL: Mr. Chair, before you move on --

10 BRENDAN SULLIVAN: Yes?

11 JASON MARSHALL: -- if I am on this case, I cannot  
12 do September 8. It would have to be a subsequent Thursday.

13 BRENDAN SULLIVAN: And you are on the case. So  
14 thank you, Jason.

15 OLIVIA RATAY: September 22?

16 BRENDAN SULLIVAN: September 22?

17 JASON MARSHALL: Yes, that's fine. Thank you for  
18 accommodating.

19 BRENDAN SULLIVAN: Dan, September 22?

20 DAN ANDERSON: That's acceptable, provided that  
21 the rest of the Board can be there.

22 BRENDAN SULLIVAN: Yeah. The rest of the Board,



1 so it's - I will speak for Gus, he's not here - Jason, Jim  
2 Monteverde and Laura are available on September 22?

3 JIM MONTEVERDE: That's correct.

4 BRENDAN SULLIVAN: Okay. Also, Dan, there was  
5 correspondence in the file for 6 Lilac Court. I won't read  
6 the whole thing, but despite they had put in some  
7 recommendations, they're saying in the second paragraph,  
8 "Despite this recommendation, since the hearing, we have not  
9 received any communication from Mr. Parvizi, nor from his  
10 architect, Dan Anderson, and of this Thursday's BZA hearing  
11 with regard to our reasonable concerns."

12 The letters in the file, I would ask that you read  
13 it and you have conversations with Leon Sun and Zi Wang  
14 (phonetic) 6 Lilac Court, if you would.

15 DAN ANDERSON: Yes.

16 BRENDAN SULLIVAN: Then on the motion, then, to  
17 continue this matter until September 22 at 6:00 p.m., Jim  
18 Monteverde?

19 JIM MONTEVERDE: Yes, in favor.

20 BRENDAN SULLIVAN: Jason Marshall?

21 JASON MARSHALL: Jason Marshall yes, in favor.

22 BRENDAN SULLIVAN: Laura?

1           LAURA WERNICK: Yes, in favor.

2           BRENDAN SULLIVAN: And Brendan Sullivan yes.

3           [All vote YES]

4           On the affirmative vote of four members of the  
5 Board, the matter is continued until September 22 at 6:00  
6 p.m.

7           There was another case, Dan, Case No. 168852 -- 35  
8 Webster Avenue, which is the appeal. I'll read the  
9 correspondence dated June 6.

10           "Dear Mr. - members of the Board, on behalf of the  
11 petitioner, we respectfully request a continuance of the  
12 hearing with this appeal currently scheduled" --

13           Well, we can't hear it until 6:30, unfortunately.  
14

15           "The petitioner is in process of evaluating his  
16 design options and additionally has a related special permit  
17 application that is pending with this Board, and if granted  
18 my render the subject matter nonapplicable."

19           I didn't read that it was scheduled at 6:30. Is  
20 that correct? I have here on the schedule that it's  
21 scheduled for 6:00. 6:00, yeah, okay. So that's a  
22 misprint, all right.

1           So we can proceed with it accordingly, and due to  
2     some of the schedule, the petitioner is requesting a  
3     continuance of the hearing of this matter until the evening  
4     of September 8. That's -- that has not been heard by the  
5     Board; however, it is recommended that it be heard on the  
6     night of September 22, correct?

7           DAN ANDERSON: That's acceptable.

8           BRENDAN SULLIVAN: Okay. So on the motion, then,  
9     to continue this case, which is an appeal of the  
10    Commissioner's determination be continued until September 8  
11    - September 22 at 6:00 p.m. on the condition that any new  
12    submittals not in the file currently be in the file by 5:00  
13    p.m. the Monday prior to September 22.

14           That the petitioner is -- I don't believe there is  
15    a posting sign. Is that correct? There is no posting sign  
16    for that appeal? No, there was no - okay, so you don't have  
17    to change that. Just that if there's any new submittals  
18    that they be in the file by 5:00 p.m. on the Monday prior to  
19    the September 22 hearing at 6:00 p.m.

20           I will ask the same members - Jim Monteverde on  
21    the motion to continue this matter?

22           JIM MONTEVERDE: I agree.

1           BRENDAN SULLIVAN: Jason Marshall on the  
2 continuance?

3           JASON MARSHALL: Yes, in favor.

4           BRENDAN SULLIVAN: Laura Wernick?

5           LAURA WERNICK: Yes, in favor.

6           BRENDAN SULLIVAN: And Brendan Sullivan is in  
7 favor.

8           [All vote YES]

9           BRENDAN SULLIVAN: On the vote of 4 affirmative  
10 votes by members of the Board, this matter is continued  
11 until September 22 at 6:00 p.m. Thank you, Dan.

12          DAN ANDERSON: Have a good night.

13          BRENDAN SULLIVAN: Well, unfortunately we're going  
14 to have to wait until 7:15.

15          JIM MONTEVERDE: Really?

16          BRENDAN SULLIVAN: Yeah, even though it is  
17 continued. It still has to be heard.

18          JIM MONTEVERDE: Mr. Chair, don't we have a #107  
19 Washington Avenue and #27 Fayerweather?

20          BRENDAN SULLIVAN: Oh, I'm sorry, I'm sorry, I'm  
21 sorry, you're right.

22          JIM MONTEVERDE: Before we all depart. Yes.

1           BRENDAN SULLIVAN: Oh, I'm sorry.

2           UNIDENTIFIED SPEAKER: #107 is ready to go.

3           BRENDAN SULLIVAN: Oh, wait a minute. I'm sorry.  
4 I'm reading - not going well here originally. I'm reading  
5 by the original date, which was 7:15.

6           JIM MONTEVERDE: Oh.

7           BRENDAN SULLIVAN: So this was continued until  
8 6:00 p.m.

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(6:12 p.m.)

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

BRENDAN SULLIVAN: So let me call, then Case No.  
163086 -- 107 Washington Avenue.

KEVIN RICHARD: Could I introduce myself?

BRENDAN SULLIVAN: Yes. Introduce yourself for  
the record, please?

KEVIN RICHARD: My name is Kevin Richard. I'm the  
General Contractor for #107 Washington street. My company  
is Cambridge Craftsman.

DENNIS SCANNELL: And I'm Dennis Scannell, the  
owner and it's #107 Washington Avenue. There is a  
Washington Street, but it's on --

KEVIN RICHARD: Yes.

DENNIS SCANNELL: -- the other side of Cambridge,  
yeah.

BRENDAN SULLIVAN: The reason why we continued  
this the last time is that we felt that the drawings were  
insufficient, number one, for the members of the Board to

1 completely understand, but also for us to be able to pass it  
2 off to the Building Inspector to make an evaluation that  
3 what we were approving was what he needed to issue a  
4 building permit for.

5 Notice that the drawings having updated in much  
6 better detail. I'm satisfied with them, ran it briefly by  
7 the Building Inspector, he thought that it was probably  
8 sufficient. There may be some other details he'll be  
9 looking for, but it does not affect the relief that's being  
10 requested.

11 Anything else to add, Kevin to --

12 KEVIN RICHARD: Other than - not other than I have  
13 other drawings, but they are related to the foundation, the  
14 deck framing, roof framing, the soffit, the finished  
15 details. But I didn't think that that was --

16 BRENDAN SULLIVAN: Does not change?

17 KEVIN RICHARD: -- not needed or --

18 BRENDAN SULLIVAN: Does not change the parameters  
19 of the relief being requested?

20 KEVIN RICHARD: Correct, yeah.

21 BRENDAN SULLIVAN: Okay. And so, the dimensions,  
22 the parameters are here, dimension and --

1           Okay, other members of the Board have reviewed the  
2 drawings?

3           JIM MONTEVERDE:   Yes.

4           BRENDAN SULLIVAN:   Any --

5           LAURA WERNICK:   Yes.

6           BRENDAN SULLIVAN:   -- questions by members of the  
7 Board at all?

8           JIM MONTEVERDE:   No questions.

9           LAURA WERNICK:   No questions.

10          BRENDAN SULLIVAN:   Okay.   Shall I make a motion,  
11 then, on the requested relief?   Okay.

12          JIM MONTEVERDE:   Yep.

13          BRENDAN SULLIVAN:   Let me make a motion, then, to  
14 grant the special permit as per the application.   The Board  
15 finds that the requirements of the ordinance can be met.

16                 The Board finds that the replacement and  
17 enlargement of the deck does not reduce the setback, as it  
18 is within the existing ell of the house.

19                 The Board finds that traffic generated, or  
20 patterns of access or egress would not cause congestion,  
21 hazard, or substantial change in established neighborhood  
22 character.



1           The Board finds that continued operation of or  
2     development of adjacent uses, as permitted in the Zoning  
3     Ordinance, would not be adversely affected by the nature of  
4     the proposed use.

5           The Board finds that there would not be any  
6     nuisance or hazard created to the detriment of the health,  
7     safety and/or welfare of the occupants of the proposed use  
8     -- in fact, it would enhance the livability and in fact the  
9     safety of the entry and exit from the structure, and would  
10    not cause any concern to the occupant or proposed -- and the  
11    citizens of the city.

12          And that the proposed use would not impair the  
13    integrity of the district or adjoining districts, or  
14    otherwise derogate from the intent and purpose of the  
15    ordinance.

16          In furtherance, under Section 8.222d, relief may  
17    be granted. The Board may grant a special permit for the  
18    alteration of or enlargement of a preexisting dimensionally  
19    nonconforming, detached single-family dwelling or two-family  
20    dwelling not otherwise permitted in Section 8.22.1 above,  
21    but not the alteration or enlargement of a preexisting  
22    nonconforming use.

1            Provided that there is no change in use, and that  
2            any enlargement or alteration of such preexisting,  
3            nonconforming detached single-family dwelling or two-family  
4            dwelling may only increase a preexisting dimensionally  
5            nonconforming conformity, but does not create a new  
6            dimensional nonconformity.

7            The Board may grant a special permit. It must  
8            find that the alteration or enlargement shall not be  
9            substantially more detrimental than the existing  
10           nonconforming structure to the neighborhood, and that the  
11           alteration or enlargement satisfies the criteria as stated  
12           in Section 10.43, as previously stated, and outlined.

13           On the motion, then, to grant the special permit  
14           as per the plans, the dimensional form and any supporting  
15           statements for Case No. 163086, Jim Monteverde?

16           JIM MONTEVERDE: I vote in favor.

17           BRENDAN SULLIVAN: Wendy Leiserson?

18           WENDY LEISERSON: In favor.

19           BRENDAN SULLIVAN: Laura Wernick?

20           LAURA WERNICK: In favor.

21           BRENDAN SULLIVAN: And Jason Marshall?

22           JASON MARSHALL: Yes, in favor.

1           BRENDAN SULLIVAN: Yes. On the vote of four (sic)  
2 members of the Board, the special permit is granted.

3           [All vote YES]

4           KEVIN RICHARD: Thank you, Board.

5           DENNIS SCANNELL: Thank you so much.

6           BRENDAN SULLIVAN: Now, who is Sitting? Is it  
7 regular members for tonight? It's Jim, Jason?

8           JASON MARSHALL: Yeah, I'm on.

9           OLIVIA RATAY: -- it's --

10          BRENDAN SULLIVAN: Laura, so she's just going to  
11 sit for the continued?

12          OLIVIA RATAY: Yeah.

13          BRENDAN SULLIVAN: Okay.

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(6:18 p.m.)

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

BRENDAN SULLIVAN: Okay. The Board will hear Case  
No. 165327 -- 27 Fayerweather Street. Mr. Rafferty?

JAMES RAFFERTY: Thank you. Good evening, Mr.  
Chair, and members of the Board. For the record, my name is  
James Rafferty. I'm appearing on behalf of the applicant,  
would be Joseph Glenmullen, who is present on the call this  
evening.

This is a case - this is a continued but not heard  
case before the Board. And the continuance came about as a  
result of a request by some abutters the last time the case  
was before the Board that there be additional time for  
consideration of exploring possible modifications to the  
plan.

The applicant readily agreed to that. A meeting  
was held, and if you have had an opportunity to review the  
entire file, both the original filing and this filing,  
you'll notice that significant changes have resulted in the

1 application since it was originally filed.

2 I thought it might be helpful to play this  
3 briefly, walk through the amended application, because  
4 several of the requested approvals are no longer being  
5 sought.

6 I should start with the variance. The application  
7 included a variance request --

8 BRENDAN SULLIVAN: Jim, if I can just sort of --

9 JAMES RAFFERTY: Sure.

10 BRENDAN SULLIVAN: -- set the table a little bit  
11 here, correspondence has come in in the last couple of days.

12 And I just to make sure that the Board members  
13 have reviewed it all, there was correspondence from Tad  
14 Heuer from Foley Hoag, and he is representing Eric Nelson,  
15 the owner of 31 Fayerweather Street, the direct abutter to  
16 the proposed project.

17 And I won't read the whole thing, but the revised  
18 plans do begin to address at most a few issues concerning  
19 Dr. Nelson - specifically the effect of light, air, and  
20 privacy from initially proposed 17.5-foot-long by 39-foot-  
21 high rear addition.

22 The revised plan has marginally reduced the height

1 of the rear addition, and now with respect to the side yard  
2 setback. However, the revised plans nearly double the  
3 addition's height, and he goes on to state -- he basically  
4 is asking the Board to continue this matter.

5           Nevertheless, Dr. Nelson continues to believe  
6 there remains an opportunity to reach a mutually agreeable  
7 compromise with respect to height and bulk. "We  
8 respectfully request that the Board continue this matter to  
9 its next meeting on June 30, 2022, to provide him sufficient  
10 time following his return on June 20 to discuss the newly  
11 revised plans with the applicant, with the goal of  
12 identifying a solution that will allow him to support the  
13 project."

14           In response - and I don't mean to take any of your  
15 thunder away, but correspondence came in today, "To the  
16 members of the Board, I'm writing" -- from Mr. Rafferty" --  
17 I'm writing to address the request by Counsel for the owner  
18 of 31 Fayerweather Street that was filed with the Board  
19 requesting a continuance in the above-captioned case.

20           "A similar request was filed by the same property  
21 owner a few days prior to the originally scheduled hearing  
22 on April 28.

1           "The revised plans were filed with the Board this  
2 Monday prior to the 5:00 p.m. deadline. In addition, that  
3 same afternoon the office forwarded a copy of the revised  
4 plans to Attorney Heuer and Professor Froot, the owner of 33  
5 Fayerweather Street.

6           "As a result, the applicant's revision to his  
7 plans, the issues represented in this application are fairly  
8 straightforward. As a two-family dwelling, the structure is  
9 entitled to the special protection afforded one- and two-  
10 family residential structures in General Law Chapter 40  
11 Section B, a request for a continuance to afford time for  
12 amicable solution is certainly reasonable. However, in this  
13 case, that has already occurred.

14           "In light of that fact, we respectfully suggest  
15 that the Board proceed with this evening's hearing."

16           So that's where we are. And you're wishing to  
17 proceed?

18           JAMES RAFFERTY: We are, for the reasons set forth  
19 in the correspondence, being very mindful of the fact that I  
20 understand the Board's preference, and candidly, it has been  
21 my preference and my client's -- it's not his first  
22 appearance before the Board.

1           He places a high value on outreach to neighbors  
2     and abutters. He reached out to everyone before he even  
3     filed this application several months ago.

4           I think we find ourselves in a situation where  
5     some abutters are not pleased, but the point that I wanted  
6     to make in terms of the change in the application, the bulk  
7     of the application prior to the last continuance involves an  
8     extension that continued the nonconforming right-side  
9     setback, which was admittedly rather close. It was a five-  
10    foot setback in a district where that minimum was 15 feet.

11          As I'm sure Board members know, the recent  
12    modification or amendment to the Ordinance in Article 8  
13    follows the Supreme Court's ruling in Bellalta. Such  
14    additions can occur when there are not any new  
15    nonconformities.

16          So the plans as originally filed did have a - the  
17    rear addition continuing with the five-foot setback. That  
18    was eloquently addressed in the continuance request by  
19    Attorney Heuer about his impact on his clients.

20          And for that reason and for other reasons, Dr.  
21    Glenmullen readily agreed to a continuance, met at the  
22    homes, had an in-person meeting, and did have conversations



1 and discussions about how he could modify the addition to  
2 make it a conforming addition.

3 At the end of the day, that's exactly what he did,  
4 and with a considerable amount of effort, such that the  
5 application today for the board is a conforming addition,  
6 meaning that there are no nonconformities being intensified  
7 or created.

8 Those cases have a special stature when it applies  
9 to one- and two-family structures. And in this case, the  
10 thinking is that most of the discussion -- and it's  
11 contained in another piece of correspondence from another  
12 abutter, who says that he would only support a one-story  
13 addition. And it's a significant divide.

14 The one-story addition is not what the applicant  
15 wishes to construct. The abutter who's expressing a desire  
16 for the one-story addition was himself the receipt of a  
17 variance five years ago, where he got an addition in excess  
18 of 25 percent of the original GFA. This is an application  
19 for an addition less than 25 percent, and that's why it's  
20 before you as a special permit case.

21 It's a large house, but it's no surprise that all  
22 the houses in this particular neighborhood are large. The

1 lots are large. The open space requirements, the setback  
2 requirements are the greatest that exist in the city.

3 So when a conforming addition, a conforming  
4 setback is presented, it's a little hard to make the case  
5 that a conforming addition complies with the setbacks and  
6 makes - doesn't exceed FAR, meets the open space  
7 requirements.

8 It's hard to envision what it is that the  
9 applicant would need to do to meet the criteria requirement  
10 as set forth in the Special Permit standards.

11 So we have - I have talked to Mr. Heuer as  
12 recently as a few minutes ago about whether or not there is  
13 something that could be achieved in terms of a further  
14 renovation. At the moment, candidly, I'm not sure what that  
15 could be. So we didn't succeed with that.

16 So I understand the Board has its own preferences  
17 as to how cases like this proceed, so it is the applicant's  
18 preference that the case proceed, because he believes that  
19 the exercise in further exchange and revision is taking  
20 place, and it is taking place in a manner that significantly  
21 addresses the issues that were contained in the first  
22 correspondence.

1           And that is the bulk of the house being five feet  
2 off the setback. That's no longer present. And I think in  
3 light of that, and the conduct that the applicant has  
4 demonstrated, he believes it's appropriate for the Board to  
5 hear the case as currently presented.

6           BRENDAN SULLIVAN: All right. Let me ask the  
7 members of the Board -- Laura, Wendy, Jason, and Jim if you  
8 understand the issue before us as far as either continuing  
9 the matter or proceeding. And I would ask your thoughts on  
10 this.

11           Laura, your thought?

12           LAURA WERNICK: I would suggest that we proceed.

13           BRENDAN SULLIVAN: Okay. Wendy?

14           WENDY LEISERSON: Mr. Chair, I actually did not  
15 realize that I was on this one. I thought I was only on the  
16 continued case, the prior case. So I will - I have read the  
17 file from previously, but I did not read the updated  
18 information for this case today.

19           BRENDAN SULLIVAN: Okay.

20           WENDY LEISERSON: So I should not be considered on  
21 this one.

22           BRENDAN SULLIVAN: Okay. Jason, your thought?

1     Sorry, I'm just coming off video. It sounds like the  
2     applicant wishes to proceed and understands - and I know Mr.  
3     Rafferty's here often, so understands the implications of  
4     that.

5             I will say for me I'm ready to hear the case if  
6     that's what they want to do. When I reviewed the case file,  
7     I did not see the most recent correspondence that you  
8     described. So I would - I would need to request the  
9     applicant to walk through the request in a little more  
10    detail. And I would consider it in light of this new  
11    information.

12            BRENDAN SULLIVAN: The request to proceed, or - or  
13    - I'm sorry, what --

14            JASON MARSHALL: Well, I'm hearing from Mr.  
15    Rafferty that the applicant wishes to proceed and have the  
16    case heard tonight.

17            BRENDAN SULLIVAN: Right. Okay.

18            JASON MARSHALL: That's my understanding. And I  
19    had not seen the correspondence that you had read and  
20    referenced a few moments ago.

21            BRENDAN SULLIVAN: Okay.

22            JASON MARSHALL: So if this case does proceed

1     tonight, I would request that Mr. Rafferty walk through the  
2     record in a little more detail, so I could have a better  
3     understanding of what's being asked of the Board.

4             BRENDAN SULLIVAN: I think so. Yeah, Jim  
5     Monteverde?

6             JIM MONTEVERDE: I'd be prepared to hear this  
7     tonight.

8             BRENDAN SULLIVAN: Okay. Attorney Heuer, are you  
9     on the line at all?

10            TAD HEUER: I am.

11            BRENDAN SULLIVAN: All right. If you could very,  
12     very briefly just state your -- because members have not  
13     read your letter - even though I touched upon it, if you  
14     could just very, very briefly state your position?

15            TAD HEUER: Of course. Tad Heuer - H-e-u-e-r from  
16     Law Firm of Foley Hoag, on behalf of Eric Nelson, owner of  
17     31 Fayerweather Street.

18            The correspondence that we submitted was in  
19     response to the revised plans that were submitted on Monday  
20     at the 5:00 p.m. deadline. My client did -- as Mr. Rafferty  
21     has accurately stated -- meet with several of the abutters,  
22     and the applicant in early May.

1           At that time, they were informed that he would go  
2 back and do some revisions and present them to them. Mr.  
3 Nelson -- Dr. Nelson -- let them know that he was going to  
4 be in Europe on business from the middle of May until June  
5 12, and he is there currently.

6           These plans came in, you know, at the 5:00 p.m.  
7 deadline because of the time change and other issues,  
8 including the fact that the applicant does not use e-mail --  
9 meant that it was essentially very difficult, if not  
10 impossible, to have a thorough review of the plans.

11           That being said, you know, there's full  
12 understanding that there's a desire for the Board, for the  
13 applicant and the abutters to meet and have discussions.  
14 Our position is simply that knowing of these particular  
15 circumstances, asking the abutter here, Mr. Nelson, to do  
16 that review essentially from afar, knowing that the  
17 applicant - knowing full well that it's going to be  
18 challenging for him to do so. It's just a very tight  
19 window, particularly as there had been a significant time.

20           But, you know, you don't need to submit by the  
21 deadline, you can submit after, or you can submit well  
22 before, that would have given him the opportunity to have

1 that review and have that - hopefully have that discussion.

2 And again, the request for a continuance here is  
3 only for three weeks. There's no attempt to stretch this  
4 out further than that, and my client does indeed believe  
5 that there could be discussions had that would allow for  
6 modifications that would allow him to score (sic) the  
7 project.

8 He's just asking, given the circumstances, for the  
9 time to do that, since essentially the clock has reset. We  
10 now have different plans from the ones that were submitted  
11 in the first case.

12 BRENDAN SULLIVAN: Great, thank you. I just want  
13 to make sure the lineup here. Laura's sitting on this?  
14 Wendy, you're sitting on this case? Now or --

15 WENDY LEISERSON: I -- well, I have been  
16 listening, but I was - I'm not --

17 BRENDAN SULLIVAN: Okay -

18 WENDY LEISERSON: -- on the agenda. But I will  
19 also call your attention, Mr. Chair, there's another letter  
20 in the file from residents at 57 Lakeview also requesting  
21 additional time to review these plans.

22 BRENDAN SULLIVAN: All right. Okay. And Jason

1 and Jim. All right, so the sense of the Board, shall we  
2 continue? And again, let me run through again. Laura, you  
3 say we shall proceed?

4 LAURA WERNICK: Yep, that was correct, yes.

5 BRENDAN SULLIVAN: Okay. Wendy, your thought to  
6 continue or to proceed?

7 WENDY LEISERSON: I would prefer to continue in  
8 light of the fact that two neighbors are asking for  
9 additional time and that I have not reviewed the latest  
10 correspondence.

11 BRENDAN SULLIVAN: Okay. Jason, you're proceed or  
12 continue?

13 JASON MARSHALL: I was not aware of the  
14 correspondence that Wendy had just referenced, and I think  
15 in light of that, if you have any request, I would favor  
16 proceeding. But again, it's the applicant's case and if the  
17 applicant wants to proceed, I am prepared to hear it tonight  
18 subject to what I had described earlier.

19 BRENDAN SULLIVAN: Okay. Again, Jim, proceed or  
20 continue?

21 JIM MONTEVERDE: Proceed.

22 BRENDAN SULLIVAN: Okay. And the Chair says to



1 proceed. So Mr. Rafferty, you --

2 JEFF ROBERTS: Mr. Chair, having said that, if it  
3 were the case that the matter could come back in three weeks  
4 -- and I did and did indicate to Mr. Heuer in our  
5 conversations -- if this is going to be an attempt to  
6 negotiate this to a single-story addition, I didn't think  
7 that that was a worthwhile exercise.

8 But with those parameters in place, and if the  
9 opportunity exists to return in three weeks, in light of --  
10 I appreciate Ms. Leiserson's acknowledgment there is a --  
11 that is correct, I did see that late today -- a request from  
12 the rear abutter, I would -- my preference would be to -- I  
13 think my client is willing to continue if -- for this  
14 purpose, if in fact the opportunity to return on the date  
15 being suggested by Attorney Heuer is available.

16 If it was going to push the matter into the month  
17 of August or something -- I know it would probably continue  
18 to maintain its status as a case not heard, although I don't  
19 know what the Chair's position would be on what has happened  
20 thus far?

21 BRENDAN SULLIVAN: Yeah, we haven't gotten into  
22 the merits, so.

1 JAMES RAFFERTY: Okay.

2 OLIVIA RATAY: Sounds like --

3 JAMES RAFFERTY: So as I said, if it's -- I think  
4 if it is the case that -- and as you know, applicants always  
5 wish to proceed, there's time, money and a variety of  
6 factors involved, but it's also the case that I know the  
7 Board's preference -- and I can assure you I'm not saying  
8 this to ingratiate my client to you, it is his strong  
9 desire, he intends to live here, intends for this to be his  
10 home, he would value a --

11 BRENDAN SULLIVAN: July 4 --

12 JAMES RAFFERTY: -- harmonious relationship with  
13 his neighbors. So if it could be accommodated in three  
14 weeks, recognizing that this will be the second time that  
15 the applicant has agreed to continue the case, we would not  
16 be opposed to that.

17 BRENDAN SULLIVAN: Okay, July 14, does that work  
18 for you?

19 JAMES RAFFERTY: I thought I heard a June date in  
20 Mr. Heuer's correspondence?

21 BRENDAN SULLIVAN: There is June 30. We have one,  
22 two -- we have eight cases scheduled, and we have four

1 continued. We have 12 cases that night.

2 JAMES RAFFERTY: So --

3 BRENDAN SULLIVAN: We can get the matter on the  
4 fourteenth, but if you --

5 JAMES RAFFERTY: Well, I mean, often the request  
6 is on the part of the applicant. I think in this case --  
7 and I apologize if this is too forward -- I mean, at this  
8 point we're acceding to a second request in an effort to be  
9 accommodating and cooperative. I wonder if that might allow  
10 us to overburden the Board that night with one more  
11 continued case?

12 LAURA WERNICK: Mr. Chair?

13 BRENDAN SULLIVAN: Yes.

14 LAURA WERNICK: I'm not available on the July 14  
15 date, if that makes any difference.

16 BRENDAN SULLIVAN: Yeah. This is a case not heard  
17 anyhow, on this particular. So it would be de novo, and  
18 would be -- well, possibly new members of the Board.

19 Let me make a motion, then, to continue this  
20 matter to June 30, in deference to, I think, your kindness  
21 to continue this matter, and allow the two abutters to have  
22 some time to review anyhow.

1           So you're being kind, I think let us show some  
2 kindness back. So June 30, 2022 at 6:00 p.m. on the  
3 condition that the petitioner change the posting sign to  
4 reflect the new date of June 30, 2022 at 6:00 p.m.

5           Any new submittals not in the file tonight entered  
6 into this particular case shall be in the file by -- shall  
7 be submitted by 5:00 p.m. on the Monday prior to the June 30  
8 hearing.

9           We already have, I believe, a waiver. It has been  
10 already signed. So that is not necessary.

11           On the motion, then, to continue this matter to  
12 June 30, 2022, Laura Wernick?

13           LAURA WERNICK: I am in favor of the continuance.

14           BRENDAN SULLIVAN: Okay. Wendy Leiserson?

15           WENDY LEISERSON: In favor.

16           BRENDAN SULLIVAN: Jason Marshall?

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

18           BRENDAN SULLIVAN: Jim Monteverde?

19           JIM MONTEVERDE: In favor.

20           BRENDAN SULLIVAN: And Brendan Sullivan yes.

21           [All vote YES]

22           BRENDAN SULLIVAN: On the affirmative vote of four

1 members -- five members of the Board, this matter is  
2 continued until June 30 at 6:00 p.m. Thank you.

3 JAMES RAFFERTY: Thank you very much.

4 UNIDENTIFIED SPEAKER: Thank you.

5 WENDY LEISERSON: Okay, Mr. Chair. This is Wendy  
6 Leiserson. I am now officially signing off.

7 BRENDAN SULLIVAN: Signing off? Thank you, Wendy.

8 WENDY LEISERSON: Yes.

9 BRENDAN SULLIVAN: Thank you.

10 WENDY LEISERSON: Thank you.

11 LAURA WERNICK: I am signing off also. So --

12 BRENDAN SULLIVAN: Laura, thank you.

13 LAURA WERNICK: -- we'll see you soon. Thank you.

14 ANDREA HICKEY: Mr. Chair, it's Andrea Hickey.  
15 I'm signing on.

16 BRENDAN SULLIVAN: Thank you.

17 JASON MARSHALL: Brendan, [Jason Marshall,] I'm  
18 still here. I'm not signing anything.

19 BRENDAN SULLIVAN: [Laughter]

20 JASON MARSHALL: At your disposal.

21 BRENDAN SULLIVAN: So the lineup is Brendan  
22 Sullivan, Jim Monteverde?

1 JIM MONTEVERDE: I'm here.

2 BRENDAN SULLIVAN: Jason Marshall, Andrea Hickey,  
3 and Matina Williams?

4 MATINA WILLIAMS: I am here.

5 BRENDAN SULLIVAN: Thank you. Great to hear your  
6 voice.

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(6:39 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Andrea  
Hickey, Jason Marshall, and Matina  
Williams

BRENDAN SULLIVAN: Okay, the Board will hear Case  
-- is it 6:30 yet?

JIM MONTEVERDE: Yep.

BRENDAN SULLIVAN: The Board will hear Case No.  
170721 -- 27 Craigie Street. Mr. Rafferty?

JAMES RAFFERTY: Thank you. Good evening again,  
Mr. Chair, members of the Board. For the record, James  
Rafferty on behalf of the applicants, Karl Iagnemma, Trustee  
of the Real Estate Trust that owns the property.

This is Mr. Iagnemma's home, recently acquired  
home, and the application before the Board today seeks some  
very modest changes to a very stately house at the corner of  
Craigie and the intersection of Craigie Street and Sparks  
Street.

The property is located in the Old Cambridge  
Historic District, so prior to filing this application, the  
applicant appeared before the Historical Commission and

1 received a certificate of appropriateness for the proposed  
2 renovations.

3 As the Board knows, exterior alterations to houses  
4 in historic districts do require such approval.

5 From a zoning perspective, what the applicant is  
6 seeking to do is make two small changes -- one to the main  
7 structure and one to the -- one to the carriage house. The  
8 house is well within the allowed FAR. The changed area's  
9 about 100 square feet, but the house is currently about 600  
10 -- 7000 square feet below the permitted GFA on the lot.

11 The changes to the main house are -- involve a  
12 corner. And if we could take a look maybe at Sheet A004, I  
13 think it's the easiest way on the site plan to notice where  
14 this addition is taking place.

15 The house is -- the house is nonconforming, due to  
16 its height. So the proposed addition is slightly in excess  
17 of 10 percent. So that's the purpose of the special permit  
18 and request. You'll see it in the corner right.

19 The architect on the project is Mr. Boyes-Watson.  
20 I failed to identify him. I believe he may be on the call  
21 with us?

22 [Pause]



1 JAMES RAFFERTY: Okay.

2 JIM MONTEVERDE: Nope, I don't see him.

3 JAMES RAFFERTY: He has enough confidence in my  
4 architectural abilities that he's chosen not to appear. But  
5 even that case -- even I could probably have trouble messing  
6 this up. It's -- as I said, it's an enclosure on what has  
7 currently -- what has previously been an open porch.

8 They're enclosing the porch in this left-hand  
9 corner. It represents an additional square footage of -- I  
10 think that particular portion of the square footage is  
11 around 400 or 500 square feet.

12 The other area of addition is occurring in the  
13 carriage house. The carriage house is a significant  
14 structure in its own right in the addition to the carriage  
15 house. That additional square footage, however, is in a  
16 separate structure, not limited to the 10 percent with the  
17 special permit.

18 So even the dimensional form reflects the fact  
19 that there is added GFA on the lot. It's only the -- it's  
20 only the GFA that's contained in the corner space there that  
21 requires Board approval.

22 The rear -- in addition to A004, if you look at

1 the elevations, you can see on page A200 in the top right-  
2 hand side on the right side of the main house, you can see  
3 the change in elevations at image 3 along the rear.

4 And this is where the elevations are changing most  
5 notably from a design perspective, but from a zoning  
6 perspective, there's little consequence, because that is not  
7 where the additional GFA is occurring.

8 The area in the carriage house, as I noted,  
9 additional area being created at the carriage house is  
10 occurring in a nonconforming structure, but it is less than  
11 10 percent of that structure. So that's the total of the  
12 case. It's a special permit to allow for this conforming  
13 addition to a nonconforming structure.

14 BRENDAN SULLIVAN: Okay. Any questions by members  
15 of the Board?

16 JIM MONTEVERDE: No questions.

17 BRENDAN SULLIVAN: Okay. I don't have any  
18 questions either. It appears to be quite grand, and in  
19 keeping with the side of the house. Let me open it to  
20 public comment. Any members of the public who wish to speak  
21 should now click the button that says, "Participants," and  
22 then click the button that says, "Raise 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, and  
3 you will have up to three minutes in which to comment.

4       There appears to be nobody calling in. We are in receipt of  
5 no correspondence, or we are not in receipt of any  
6 correspondence would probably be the better English.

7           We are actually in receipt of correspondence from  
8 the Cambridge Historic Commission. "The Cambridge Historic  
9 Commission hereby certifies pursuant to the Massachusetts  
10 Historical District Act and the Cambridge Historical  
11 Building and the Landmark Ordinance that the work described  
12 below is not incongruous to the historic aspects or  
13 architectural character of the building or district."

14           And it lists, "To renovate the exterior of the  
15 house, add new doorway, landing, steps, construct an  
16 addition to the side and rear, add a pedestal door and two  
17 garage doors to the carriage house, extend the preexisting  
18 driveway, replace the in-ground police, alter the landscape,  
19 install air conditioning."

20           And then it says, "Work to be carried out as  
21 indicated in the plans by Boyes-Watson Architects, Title 27  
22 Craigie Street" and dated 02/03/22. Sum and substance of

1 any correspondence. Anything else, Mr. Rafferty, to add?

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

3 BRENDAN SULLIVAN: No questions by members of the  
4 Board? Ready for a motion?

5 COLLECTIVE: Ready.

6 BRENDAN SULLIVAN: I'm making a motion, then, to  
7 grant the relief requested, which is a special permit  
8 seeking relief under 8.22d and Section 10.40, Special Permit  
9 Criteria.

10 The Board finds that it appears that the  
11 requirements of the ordinance can be met with the granting  
12 of the special permit.

13 The Board finds that Sections 8.22 allows for the  
14 construction of the proposed additions, per the application  
15 upon the issuance of the special permit, where -- as in this  
16 case -- the addition does not create any new nonconforming  
17 conditions.

18 The Board finds that traffic generated, or  
19 patterns of access or egress would not cause congestion,  
20 hazard, or substantial change in the established  
21 neighborhood character, and the Board finds that the  
22 proposed changes are well to the rear of the house and far

1 away from any public areas that would -- and have absolutely  
2 no effect on traffic or patterns of access or egress.

3 The Board finds that continued operation of or  
4 development of adjacent uses, as permitted in the Zoning  
5 Ordinance, would not be adversely affected by the nature of  
6 the proposed use. The proposed use is similar to what it is  
7 now.

8 The Board finds that there would not be any  
9 nuisance or hazard created to the detriment of the health,  
10 safety and/or welfare of the occupants of the proposed use  
11 -- in fact it would be enhanced -- or to the citizens of the  
12 city.

13 The Board finds that the proposed use would not  
14 impair the integrity of the district or adjoining district,  
15 or otherwise derogate from the intent and purpose of the  
16 ordinance, to allow homeowners to improve their structures  
17 and the livability of their homes.

18 In furtherance to granting the relief in the  
19 Section 8.222d, the Board finds that it may grant a special  
20 permit for the alteration or enlargement of a preexisting  
21 dimensionally nonconforming, detached single-family dwelling  
22 or two-family dwelling not otherwise permitted in 8.22.1

1 above, but not the alteration or enlargement of a  
2 preexisting nonconforming use.

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

9           In order to grant the special permit, the Board of  
10 Zoning Appeals is required to find, and does find, that the  
11 alteration or enlargement shall not be substantially more  
12 detrimental than the existing nonconforming structure to the  
13 neighborhood, and the alteration or enlargement satisfies  
14 the criteria in Section 10.43, as previously stated.

15           On the motion, then, to grant the relief  
16 requested, Jim Monteverde?

17           JIM MONTEVERDE: I vote in favor.

18           BRENDAN SULLIVAN: Jason Marshall?

19           JASON MARSHALL: Yes, in favor.

20           BRENDAN SULLIVAN: Andrea Hickey?

21           ANDREA HICKEY: Yes, in favor.

22           BRENDAN SULLIVAN: Matina Williams?

1           MATINA WILLIAMS: Yes, in favor.

2           BRENDAN SULLIVAN: And Brendan Sullivan yes, in  
3 favor.

4           [All vote YES]

5           BRENDAN SULLIVAN: On the affirmative vote of five  
6 members, the special permit as per the application form, the  
7 drawings initialed by the Chair, and the dimensional form  
8 are approved.

9           JAMES RAFFERTY: Thank you very much, Mr. Chair.  
10 I should note that now that all the work is over, I see Mr.  
11 Boyes-Watson has joined us. But his contribution was  
12 invaluable.

13           BRENDAN SULLIVAN: Okay. I suspect he probably  
14 didn't think we were going to be proceeding this quickly.  
15 We're at 6:45?

16           JAMES RAFFERTY: Yeah.

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(6:49 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Andrea  
Hickey, Jason Marshall, and Matina  
Williams

BRENDAN SULLIVAN: The Board will hear Case No.  
170706 -- 14 Granville Road. Mr. Rafferty?

JAMES RAFFERTY: Thank you, Mr. Chair. Good  
evening, once again. I'm James Rafferty, with offices at  
907 Massachusetts Avenue appearing on behalf of the  
applicant, 14-16 Granville, LLC. Also present is the owner  
of the property, or the Principal of the LLC, Scott Shuster;  
and the Project Architect in this case is present, Evan  
Stellman.

And we're here this evening for some modest relief  
associated with the renovation of a three-family home on  
Randall Road. The home is currently under renovation  
preliminary, because the vast majority of the renovation is  
occurring as-of-right within the structure.

The issues contained in the application involve  
the rear of the house, and maybe you could -- with the  
assist of the Board, we could look at the elevation that



1 depicts that. There's a Sheet A002 that -- yes, this is --  
2 this is perfect, A022. And Mr. Stellman could go through  
3 this, but I find this very illustrative.

4 The relief that's being sought involves existing  
5 rear decks on the house there, and they've endured a  
6 significant amount of deferred maintenance. So it's going  
7 to be necessary to replace them.

8 The proposal here is to extend them slightly, and  
9 also to place a set of exterior staircases in off the decks.  
10 And we have that in elevation in the next page.

11 It's those staircases and the extended decks where  
12 all the added GFA in the application is occurring. All  
13 outside the envelope or the four walls of the structure --  
14 in the case of the GFA on the first- and second-floor decks,  
15 it's because the roof of the floor of the deck above renders  
16 those spaces covered and covered porches are subject to get  
17 included in GFA. So you'll see the -- you'll see the  
18 increases broken down on this sheet.

19 And then finally there is also a new stairway  
20 being constructed into the basement. That stairway is going  
21 to be under one of the new decks. So that stairway, even  
22 though it's below grade, it also has a GFA implication.

1           So that's the GFA aspects of this. It's also the  
2 case that in two areas -- I believe two -- in two areas  
3 there are window wells being introduced into the lower  
4 level.

5           And as I'm sure the Board is familiar -- there's  
6 been cases of this recently -- the introduction of window  
7 wells has the effect of changing the mean grade on the lot.  
8 And in some cases, it's quite modest, and that is also the  
9 case here.

10           But the change in the mean grade affects the  
11 calculation for the height of the building. So this is one  
12 of those cases where by adding the window well, the height  
13 of the house from a Zoning perspective increases,  
14 notwithstanding the fact that there is no physical increase  
15 in the height of the house.

16           The roof is untouched. There's nothing about the  
17 peak or the slope that is changing. The high point is where  
18 it is, but because the mean grade, as measured around the  
19 house, gets slightly adjusted to accommodate where that  
20 grade drops for the window wells, the applicant -- it's  
21 necessary essentially to get a height variance to put window  
22 wells in the basement. It takes a minute to think about the

1     disconnect associated with that.

2             But this is going to bring air and light into the  
3     basement. The basement will be part of the first-floor  
4     unit. It is a basement now that is already above seven feet  
5     in height. So those are the two aspects.

6             Mr. Stellman is here and happy to go through any  
7     aspect of the renovation, particularly the portion seeking  
8     relief, if the Board wishes him to do so.

9             BRENDAN SULLIVAN: One question that I would have  
10    -- you just raised the issue of the height of the basement,  
11    and I notice that the basement had been excavated -- there  
12    is significant new piping gone on there.

13            And on the drawings, it's claiming that the  
14    existing -- preexisting floor-to-basement height was seven-  
15    foot-two. Was that before the excavation seven-foot-two, or  
16    is that [the] condition that is there now?

17            JAMES RAFFERTY: It's before. And I can -- I  
18    should perhaps have either Mr. Shuster or Mr. Stellman  
19    address the fact that they had -- they had a meeting with  
20    the Building Inspector prior to construction at the site to  
21    take those measurements.

22            The department has learned the hard way that those

1 measurements need to be verified or corroborated.

2 So in this case, before work began or a building  
3 permit was issued, the Building Inspector met on the site  
4 with both the architect and the property owner and verified  
5 the existing basement height to be in excess of seven feet.

6 BRENDAN SULLIVAN: Was that with Inspector Shaw?

7 SCOTT SHUSTER: Yes, it was.

8 BRENDAN SULLIVAN: Okay. All right.

9 JAMES RAFFERTY: Could you just identify who was  
10 speaking? That was you, Evan, right? Or was it Scott?

11 SCOTT SHUSTER: No, it was me, Scott Shuster.

12 JAMES RAFFERTY: Okay. So just identify yourself  
13 when you speak.

14 BRENDAN SULLIVAN: Okay. You were going to turn  
15 it over to -- I know, you, Evan or Scott, to just -- I guess  
16 the question I have is the rear porches, and the need to  
17 expand those. If we could show those, the staff could pull  
18 up what is proposed, to show what is existing and what is  
19 proposed.

20 EVAN STELLMAN: So if you -- this is Evan Stellman  
21 from Khalsa Design -- if you just zoom out on the sheet we  
22 were just on -- Sheet A22 -- so the top floor plans here are

1 the existing, and then the bottom -- the light blue areas  
2 are the new GFA.

3 So in the existing, the extent of the decks is  
4 highlighted in the green at the rear there. And on the new  
5 we're moving the stair to the exterior, and essentially  
6 maintaining the same size of the decks. We're just adding  
7 the stair to the left of those.

8 So really the decks aren't increasing in size,  
9 it's just the addition of the stair at the rear of the  
10 structure that's making it larger.

11 BRENDAN SULLIVAN: Okay. And the front, if we  
12 could pull up the elevation of the front?

13 EVAN STELLMAN: Yep. So the front is the top  
14 right elevation here. We're adding a deck above the  
15 existing first-floor porch.

16 BRENDAN SULLIVAN: That's already there, is it  
17 not?

18 EVAN STELLMAN: So the porch is covered. There's  
19 no access to a second-floor deck there, which we'd like to  
20 add in this application. And if I could, when I did some  
21 community outreach, one of our neighbors informed me that  
22 there actually had been a deck there before, and it was

1 removed had been a deck there before, and it was removed at  
2 some point, so.

3 JAMES RAFFERTY: Yeah. I think in the existing  
4 condition, it has the feel of a roof for the first-floor  
5 porch. Because the -- there aren't door openings currently.  
6 So it's an opportunity to utilize access.

7 But because it's below the third floor and is not  
8 covered, there is not a GFA implication here. So the -- in  
9 the openings, the added openings face the street, and thus  
10 are permitted as-of-right as well.

11 BRENDAN SULLIVAN: Within this front yard setback?

12 JAMES RAFFERTY: I'm --

13 EVAN STELLMAN: That's correct.

14 JAMES RAFFERTY: I'm guessing it's probably  
15 nonconforming on the front, but the requirement for special  
16 permits openings or nonconforming walls is not present on  
17 those walls facing public --

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

20 JIM MONTEVERDE: No questions, thank you.

21 BRENDAN SULLIVAN: Jason Marshall?

22 JASON MARSHALL: No questions.

1 BRENDAN SULLIVAN: Andrea Hickey?

2 ANDREA HICKEY: No questions.

3 BRENDAN SULLIVAN: Matina, any questions?

4 MATINA WILLIAMS: No questions.

5 BRENDAN SULLIVAN: All right. I have no further  
6 questions. Let me open it to public comment. Any members  
7 of the public who wish to speak should now click the button  
8 that says, "Participants," and then click the button that  
9 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 EVAN STELLMAN: Charles White? Charles White?  
14 Charles, can you unmute?

15 CHARLES WHITE: I'm the abutter next door at 18-20  
16 and I own the house there.

17 BRENDAN SULLIVAN: Identify yourself for the  
18 record, please?

19 CHARLES WHITE: Pardon?

20 BRENDAN SULLIVAN: If you could identify yourself  
21 for the record, name, and address?

22 CHARLES WHITE: Charles White, the owner of 18-20

1 Granville, the abutter.

2 BRENDAN SULLIVAN: Yep.

3 CHARLES WHITE: I'm fine with all of the proposed  
4 changes that have been suggested here. My only issue, as  
5 I've discussed with the developer, Mr. Shuster, is to make  
6 sure that the basement has proper drainage.

7 Both this house and my house are kind of  
8 notoriously bad for flooding. And with the separation of  
9 the sewers that's improved somewhat, but it's still a major  
10 issue.

11 And that -- what had been a basement that was  
12 basically utilities is now going to be bedrooms, which is  
13 fine. But everybody needs to make sure that whatever kind  
14 of cisterns and perimeter drains and pumps that are down  
15 there are adequate to handle it.

16 BRENDAN SULLIVAN: Right.

17 CHARLES WHITE: But other than that, it's good  
18 development. I'm all for it.

19 BRENDAN SULLIVAN: All right. Thank you.

20 EVAN STELLMAN: David Lyons?

21 DAVID LYONS: Yes, thank you. Can you hear me?

22 EVAN STELLMAN: Yes.



1           DAVID LYONS: All right, thank you. David Lyons  
2 at 301 Huron #2, abutter to an abutter two doors away.  
3 Thank you, Mr. Chair, and members of the Board for the  
4 chance to speak tonight. I sent a letter in earlier -- e-  
5 mail in earlier this morning to Staff, I don't know if  
6 you've all received that, but raising similar issues to Mr.  
7 White.

8           So our building was renovated by Mr. Shuster about  
9 five years ago, and there were some issues with the basement  
10 renovation of the waterproofing and drainage. It was not  
11 previously habitable space and was converted to be  
12 habitable, which is a great improvement, but the drainage  
13 was not done first, and it took two years after our  
14 neighbors had moved in downstairs to put it right and fix  
15 it. It was just a difficult process.

16           So if you can just ask the developer and the City  
17 Staff to take care that the drainage issue -- the full  
18 system from the gutters, the connection to the stormwater  
19 drain -- that that's all properly handled, that to the  
20 extent the space needs to be sealed, that that's done  
21 correctly.

22           I don't know what provisions are in the building

1 code or what not for you to oversee that, but I think it's  
2 just appropriate oversight, not just for this development,  
3 for any other sort of basement development like this around  
4 town and in our neighborhood, where I understand there's a  
5 high-water table and there are issues like this that is  
6 important.

7 So we'd ask for your attention to that issue and  
8 this and other matters. And other than that, I do support  
9 the relief. I think it makes sense. It would be good  
10 project, so thank you for your attention.

11 BRENDAN SULLIVAN: Thank you, David. There is  
12 nobody else calling in. We are in receipt of a form -- a  
13 petition.

14 "Members of the Board of Zoning Appeal, the  
15 undersigned met with Scott Shuster, the manager of 14-16 LLC  
16 (sic), the developer of 14-16 Granville Road.

17 "The undersigned has reviewed the plans for the  
18 project dated April 2, April 8, 2022, and writing to and can  
19 that I support the plan, and I respectfully suggest that you  
20 grant the applicant the relief sought."

21 And it is signed by -- there are 21 individuals  
22 who have signed the petition. That is the sum and substance

1 of any correspondence that we have in the file.

2 The building application, did you -- were you --  
3 did you receive review from the Department of Public Works?

4 JAMES RAFFERTY: Yes. Mr. Stoneham can, Mr.  
5 Chair, walk the Board through. There were several specific  
6 recommendations that the Civil Engineer for the project was  
7 provided by DPW. And all of them were implemented into the  
8 building permit. And Mr. Stellman, if you could quickly  
9 identify those methods?

10 The other thing worth noting as part of that is  
11 the existing asphalt driveway is being replaced with  
12 permeable pavers, which also will improve storm runoff as a  
13 result of the Civil Engineer's review of these issues.

14 BRENDAN SULLIVAN: Okay. So, you have -- they did  
15 do a review, and they made recommendations and you will  
16 conform to those review? Okay.

17 There will be another one coming too, because I  
18 was out there today, and I met with a fellow from Public  
19 Works who was not pleased with the condition of the site,  
20 and during the heavy rains, it was very muddy along the  
21 driveway. I was not able to walk up the driveway at all,  
22 and there was an awful lot of runoff.

1           So I'm sure if you haven't already, you will be  
2     hearing from Public Works on that regarding soil retention  
3     and all of that. But at any rate, as long as they're on  
4     Board, and now you're under their microscope, you will --  
5     I'm sure -- take care to do the proper thing.

6           Mr. Rafferty, the hardship criteria, you're asking  
7     for a variance?

8           JAMES RAFFERTY: All right. So the hardship here  
9     is somewhat related to the egress issues on the existing  
10    rear stairwells. They are of an era when the building code  
11    permitted winders, and this area with the expanded staircase  
12    and maybe Mr. Stellman could speak to them, but we did -- we  
13    did acknowledge in the application that we're going to have  
14    code-compliant egress in the building as a result of the  
15    increase.

16           It's also the case that the decks for the most  
17    part are preexisting. They are coming down as part of the  
18    renovation.

19           So going back up does represent the variance. But  
20    they are also an opportunity for -- to improve quality-of-  
21    life for the residents to give some opportunity for outdoor  
22    space, particularly in the current environment, where

1 spending time outside has taken on an added benefit.

2 So it's related to the need for some outdoor  
3 amenity space and the improved exterior access, pursuant to  
4 the building code.

5 BRENDAN SULLIVAN: Okay. Anything else to add, or  
6 that's the presentation?

7 JAMES RAFFERTY: That would be everything, thank  
8 you.

9 BRENDAN SULLIVAN: Okay. I'm going to open it  
10 back up.

11 JAMES RAFFERTY: I would just add -- and I --  
12 because I do think it was important -- Mr. Shuster did an  
13 extensive outreach with neighbors visiting. Nearly everyone  
14 on Granville garnered their support, did have -- did hear  
15 some issues that we heard tonight from Mr. White and others  
16 and is committed to that.

17 But it's also of note that the rear abutter, Ms.  
18 Goduti, who faces these porches and these egress, she found  
19 them to be a significant aesthetic improvement over existing  
20 conditions.

21 BRENDAN SULLIVAN: Great. Thank you. Let me  
22 throw it back to the Board. Jim Monteverde, any

1 questions?

JIM

2 MONTEVERDE: No questions, thank you.

3 BRENDAN SULLIVAN: Jason Marshall, any questions?

4 JASON MARSHALL: Thanks, Mr. Chair. I don't have  
5 any questions, I just -- I have maybe a comment on the  
6 criteria for granting a variance. As you know, Mr. Chair,  
7 we scrutinize those factors extremely closely, as we are  
8 required to, and I'm always careful in terms of any  
9 precedent we set.

10 So just for me, the second prong of that in terms  
11 of what the hardship relates to -- topography, shape, soil -  
12 - I think Mr. Rafferty in the application lists shape. To  
13 me, that's sufficient to grant it. I wouldn't grant it  
14 based on size. I understand that that is not an allowable  
15 feature by which to grant relief under that prong.

16 So I just want to be call that to the extent I  
17 would support it, it would be based on the shape and the  
18 characterization of the shape of the lot and not size.  
19 Thanks.

20 BRENDAN SULLIVAN: Well, the -- you're saying that  
21 we could grant relief based on the shape of the lot?

22 JASON MARSHALL: Correct.

1 BRENDAN SULLIVAN: And that any expansion beyond  
2 the existing envelope triggers necessary relief from the  
3 Board?

4 JASON MARSHALL: I'm saying to grant an  
5 application based on the size of the lot being the hardship,  
6 or related to the hardship, is not allowable. It's not what  
7 the -- it's not what the statute says. Courts have looked  
8 at that and been very clear that the size of the lot is not  
9 an allowable basis by which to grant an application.

10 BRENDAN SULLIVAN: Because it's not unique to the  
11 district?

12 JASON MARSHALL: Because the Zoning Ordinance is  
13 about, you know, regulating Dimensional Use.

14 BRENDAN SULLIVAN: Okay. Okay, Andrea?

15 JASON MARSHALL: I hate to be -- I do hate to be a  
16 stickler, but I will probably note that in future  
17 applications throughout, just to be consistent.

18 BRENDAN SULLIVAN: Okay, great. Thank you.  
19 Andrea, any comments? Questions?

20 ANDREA HICKEY: My only comments are that I  
21 appreciate the architect's work in this case, making it sort  
22 of visually very easy to see what the ask is. I think the

1 stairs in the rear are an improvement over what is there  
2 now, and those are my only comments. I have no questions.

3 BRENDAN SULLIVAN: Okay. Matina, any questions,  
4 or comments?

5 MATINA WILLIAMS: No questions or comments.

6 BRENDAN SULLIVAN: All right. Let me make a  
7 motion, then, to grant the relief requested, it's a  
8 variance. And they're seeking relief, Table of Dimensional  
9 Requirements in Section 8.223, Nonconforming Structure, and  
10 the criteria for granting the variance under 10.30. The  
11 Board finds that a literal enforcement of the provisions of  
12 the Ordinance would involve a substantial hardship to the  
13 petitioner.

14 The Board finds that it would prevent the  
15 petitioner from performing much-needed alterations to allow  
16 for accessible and code-compliant egress and better  
17 circulation within the building.

18 The Board finds that the existing structure and  
19 the siting thereof predates the existing ordinance, and as  
20 such is encumbered by the existing ordinance, and that any  
21 expansion to the building would require some relief by way  
22 of variance from this Board.



1           The Board finds that the relief being requested is  
2 somewhat de minimis in relationship to the existing size of  
3 the structure, would improve the livability of the -- to the  
4 occupants of the structure, would allow better access to the  
5 basement units, which is allowable -- I'm sorry, the  
6 basement's livable space.

7           Also, to the rear, that will allow some exterior  
8 space to the occupants of the first, second, third floor,  
9 which may not be afforded with the limited space in the rear  
10 yard, knowing that -- and these will be condominiums, Mr.  
11 Shuster?

12           SCOTT SHUSTER: Yes.

13           BRENDAN SULLIVAN: And that one thing I think that  
14 the ordinance may or may not really address is the fact that  
15 the prevalence of condominium form of ownership and the  
16 restrictions to open space and the use of open space, where  
17 in the past these were probably rentals, and everybody had  
18 use of the open spaces.

19           And I think what's happening now is that there is  
20 dedicated open space, and that units -- unit owners,  
21 occupants of Unit #2 and #3 sometimes get precluded or shut  
22 out of some much desirable open space, useable space for

1 their enjoyment.

2 That being said, that the -- and Jason, I would  
3 ask you to chime in on this, that the hardship is directly  
4 related to the -- and I will ask you to fill in the blank on  
5 that one, that you can --

6 JASON MARSHALL: Shape.

7 BRENDAN SULLIVAN: -- to the shape of the lot, or  
8 cash and as such that the existing structure is encumbered  
9 by the Ordinance.

10 Desirable relief may be granted without  
11 substantial detriment to the public good, and the Board  
12 finds that the proposed alterations will enhance the  
13 aesthetics of the building, #1, which is in very great  
14 disrepair, and that that will improve the adjoining  
15 properties and their valuations and their enjoyment by the  
16 owners.

17 That the desirable relief may be granted without  
18 nullifying or substantially derogating from the intent and  
19 purpose of the ordinance to allow for the improvement to  
20 property by property owners and bringing certain aspects up  
21 to code-compliance.

22 On the motion, then, to grant the relief requested

1 as per the drawings submitted initialed by the Chair,  
2 supporting statements and the dimensional form for 14  
3 Granville Road as per the application, Jim Monteverde?

4 JIM MONTEVERDE: In favor.

5 BRENDAN SULLIVAN: Jason Marshall?

6 JASON MARSHALL: In favor.

7 BRENDAN SULLIVAN: Andrea Hickey?

8 ANDREA HICKEY: In favor.

9 BRENDAN SULLIVAN: Matina Williams?

10 MATINA WILLIAMS: In favor.

11 BRENDAN SULLIVAN: Yes.

12 [All vote YES]

13 BRENDAN SULLIVAN: On the affirmative vote of four  
14 members of the Board -- five members of the Board, the  
15 variance is granted. Thank you.

16 JAMES RAFFERTY: Thank you, Mr. Chair, and  
17 members.

18 EVAN STELLMAN: Thank you, Board.  
19  
20  
21  
22

\* \* \* \* \*

(7:14 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Andrea  
Hickey, Jason Marshall, and  
Matina Williams

BRENDAN SULLIVAN: The Board will hear Case No.  
174527 -- 241 Grove Street. Looks like Mr. Rafferty's night  
at the opera here tonight. Mr. Rafferty?

JAMES RAFFERTY: Yes. I apologize for my --

BRENDAN SULLIVAN: No, it works, it works.

JAMES RAFFERTY: -- ubiquitousness (sic). But  
it's a good thing I have one of those personalities that  
people enjoy.

So for the record, the same James Rafferty that's  
been on the last three cases at 907 Mass Avenue. This is an  
application involving a single-family house on Grove Street  
in the Residence A-1 District.

And not unlike the prior case, the applicants have  
been in discussion and conversations with some abutters.  
They did receive a request from an abutter that they  
consider an extension seeking a continuance to -- in order  
to review some aspects of the plan. And they agreed to do

1 so.

2 One of the reasons the applicant today happens to  
3 be for this evening is high school graduation, and the  
4 abutters' daughter or son or the child is graduating from  
5 Cambridge Rindge and Latin, and Mr. Downes is and -- it's  
6 not Ms. Downes, it's Ms. Kensky, I apologize -- they were  
7 sympathetic to that, and do want to give an opportunity to  
8 hear some other voices, so that they are asking the Board --  
9 they're agreeing to seek a continuance in order to be  
10 responsive to their neighbors' request, particularly given  
11 the fact that the high school graduation is occurring this  
12 evening.

13 BRENDAN SULLIVAN: Great. Thank you. Any  
14 questions by members of the Board regarding the request for  
15 a continuance?

16 JIM MONTEVERDE: No questions.

17 BRENDAN SULLIVAN: Hearing none, I'll make a  
18 motion to --

19 MATINA WILLIAMS: No questions.

20 BRENDAN SULLIVAN: -- as per the request by the  
21 petitioner to continue the matter 241 Grove Street, BZA Case  
22 No. 174527 to June 30, 2022, at 6:00 p.m. on the condition

1 that the petitioner waivers in the file and any new  
2 submittals to the application not in the file be submitted  
3 by 5:00 p.m. on the Monday prior to June 30 hearing.

4 There is also correspondence from -- as you  
5 previously noted from Duncan and Diana MacArthur in the  
6 file. A letter came in actually earlier today, Mr.  
7 Rafferty, that you would review and respond to that, to the  
8 MacArthurs.

9 And that the posting sign be changed to reflect  
10 the new date, June 30, 2022, and the new time of 6:00 p.m.

11 On the motion, then, to continue this matter, Jim  
12 Monteverde?

13 JIM MONTEVERDE: I vote in favor. Thank you.

14 BRENDAN SULLIVAN: Jason Marshall?

15 JASON MARSHALL: In favor.

16 BRENDAN SULLIVAN: Andrea Hickey?

17 ANDREA HICKEY: In favor. And I would just like  
18 to ask this that the record reflect this as a case not  
19 heard.

20 BRENDAN SULLIVAN: Correct. And Matina Williams?

21 MATINA WILLIAMS: In favor.

22 BRENDAN SULLIVAN: And Brendan Sullivan yes to

1 continue.

2 [All vote YES]

3 BRENDAN SULLIVAN: On the affirmative vote of five  
4 members of the Board, the matter is continued as a case not  
5 heard to June 30, 2022, at 6:00 p.m.

6 JAMES RAFFERTY: Well, thank you again, Mr. Chair  
7 and members of the Board. Have a good evening. I regret I  
8 have no further case before you. But I --

9 BRENDAN SULLIVAN: You're leaving? Oh, okay.

10 JAMES RAFFERTY: I'm leaving. And I'm sure that  
11 will not disappoint any of you. But thank you.

12 BRENDAN SULLIVAN: Enjoy the rest of the evening.

13 JAMES RAFFERTY: You as well. Thank you.

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(7:18 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Andrea  
Hickey, Jason Marshall, and Matina  
Williams

BRENDAN SULLIVAN: The Board will hear Case No.  
171481 -- 5 Cottage Court.

BRENDAN SULLIVAN: Musco, or Mr. Royer?

CHRIS ROYER: Yes. I'm Chris Royer, Architect for  
the project. And I believe my clients, the Muscos, or the  
owners of the property, will be joining momentarily.

Is it possible to bring the drawings up? Like to  
particularly look at the exterior elevations I think would  
be the most useful on the second sheet. There we are.

If Lisa Musco is on, she -- I thought she might  
say something about having reached out to the neighbors and  
gotten positive responses. Her sons have lived there for a  
number -- in this cottage for a number of years. Their  
daughter may be moving in, and the Muscos may -- are  
thinking they may retire here. And they're making  
improvements over time.

A few years ago, they installed new windows and



1 new siding, had it painted and removed the overhand at the  
2 front door.

3           So if you look in the upper left-hand corner, the  
4 southeast elevation, they would like to install a new roof  
5 overhang at the door. They would like to remove two windows  
6 and rework, rebuild -- well, refurbish the front landing and  
7 steps. There are currently no railings on the landing and  
8 steps and they'd like to add those. That front wall of the  
9 house is in the setback.

10           Then to the upper -- in the upper right corner of  
11 the drawing, of the sheet, is the southwest elevation. This  
12 wall of the house is not in the setback. But we are  
13 proposing to add a small deck and a new exterior door  
14 because the one-car parking space is at that side of the  
15 house.

16           And as I read the Zoning Ordinance, I think this -  
17 - we may be able to do this by right, Section 5.24.2 says a  
18 deck is permitted. This deck would be permitted because it  
19 does not project more than 10 feet and it is not more than  
20 four feet above grade. So -- but I included it just to make  
21 sure I was interpreting things correctly.

22           And then in the lower left, the rear, which is in

1 the setback, we are proposing to rework the windows. You  
2 can see the dashed lines where we are removing two windows  
3 and proposing to put three smaller windows in their place in  
4 the kitchen.

5 So it's actually a reduction in the mount to  
6 window area. But that worked better with the kitchen  
7 counter and so forth.

8 I did highlight that we have -- are proposing  
9 skylights, but they are not within the setback, and I  
10 believe we can do those by right.

11 And then in the lower right, we are not proposing  
12 any changes to the northeast elevation, but we have put a  
13 red dashed line around that front landing and the roof  
14 projection above the door.

15 So those are the modest changes that we are  
16 proposing, and we would like permission to construct.

17 BRENDAN SULLIVAN: My only comment when I reviewed  
18 this -- actually when I was at the house was noticing that  
19 currently it has 931 square feet. That's -- it's a  
20 beautiful house, very compact. And you're only adding 20  
21 square feet.

22 CHRIS ROYER: That is just the roof overhang on

1 the front porch. So there's really no addition to the house  
2 other than covering that front landing.

3 BRENDAN SULLIVAN: Right. Which to my mind is a  
4 very necessary thing for protection from the weather. And  
5 also, it adds to the aesthetics of the house. So I think  
6 it's another one of those pieces that really belongs there.  
7 That's what I thought.

8 But I must commend you for the very detailed and  
9 very well-done drawing -- very easy to follow. Let me open  
10 it to members of the Board. Jim Monteverde, any questions?

11 JIM MONTEVERDE: No questions.

12 BRENDAN SULLIVAN: Jason?

13 JASON MARSHALL: No questions.

14 BRENDAN SULLIVAN: Andrea?

15 ANDREA HICKEY: No questions. And I would also  
16 like to thank the presenters for a very clear presentation,  
17 easy to follow. Thank you.

18 BRENDAN SULLIVAN: And Matina, any questions?

19 MATINA WILLIAMS: No questions.

20 BRENDAN SULLIVAN: Okay. Let me open it to public  
21 comment. Any members of the public who wish to speak should  
22 now click the button that says, "Participants," and then

1 click the button that says, "Raise hand."

2 If you're calling in by phone, you can raise your  
3 hand by pressing \*9 and unmute or mute by pressing \*6. And  
4 you will have up to three minutes to comment.

5 Nobody is calling in. As you previously noted, we  
6 are in receipt of two pieces of correspondence. One is from  
7 Kathy Chen (phonetic). And it is -- Lisa Musco has written  
8 to all of her neighbors outlining what they have done to the  
9 house and what they've proposed to do in great detail.

10 And Kathy Shannon (phonetic) writes back, "Thanks  
11 for the update. Everything looks great to me. We are all  
12 glad you are staying in the neighborhood. Please let us  
13 know when things will commence, and if you need any  
14 accommodations using the court and so forth."

15 And there was also correspondence from Ruth and  
16 Stefan Economou. And they are also, "Again, thank you for  
17 the update." And they are in full support. They are in  
18 full support of the project.

19 There is also another letter in correspondence  
20 from Ken Zolot -- Z-o-l-o-t who is -- "It's nice to hear  
21 from you. Your love of the property is wonderful to read  
22 about. It looks like you have a nice plan. Best of luck

1 with it." And that is the sum and substance of any  
2 correspondence.

3 I will close public comment at this time.  
4 Anything to add, delete, change, Chris, at all?

5 CHRIS ROYER: No.

6 BRENDAN SULLIVAN: No? Okay. Let me make a --  
7 ready for a motion?

8 ANDREA HICKEY: Ready.

9 JIM MONTEVERDE: Ready.

10 JASON MARSHALL: Ready.

11 BRENDAN SULLIVAN: Make a motion, then, to grant  
12 the relief requested for the special permit as per the  
13 application to construct an overhang over the front door,  
14 with side deck with steps and reinstalling new windows, as  
15 per the drawings, supporting statements and dimensional form  
16 and initialed by the Chair.

17 Under 10.40, it appears that the requirements of  
18 the Ordinance can be met with the granting of a special  
19 permit.

20 The Board finds that the new overhang railings at  
21 the front door replace an old overhang and railings that  
22 were removed several years ago, and will make the front

1 entry much safer for business and occupiers of the house.

2 And the changing of the windows is a realignment  
3 reflecting interior changes, and are quite proper and de  
4 minimis.

5 The Board finds that traffic generated, or  
6 patterns of access or egress would not cause congestion,  
7 hazard, or substantial change in the established  
8 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.

13 And that there would not be any nuisance or hazard  
14 created to the detriment of the health, safety and/or  
15 welfare of the occupants of the proposed use -- in fact it  
16 would be enhanced by the addition of this covering over the  
17 front deck area.

18 And the Board finds that the railings also would  
19 be a safety issue -- a safety issue that will be addressed  
20 and will add greatly to the livability of the house.

21 And the Board finds that the proposed use would  
22 not impair the integrity of the district or adjoining

1 district, or otherwise derogate from the intent and purpose  
2 of the ordinance to allow the homeowners to improve and  
3 alter their structures to make it far more livable and also  
4 safer.

5 Also in furtherance of granting of the special  
6 permit under Section 8.222d, the Board finds that it may  
7 grant a special permit for the alteration or enlargement of  
8 a preexisting dimensionally nonconforming, detached single-  
9 family dwelling or two-family dwelling not otherwise  
10 permitted in Section 8.22.1, but not the alteration or  
11 enlargement of a preexisting nonconforming use...

12 Provided that there is no change in use, which  
13 there was not, and that any enlargement or alteration of  
14 such preexisting, nonconforming detached single-family  
15 dwelling may only increase a preexisting dimensional non-  
16 conformity, but does not create a new dimensional  
17 nonconformity.

18 In order to grant the special permit, the Board of  
19 Zoning Appeals is required to find that the alteration or  
20 enlargement shall not be substantially more detrimental, and  
21 does make such finding than the existing nonconforming  
22 structure to the neighborhood.

1           And that the alteration or enlargement satisfies  
2           the criteria in Section 10.43, as previously stated.

3           On the motion, then, to grant the special permit  
4           as per the application supporting statements and  
5           accompanying drawings, Jim Monteverde?

6           JIM MONTEVERDE: In favor.

7           BRENDAN SULLIVAN: Jason Marshall?

8           JASON MARSHALL: In favor.

9           BRENDAN SULLIVAN: Andrea Hickey?

10          ANDREA HICKEY: In favor.

11          BRENDAN SULLIVAN: Matina Williams?

12          MATINA WILLIAMS: In favor.

13          BRENDAN SULLIVAN: And Brendan Sullivan in favor.

14          [All vote YES]

15          BRENDAN SULLIVAN: On the affirmative vote of five  
16          members of the Board, the special permit as per the  
17          application is granted.

18          CHRIS ROYER: Thank you all very much.

19          BRENDAN SULLIVAN: Thank you. We have one minute.

20          JASON MARSHALL: Moving along. Moving along quick  
21          tonight, so far.  
22



\* \* \* \* \*

(7:29 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Andrea  
Hickey, Jason Marshall, and Matina  
Williams

BRENDAN SULLIVAN: Okay. The Board will hear now  
Case No. 169773 -- 54 JFK Street, LT Harvard Square, Inc.  
So Lim Ting?

SO LIM TING: Hello. Hi.

BRENDAN SULLIVAN: Okay. Identify yourself for  
the record, please?

SO LIM TING: Hello, everybody. My name here is  
So Lim Ting, and I'm from LT Harvard Square, Inc.

BRENDAN SULLIVAN: And tell us what you would like  
to do.

SO LIM TING: Oh, we would like to propose to set  
up bubble tea at 54 JFK Street. Formerly, it's a Boston Tea  
Shop, and we're just trying to do bubble tea there.

BRENDAN SULLIVAN: Okay.

SO LIM TING: We currently have a location at  
Central Square.

BRENDAN SULLIVAN: Okay. It's pretty simple.

1 Questions by members of the Board? Jim Monteverde, any  
2 questions?

3 JIM MONTEVERDE: No questions.

4 BRENDAN SULLIVAN: Jason Marshall?

5 JASON MARSHALL: No questions.

6 BRENDAN SULLIVAN: Andrea Hickey?

7 ANDREA HICKEY: No questions.

8 BRENDAN SULLIVAN: Matina, any questions, or  
9 comments?

10 MATINA WILLIAMS: No questions.

11 BRENDAN SULLIVAN: And I have none. I'll open it  
12 up to public comment. Any members of the public who wish to  
13 speak should now click the button that says, "Participants,"  
14 and then click the button 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 to comment. There's  
18 nobody calling in. We are in receipt of correspondence from  
19 the Community Development Department, Harvard Square  
20 Advisory Committee.

21 "The Harvard Square Advisory Committee met on  
22 Wednesday, May 18, 2022, to discuss the special permit

1 application by Moge Tee at 54 JFK Street. The meeting was  
2 conducted pursuant to the provisions of section 2050 of the  
3 Cambridge Zoning Ordinance in advance of the applicant's  
4 request for a special permit from the Board of Zoning  
5 Appeal.

6 "Thus, the Committee Members, after discussion,  
7 the Committee decided to forward a report to the BZA with a  
8 positive recommendation, with all 10 members present and  
9 voting in favor. All 10 members present are voting in  
10 favor.

11 "The applicant proposes to operate a bubble tea  
12 shop. This use is considered both a Formula Business and a  
13 fast-order, quick serve food establishment. While fast-  
14 order quick food establishments are allowed as-of-right in  
15 the base zone, Business B, the use requires a special permit  
16 from the BZA because it qualifies as a Formula Business, and  
17 is located in the Overlay District.

18 "Members of the Committee were supportive of the  
19 applicant's proposal, highlighting that the business will be  
20 replacing a similar establishment.

21 "The committee noted that curb management is a  
22 general concern on this stretch of JFK Street it didn't not

1 think should impact the applicant's ability to be granted  
2 the special permit. Committee members did encourage the  
3 applicant to find strategies to mitigate impacts from  
4 delivery service vehicles.

5 "The Committee also encouraged the applicant to  
6 source biodegradable products, including hot and cold cups.

7 Respectfully submitted,

8 Sarah Scott,

9 Associated Zoning Planner, Community Development  
10 Department."

11 We are also in receipt of correspondence -- a  
12 member of the public --

13 "To the Board of Zoning Appeal, I am writing in  
14 support of Moge Tee permit application to the BZA. They  
15 have a successful location in Central Square at 605  
16 Massachusetts Avenue and hundreds of other locations  
17 worldwide.

18 "We think they will be a great addition to Harvard  
19 Square, and will be a good fit in the space formerly  
20 occupied by Boston Tea Shop at 54 JFK.

21 "Sincerely yours, Raj Dhanda -- R-a-j D-h-a-n-d-  
22 a."

1           BRENDAN SULLIVAN: There is also correspondence  
2 writing to support So Lim Ting and his business proposal to  
3 set up Moge Tee at 54 JFK Street.

4           "After a long day of working and studying, my  
5 colleagues and I often grab bubble tea to relieve ourselves.  
6 Harvard Square is all about diversity; however, our bubble  
7 tea selection in Harvard Square are not diverse enough. We  
8 only have Kung Fu Tea.

9           "Looking forward to having Moge Tee tea at Harvard  
10 Square. Their brown sugar bubble tea and avocado cheese  
11 foam are amazing, and regards.

12           "Regards, Junhan Zhao, Z-h-a-o  
13 Department of Biomedical Informatics  
14 10 Shattuck Street, Boston."

15           That is the sum and substance of the  
16 correspondence. Anything else to add, So, to the proposal  
17 or pretty simple?

18           SO LIM TING: That's it. Thank you.

19           BRENDAN SULLIVAN: Okay. Thank you. Any other  
20 questions by members of the Board, or ready for a motion?

21           JIM MONTEVERDE: Ready.

22           MATINA WILLIAMS: Ready.

1           BRENDAN SULLIVAN: Let me make a motion, then, to  
2 grant the special permit to operate a fast-food Formula  
3 Business.

4           Under the Fast-Order Food Establishment 11.30, the  
5 Board has to find -- in considering application for special  
6 permits for fast-order food establishment, the Board of  
7 Zoning Appeals shall find in addition to the other criteria  
8 specified in Section 10.40 that the following requirements  
9 are met:

10           The operation of the establishment shall not  
11 create traffic problems.

12           That there not be -- reduced any available  
13 parking.

14           They will not threaten the public safety in the  
15 streets and the sidewalks, or they will not encourage or  
16 produce double parking on the adjacent public streets.

17           And it may be safe to say that the Board does find  
18 that none of those will happen because of the -- this  
19 establishment going into this location.

20           The Board finds that the physical design,  
21 including colors and use of materials, shall be compatible  
22 with and sensitive to the visual and physical

1 characteristics of this other buildings, public spaces and  
2 uses in the particular location.

3 Do you have a schematic of your proposed sign,  
4 signage?

5 SO LIM TING: I think --

6 BRENDAN SULLIVAN: There was in the file. So  
7 basically, you're -- the Boston Tea Shop sign will come  
8 down, and your name will go up there in its place?

9 SO LIM TING: Yep, correct.

10 BRENDAN SULLIVAN: The same size?

11 SO LIM TING: The same size.

12 BRENDAN SULLIVAN: Okay.

13 SO LIM TING: Everything's the same.

14 BRENDAN SULLIVAN: Okay. So the Board finds that  
15 that requirement is satisfied. The establishment fulfills  
16 the need for such service in the neighborhood or in the  
17 city, and it has replaced an existing tea shop.  
18 Correspondence has shown that it would be a welcome addition  
19 to one other, the bubble tea establishment in the Harvard  
20 Square are.

21 The establishment will attract patrons primarily  
22 from walk-in trade as opposed to drive-in automobile -

1 related trade. And it's safe to say that that would be  
2 satisfied because it's the same operation as before, and  
3 that created no problems that we know of, and neither should  
4 this one.

5 The establishment shall, to the greatest extent  
6 feasible, utilize biodegradable materials in packaging the  
7 food and utensils and other items provided for consumption  
8 thereof.

9 And you will agree to, to the greatest extent  
10 feasible, utilize biodegradable utensils? Yes.

11 BRENDAN SULLIVAN: And the establishment shall  
12 provide convenient, suitable, and well-marked waste  
13 receptacles to encourage patrons properly to dispose of all  
14 packaging materials, utensils and other items provided with  
15 the sale of food or their product.

16 So there will be receptacles inside the building  
17 and potentially out on the landing? Do you have -- provided  
18 that you don't obstruct any --

19 SO LIM TING: Right.

20 BRENDAN SULLIVAN: -- egress?

21 SO LIM TING: Yes.

22 BRENDAN SULLIVAN: The establishment complies with



1 state local requirements for the handicapped and disabled  
2 persons, but that cannot be satisfied, because it's up some  
3 steps. And it's an existing location. And that requirement  
4 would be onerous and very difficult to satisfy.

5 And I think we can probably grant relief knowing  
6 that it's an existing establishment, as replaces an existing  
7 establishment.

8 Does the Board so find that those requirements  
9 have been met?

10 ANDREA HICKEY: Yes.

11 BRENDAN SULLIVAN: In furtherance of -- okay, and  
12 the requirements -- in furtherance of the granting of a  
13 special permit, it appears that the requirements of the  
14 ordinance can be met with the granting of the special  
15 permit.

16 The Board finds that traffic generated, or  
17 patterns of access or egress would not cause congestion,  
18 hazard, or substantial change in the established  
19 neighborhood character. And the Board finds that it is  
20 replacing an existing establishment of similar use.

21 The Board finds that the 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. In fact, potentially enhanced by the  
3 addition of additional patrons to this particular locus and  
4 adjoining locuses (sic).

5 The Board finds that there would not be any  
6 nuisance or hazard created to the detriment of the health,  
7 safety and/or welfare of the occupants of the proposed use,  
8 or to the citizens of the city.

9 And the Board finds that as per the application,  
10 the establishment will use all of the existing mechanical  
11 systems in place. There would be no new exterior equipment  
12 required, and that there would not be any health, safety, or  
13 welfare detriment to the occupants -- to the patrons, or to  
14 the general citizenry of the citizens of the city.

15 The proposed use would not impair the integrity of  
16 the district or adjoining district, or otherwise derogate  
17 from the intent and purpose of the ordinance.

18 The Board notes the letter of support from the  
19 Harvard Square Advisory Committee.

20 On the motion, then, to grant the special permit  
21 to operate a Fast-Food Formula Business, Moge Tee at 54 JFK  
22 Street, Jim Monteverde?

1 JIM MONTEVERDE: In favor.

2 BRENDAN SULLIVAN: Jason Marshall?

3 JASON MARSHALL: In favor.

4 BRENDAN SULLIVAN: Andrea Hickey?

5 ANDREA HICKEY: Yes, in favor.

6 BRENDAN SULLIVAN: Matina Williams?

7 MATINA WILLIAMS: Yes, in favor.

8 BRENDAN SULLIVAN: Brendan Sullivan yes.

9 [All vote YES]

10 On the affirmative vote of five members of the  
11 Board, the special permit is granted. Good luck.

12 SO LIM TING: Thank you so much.

13 BRENDAN SULLIVAN: Thank you. We're running ahead  
14 of schedule. Four minutes.

15

16

17

18

19

20

21

22

\* \* \* \* \*

(7:45 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Andrea  
Hickey, Jason Marshall, and Matina  
Williams

BRENDAN SULLIVAN: Okay. The Board will hear Case  
Number No. 121039 -- 65 Banks Street, Lubavitch of  
Cambridge, Inc. Rabbi? Rabbi Hirschy?

MORRIS SCHOPF: I am actually not Rabbi --

BRENDAN SULLIVAN: Oh.

MORRIS SCHOPF: -- I am Morris Schopf, the  
architect for the Chabad. We need to make an arrangement  
for Rabbi Hirschy to be admitted to the meeting.

BRENDAN SULLIVAN: Okay.

MORRIS SCHOPF: Can we do that?

BRENDAN SULLIVAN: Yep. Rabbi Hirschy, you're on  
mute. You have to unmute.

[Pause] Okay. Rabbi Hirschy, are you audible?

RABBI HIRSCHY ZARCHI: Yep.

BRENDAN SULLIVAN: Okay. All right, who's ever --

RABBI HIRSCHY ZARCHI: Yeah.

BRENDAN SULLIVAN: -- going to present the case?

1 MORRIS SCHOPF: I'll start, and then I'll turn it  
2 over to the Rabbi. On July 15 --

3 RABBI HIRSCHY ZARCHI: Yes, we're on now, I  
4 apologize.

5 MORRIS SCHOPF: It's okay. That would be Rabbi  
6 Hirschy and Elka, the Zarchis, they are there. Okay. And  
7 on July 15 last year, the Lubavitch of Cambridge received a  
8 Special Use Permit for a property at 65 Banks Street, which  
9 is in the Residential C-1 Zone. It is an existing,  
10 nonconforming structure on a nonconforming lot.

11 And the demand for day care services in that  
12 location has resulted in their desire to finish the basement  
13 of the existing structure without changing the footprint of  
14 the building, and to add an exterior conforming entrance to  
15 the basement under Section 5.31 of the Ordinance.

16 In addition, they would like to have the basement  
17 area added to their Special Use Permit for day care. There  
18 is an exhibit which you can bring up, which shows the plan  
19 of existing and proposed basements.

20 On the left is the existing basement. It has a  
21 ceiling height of approximately seven feet. There is a  
22 laundry room and some other things there.

1           On the right is the proposed renovation of the  
2 basement to increase the ceiling height to add a bathroom  
3 for staff, a small office for staff, a bathroom for  
4 children, and an area for day care of children in addition.

5           The addition of the FAR requires a variance. The  
6 hardships are associated with the existing conditions of the  
7 site, and the requirement for additional day care  
8 facilities.

9           Rabbi Hirschy and Elka will tell you now about why  
10 they need this additional FAR at this location.

11           RABBI HIRSCHY ZARCHI: So thank you very much,  
12 Morris. Just -- can you guys hear me?

13           BRENDAN SULLIVAN: Yes.

14           MORRIS SCHOPF: Oh, yeah.

15           RABBI HIRSCHY ZARCHI: Okay. So just by way of  
16 background, about this particular application, we were in  
17 contract to buy this building and to close on this property  
18 in November or December of 2020.

19           For lack of a better word, a thief came along and  
20 claimed that he was the rightful heir of the sellers,  
21 thinking that maybe no one will show up and he can use --  
22 you know, and win himself a property. So that froze our

1 transaction.

2 And because of the COVID backup in Probate Courts,  
3 it took about eight, nine months for the closing to actually  
4 happen. The day the hearing was set, the gentleman never  
5 showed up.

6 [Pause]

7 BRENDAN SULLIVAN: You're on mute. Rabbi Hirschy,  
8 you're on mute, so you'll have to unmute.

9 RABBI HIRSCHY ZARCHI: Oh, I'm sorry.

10 BRENDAN SULLIVAN: Yep.

11 RABBI HIRSCHY ZARCHI: Have you heard anything, or  
12 I should start from the beginning --

13 BRENDAN SULLIVAN: Yes. Yep. Yep.

14 ELKA ZARCHI): Yeah, they heard that, "So nobody  
15 showed up."

16 RABBI HIRSCHY ZARCHI: Yes. So nobody showed up  
17 to the hearing. Once he learned that there was a hearing  
18 set, he never showed up, and then they quickly -- the  
19 Probate Court finalized the transaction.

20 And they only then were able to come before the  
21 Committee, you may recall. And that was already close to  
22 the summertime. And we had the urgency to try to get this

1 place in shape for the program in September.

2 So it's -- the reason why this is relevant is so  
3 at the time we only applied for a building permit for the  
4 first and second floor, because even that required a  
5 Herculean effort to get it ready in time for September.

6 It was -- to us we assumed -- I mean, we -- it was  
7 never even a question to us that the building in its  
8 entirety was granted a change of use. It was only when  
9 things were settled now, and we had the bandwidth and the  
10 time to renovate the basement properly were we informed that  
11 we would have to come before the Committee again, because  
12 technically speaking, that was not included in the change of  
13 use at the time.

14 So I just wanted to kind of clarify the narrative.  
15 We were always -- this is -- we always assumed that the  
16 entire building was -- the entire space was fit for this and  
17 was approved for this. We only learned this technicality  
18 recently.

19 You know, the -- having given that background,  
20 I'll really turn it over to Elka, who is the Head of School,  
21 who knows the particulars of the day-to-day operation and  
22 can hopefully, you know, address any concern that may exist.



1 Thank you.

2 ELKA ZARCHI: So thank you for your time. I just  
3 -- I know that there were some --

4 BRENDAN SULLIVAN: Elka, if you could just add a  
5 --

6 ELKA ZARCHI: I'm sorry?

7 BRENDAN SULLIVAN: If you could just state your  
8 name for the record.

9 ELKA ZARCHI: Yeah. Elka Zarchi, and I am the  
10 Head of School, Cambridge Preschool of the Arts.

11 BRENDAN SULLIVAN: Okay.

12 ELKA ZARCHI: And my name, I think, was on the  
13 original application.

14 BRENDAN SULLIVAN: Yeah.

15 ELKA ZARCHI: So I just -- I know, you know, we've  
16 spoken before about the importance of having a day care in  
17 our neighborhood, where there are so many young families and  
18 so few options.

19 And I know that there have been two neighbors who  
20 are worried about the congestion and the parking that this  
21 might -- parking situation that it might bring to the  
22 neighborhood.

1           So I just want to clarify that, you know, we're a  
2   community school and we're a neighborhood school. And right  
3   now, there are -- I looked, you know, I looked through the  
4   lists again and there are exactly two families who are not  
5   in walking distance. Everyone else is in walking distance,  
6   and most days does walk.

7           Our other -- because we're a community builder,  
8   and we're a neighborhood school, our other locations in  
9   Inman Square and West Cambridge and in East Cambridge really  
10   service those neighbors, and we're really servicing right  
11   now the Harvard Square neighborhood.

12          On average, maybe three to five families may  
13   drive, you know, in the morning if they're on their way to  
14   work or it's raining. But because we became aware of the  
15   concern of neighbors' driveways being blocked, we  
16   immediately sent out a schoolwide communication.

17          We actually sent out two on the same day so that  
18   it couldn't be missed. We had every family sign off and  
19   confirm that they saw it. I myself stood out there to  
20   enforce it. We have ample parking across the street. We  
21   live at 54 Banks Street, which is directly across the  
22   street.

1           Our driveway is completely empty in the morning,  
2       so that parents can pull in and do drop-off safely. There's  
3       a crosswalk that the City put in right in front of our house  
4       so they can cross safely and easily. They can pull into our  
5       driveway.

6           And our parents -- you know, our parents are part  
7       of the neighborhood. So they all want to be friendly,  
8       respectful, and great neighbors. I wish that I would have  
9       known earlier that once in a while a driveway was being  
10      blocked, because I would have obviously immediately put an  
11      end to it.

12          We also -- I realized today when I was standing  
13      outside, you know, because I myself have been out there just  
14      watching and making sure that we were respecting everyone's  
15      driveways, and also the bike lane, I did notice a few cars  
16      who actually were not POTA related do the same thing.

17          So I'm not sure if sometimes we're lumped together  
18      with just, you know, people having a hard time finding  
19      parking -- you know, just running into Louie's or the new  
20      grocery -- I forgot, Surrey Market, et cetera.

21          But I also would like everyone to know that we  
22      hired, you know, one of our Site Directors specifically to

1 stand outside from now on at drop-off and at pickup to  
2 really make sure that people are being seen, and that nobody  
3 is blocking driveways, blocking the bike lane, and pulling  
4 into 54 if necessary.

5 As far as the concern about staffing parking, our  
6 staff -- also a lot of our staff walks, but the staff that  
7 drives has ample parking at 65, and if need be, they can  
8 always park in our driveway.

9 So even, you know, even the class that we do add,  
10 it's not adding that many children to what we already have,  
11 and it's a lot of families that now just have one more child  
12 so that they can bring every age to the same location.

13 So I don't know if that was -- I think those were  
14 the main concerns. But if there was anything else, I'm  
15 happy to address it as well.

16 MORRIS SCHOPF: Elka, would you talk briefly about  
17 the actual number of children in the classrooms? The  
18 application indicates the number of children who are -- the  
19 license would permit, but if you'd speak a little bit to the  
20 fact of your smaller classes being the license total number,  
21 et cetera. Would you do that, please?

22 ELKA ZARCHI: Sure. So our preschool classes

1 would never actually hit the 20 that we are allowed to have,  
2 according to the EEC. But the reason why we ask the City to  
3 permit for as many as the EEC would allow is so that if two  
4 classrooms ever emerge, or if there was an activity, there  
5 was an activity -- you know, in one of the common spaces or  
6 joint Shabbat party for example, that we would be within the  
7 building -- within the Certificate of Occupancy permit  
8 number as well as the EEC number.

9 BRENDAN SULLIVAN: Okay. Thank you. One question  
10 that I have -- this can be to Morris or Elka -- back on July  
11 15, 2020 when we came for the initial special permit, you  
12 stated -- and I sat on that case -- stated that the property  
13 contained a two-family house -- you at that time stated that  
14 the proposal was to convert the use to day care for the next  
15 few years while the petitioner's new facility was being  
16 renovated. You stated that the building would not be  
17 materially altered.

18 Ms. Zarchi stated that affordable day care was  
19 badly needed in the neighborhood; stated that the students  
20 would be arriving on foot and so would not affect the  
21 traffic. But whatever happened to the renovation at 243  
22 Hampshire Street?

1 ELKA ZARCHI: So right now, we have -- we have  
2 started -- we are operating there. We only have -- we only  
3 have two classrooms there, because the tenant hasn't vacated  
4 yet. They're waiting for new properties.

5 COVID, obviously, has not been helpful. But when  
6 Luna's does -- Luna is our tenant -- and when they find  
7 themselves a new home, our plan is to continue to finish up  
8 the renovations and expansion there.

9 BRENDAN SULLIVAN: Okay. All right. So once you  
10 were located on Banks Street, you found out that you are  
11 needed in the community, and that --

12 ELKA ZARCHI: There are some --

13 BRENDAN SULLIVAN: -- you get a lot of families  
14 from the Graduate Housing?

15 ELKA ZARCHI: We do. We have a lot of Graduate  
16 Housing families, and then we also have a lot of just young  
17 professionals who live in the neighborhood. We have quite a  
18 number of physicians who live in Harvard Square. We have --  
19 we have a couple of faculty members. But we also definitely  
20 just have families who live, you know, who just live in the  
21 neighborhood, not necessarily Harvard.

22 BRENDAN SULLIVAN: Were there any other

1 establishments of your type in the neighborhood that offer  
2 this type of service, this day care?

3 ELKA ZARCHI: The only established day schools are  
4 preschools that exist within Harvard Square. It would be  
5 use, it would be the one on Walden and Concord, and the one  
6 in Inman Square, which is both part of our organization.

7 BRENDAN SULLIVAN: Okay.

8 ELKA ZARCHI: But even non -- even Harvard has  
9 moved Peabody for now. They have moved out of their space.  
10 They moved across the river. So I don't -- I am not aware  
11 of any preschools directly within our neighborhood,  
12 actually.

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

16 [Pause]

17 Jim?

18 JIM MONTEVERDE: Sorry, I was muted. No  
19 questions.

20 BRENDAN SULLIVAN: Jason Marshall, any questions,  
21 or comments?

22 JASON MARSHALL: Thanks, Mr. Chair. I think I

1 want to hear from other members of the Board and public  
2 comment, and then maybe provide feedback at that time.

3 Thanks.

4 BRENDAN SULLIVAN: Okay, great. Thank you.

5 Andrea Hickey, any comments, questions?

6 ANDREA HICKEY: Yes. If I could ask the  
7 petitioners, how many parking spaces are there across the  
8 street at 66 Banks?

9 ELKA ZARCHI: 66 is where the school is and -- 65,  
10 I'm sorry -- 65 has four --

11 MORRIS SCHOPF: Five cars.

12 ELKA ZARCHI: -- so five cars tandem. And in our  
13 driveway at 54, we can --

14 ANDREA HICKEY: That's what I meant to ask. I  
15 meant to ask just about 54, I'm sorry.

16 ELKA ZARCHI: Another five.

17 ANDREA HICKEY: All right. Okay.

18 ELKA ZARCHI: Sorry. Yeah.

19 ANDREA HICKEY: That's okay. So approximately  
20 nine between the two properties?

21 ELKA ZARCHI: Correct. Thank you.

22 BRENDAN SULLIVAN: Matina, any comments, questions



1 at this time?

2 MATINA WILLIAMS: No comments or questions.

3 BRENDAN SULLIVAN: Okay. And I have none.

4 ELKA ZARCHI: Yeah, we -- oh, I will add that we  
5 also have a few more parking spaces at 48, which is also  
6 part of our property. So we have four more parking spaces  
7 there. But we never really need it for 60 -- we never  
8 really use it for the preschool.

9 MATINA WILLIAMS: Thank you.

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

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

17 MORRIS SCHOPF: Elizabeth Foote?

18 BRENDAN SULLIVAN: Elizabeth? You can either  
19 press \*9 or unmute or mute by pressing \*6.

20 ELIZABETH FOOTE: Can you hear me?

21 BRENDAN SULLIVAN: Yes. Can you identify yourself  
22 for the record, please?

1           ELIZABETH FOOTE: Great. My name is Elizabeth  
2     Foote. My husband, Eric Thorgerson is here with me. We  
3     reside at 29 Surrey Street, our -- we're on the corner of  
4     Surrey and Banks, and our driveway exits out our back door  
5     and is across from 65 Banks.

6           I did send a -- a letter of opposition on Monday.  
7     I don't know if the Board had a chance to read that, or  
8     whether you want me to restate what was in the opposition?

9           BRENDAN SULLIVAN: Yes, we have.

10          ELIZABETH FOOTE: You have read it?

11          BRENDAN SULLIVAN: Yes.

12          ELIZABETH FOOTE: Okay. That -- that really  
13     summarizes the way that we and other neighbors of ours feel  
14     about having so much traffic on Banks Street that it makes  
15     our neighborhood less of a neighborhood, less residential.  
16     And we did indeed think that the school was going to be  
17     temporary. We believed that it would not cover three  
18     floors. We have concerns about student safety as well as  
19     ours.

20                 We aren't sure the state health code allows day  
21     care in basements and third floors. We thought it was only  
22     on first floor. We have absolutely nothing against day care

1 and school. The children are adorable, and it just is not  
2 fitting for our neighborhood. We do feel a great deal of  
3 detriment.

4 What we see are parents idling up in front of our  
5 driveway. And honestly, we're retired so it's not such  
6 hardship for us, but it changes our day, and we say, "Well,  
7 we were -- you know, in a year or two it'll be different."

8 So the car stops idling, the child removed, the  
9 parents go in, talk to teachers. There's an entry process  
10 that's a little bit lengthy. And so, we know that for about  
11 45 minutes in the morning we're going to have some trouble.

12 I appreciate the attempt to mitigate that trouble,  
13 but I -- we feel that an increase in students will only  
14 exacerbate the problem for us and for the kids and for the  
15 parents.

16 BRENDAN SULLIVAN: Okay, thank you. Doris  
17 Jurisson?

18 DORIS JURISSON: Yeah, hi there. There is Doris  
19 Jurisson at 22 Banks Street. And I certainly confer with  
20 Elizabeth's thoughts and, you know, the day care itself is  
21 definitely. The people are delightful, and there is  
22 certainly a lot of foot traffic. But there is no -- there

1 is no place for drop-off.

2 And it is -- creates -- I would have to agree a  
3 very difficult situation, where there just simply are cars  
4 dropping off, whether you're local or not, you're maybe  
5 dropping your children off and having to rush out to your  
6 job in the car.

7 There is car drop-off, and it is a very difficult  
8 situation. There simply is no place to create a curb cut in  
9 front there that would be a safe position to get people out  
10 of the car. Again, they're very young children.

11 And growing it to 66 is -- it's just very  
12 worrisome. Once Harvard starts up again, you're in the  
13 heart of, you know, the Harvard buses running and a lot of  
14 traffic coming through here.

15 And it's -- it's just -- it's not best. I think  
16 there may be -- there's a lot of property that is owned, and  
17 there may be some other options for constructing a more  
18 safer, better way to go about doing it.

19 But I think the way it's configured now is not  
20 appropriate or does certainly create some harm to the  
21 neighbors.

22 BRENDAN SULLIVAN: Great. Thank you for your

1 comments. There appears to be nobody else calling in. We  
2 are in receipt of a couple correspondences to the Board of  
3 Zoning Appeal.

4 "We are writing to express our support and  
5 eagerness for the new Cambridge Preschool of the Arts class  
6 at 65-67 Banks Street. POTA is such an incredible gem of a  
7 school and absolute bedrock of our Cambridge community.  
8 When we first found ourselves looking for day camp, we were  
9 somewhat dismayed at how few options there are, and how  
10 oversubscribed they were in our part of Cambridge."

11 It goes on to:

12 "It is not only an excellent day care, such a  
13 wonderful school, teaching them about their home and their  
14 community --" and asks us to grant relief; Haining Gouinlock  
15 -- G-o-u-i-n-l-o-c-k and Brendan Corcoran, 15A Ellsworth  
16 Ave.

17 There is also correspondence from Sarah and  
18 Michael Mendelson writing a letter to support -- "express  
19 our support for the Preschool of the Arts Harvard Square  
20 School expansion.

21 "As a resident of Cambridge as well as a parent of  
22 a child who attends the school, we feel this expansion will

1 help to continue to build the already wonderful community  
2 that has been created. Students and parents of POTA truly  
3 love this community, and this expansion will only add value  
4 to the neighborhood."

5 And that is the sum and substance of the  
6 correspondence. The other letter that had come in the  
7 previous speaker voicing opposition and concerns by the  
8 existence of the day care center there.

9 I will close public comment. Morris, any other  
10 comments or --

11 MORRIS SCHOPF: No. I think that we presented our  
12 case completely and --

13 ELKA ZARCHI: Morris, I think there are a few --

14 BRENDAN SULLIVAN: Speak up.

15 ELKA ZARCHI: -- there are a few hands raised, and  
16 I think that they also had submitted letters, but I see  
17 their hands raised now.

18 MORRIS SCHOPF: Yes. So we should recognize the  
19 other raised hands.

20 LEAH ROSENBERG: Oh. There are how many other  
21 people? Okay. So they wish to speak? So they wish to  
22 speak?

1 ELKA ZARCHI: I think so.

2 BRENDAN SULLIVAN: Are they there? Leah  
3 Rosenberg? Yeah, you're on mute.

4 LEAH ROSENBERG: Oh, no I'm not. I'm not muted  
5 anymore. Hi. My name is Leah Rosenberg. I live at 47  
6 Banks Street. So I am a close neighbor.

7 And I have two children in the POTA program, and I  
8 can't speak more highly of this day care. My son, who's  
9 four and a half, has been in it since 6 months of age. My  
10 daughter, right here, who's two, is in it. We absolutely  
11 think the world of it.

12 I'm an essential worker at Massachusetts General  
13 Hospital, and it's incredibly important to have stable,  
14 consistent day care. And POTA has really made it possible  
15 for me to work during this pandemic. So I really can't  
16 speak more highly of it.

17 And I as a neighbor, I completely agree that we --  
18 that's why -- yeah, that's why we chose to live here, and,  
19 you know, we are all willing to collaborate with our  
20 neighbors in any way to keep everyone safe and comfortable  
21 in our neighborhood. Thank you so much for the time.

22 BRENDAN SULLIVAN: Thank you. Is there any other

1 person who's raising their hand wish to comment?

2 RABBI HIRSCHY ZARCHI: Rabbi, you're on mute.

3 BRENDAN SULLIVAN: Yes, all right. If you would  
4 identify yourself for the record?

5 AVISHAY BEN SASSON-GORDIS: Hello. My name is  
6 Avishay Ben Sasson-Gordis. I live on 4 Ashley's Terrace,  
7 which is within the neighborhood. My only way to leave the  
8 area with a car is through Graham Street and Banks Street.

9 So I am -- I too suffer from the post COVID  
10 increase in number of cars in our neighborhood, including  
11 the difficulty to find parking in the area, and we've all  
12 felt it since the end of the pandemic.

13 I think, though, as a resident of the neighborhood  
14 and someone who has their 3-year-old in the day care and  
15 somebody who has their upcoming third child who's supposed  
16 to be born in October on the waitlist for a place in day  
17 care at Harvard Square, and someone who had -- who has had  
18 their child for three years on the waiting list for Harvard  
19 day care and hasn't gotten a spot in it, despite being a  
20 grad student.

21 The community that POTA creates is one of the  
22 things I appreciate most about it, the Preschool of the



1 Arts. And living in the neighborhood, we just spoke to  
2 friends of ours over the weekend hanging out and going to  
3 the parks in the area how great it is to see people's faces  
4 in the morning.

5 So when we think about neighborhood life and the  
6 ability to see people and walk, one of the things we  
7 appreciate is those moments we cherish on the way there and  
8 back, never any trouble crossing streets with our young  
9 children. And I totally understand the concern about  
10 parking.

11 And one of the things I appreciate is that it's  
12 not being denied. During the pandemic, POTA was one of the  
13 schools -- we had a child in a different school -- that set  
14 the strictest rules and had an expectation from parents to  
15 meet the rules that are set in order to protect the  
16 community.

17 And listening to Elka and Rabbi Hirschy describe  
18 the willingness to do what's needed to protect the community  
19 and neighborhood, I trust that both us as the parents in the  
20 community but they can do what's needed to make this  
21 possible, because for the texture of the community living in  
22 the area to continue to develop on the very young scale of

1 things, we need those classroom spaces around.

2 BRENDAN SULLIVAN: Great. Thank you. Thank you  
3 for your comments. Anybody else who is raising their hand.

4 JESSE LEMPEL: Hi, this is Jesse Lempel. Do you  
5 hear me?

6 BRENDAN SULLIVAN: Yes.

7 JON LANDRY: Hi. I'm a POTA parent as well, and I  
8 live on 1008 Mass Ave, you know, just around the block from  
9 Banks Street.

10 And I -- so first of all, I would like to say that  
11 I think -- and I don't know if this has been adequately  
12 explained in public, but a lot of parents who go to POTA  
13 live in the immediate vicinity as I do.

14 And as Avishay and others have mentioned and, you  
15 know, we typically almost always walk to pick up and drop  
16 off. So, you know, that will mitigate. And the concerns  
17 about congestion are legitimate, but that certainly will  
18 mitigate concerns.

19 And I just want to emphasize how important POTA is  
20 to us as parents, and having a reliable day care is really,  
21 really crucial. And, you know, the alternative to having  
22 reliable day care is when you have -- you know, you have to

1 travel to drive to a day care that fits, that has  
2 availability and that fits whatever you are looking for as a  
3 parent.

4 And that could be -- you know, blocks or 20  
5 minutes in the more commute and driving. That itself  
6 creates a lot of congestion, which is completely unnecessary  
7 if we can utilize the space that is already available.

8 So I think that -- you know, the congestion  
9 concerns are mitigated by the local population, and just  
10 everyone lives nearby and there are a lot of people who live  
11 nearby. And if you restrict the space, that actually would  
12 add to congestion throughout the neighborhood by forcing  
13 people to drive to other day cares, where they're not  
14 immediately located next door.

15 BRENDAN SULLIVAN: All right, thank you. Thank  
16 you for your comments. Okay. That is the sum and  
17 substance. I will now close the public comment.

18 RABBI HIRSCHY ZARCHI: If it's okay, I just wanted  
19 to take the last 60 seconds here with Elka. And I just  
20 wanted to state -- and I'll do it here publicly -- I did it  
21 to the neighbors in person -- we were somewhat very, very  
22 surprised and disappointed that the neighborhood who had an

1 issue with the parking never approached us.

2 We only learned about that issue in their  
3 opposition to this application.

4 I sent it to them -- I -- we knocked on their door  
5 the other day. I would like to state it again here publicly  
6 that first of all that we're sorry for any inconvenience  
7 that it may have caused, and we absolutely commit to  
8 ensuring that never happens again.

9 It's unfortunate that we didn't know that it was  
10 occurring from time to time. There was no reason for it to  
11 occur, we have an incredibly respectful and responsible  
12 community who by the way are concerned for the well-being  
13 and safety of their children as much as any neighbor is.

14 So I can assure you this is not -- you know, these  
15 families and parents, the safety of their children is -- no  
16 one is more concerned for it than they are.

17 So, you know, the notion that we -- someone should  
18 be concerned for the safety of the children when you have  
19 such loving and devoted parents who are completely committed  
20 to their children -- so the safety of the children I think  
21 is without a doubt top priority and nothing to be concerned  
22 about because it's being managed at the highest level.

1           Inconvenience about a car, which we learned only  
2   in this application process I apologize for it. And we  
3   publicly commit to ensuring that it never happens again.  
4   And we're able to make that commitment because thankfully  
5   we're blessed with ample parking. In fact, not only ample  
6   parking, more parking than what we may ever need -- both  
7   permanent parking spaces and also temporary for drop-off  
8   purposes.

9           So there really is no reason for there ever to be  
10  an issue again. And now that we're aware that there was  
11  one, we will take every step and every measure going forward  
12  that this issue is never a problem again.

13           BRENDAN SULLIVAN: Okay. Thank you.

14           RABBI HIRSCHY ZARCHI: And again, I want to thank  
15  the Committee very much for their time and for their  
16  consideration.

17           BRENDAN SULLIVAN: All right. Morris, you have  
18  concluded your presentation?

19           MORRIS SCHOPF: No. All I wanted to say was that  
20  our permit application is pretty complete, and it includes  
21  the requirements for 40A Section 10 in detail, which is  
22  included in the application.

1           BRENDAN SULLIVAN: Great. Okay. Thank you. All  
2 right. I will conclude the presentation part, take it back  
3 to the Board. Jim Monteverde, any comments, questions at  
4 this point?

5           JIM MONTEVERDE: No questions, thank you.

6           BRENDAN SULLIVAN: Jason?

7           JASON MARSHALL: Just takes a second to come off  
8 camera. I guess I hadn't sat on the original case, and I --  
9 I'm struggling with the application. It seems like an  
10 amazing school, an amazing school community.

11           The administrators of the school, from what we've  
12 heard tonight also seem to be making great efforts to be  
13 good neighbors. And clearly there's a need for this  
14 institution somewhere, and need to expand.

15           At the same time, you know, institutional uses,  
16 while they can provide a tremendous public interest, also  
17 can be really disruptive in a residential neighborhood.  
18 That's something that we need to consider.

19           And I'm not sure -- again, I didn't sit on the  
20 original case, I'm not sure if the intensity of this use, if  
21 it had been proposed along with the original application for  
22 permission to change the use here, whether it would have

1    been granted.  It seems like there may have been opposition  
2    at that time.

3               So I think I'll stop there for now.  I wanted to  
4    hear from other Board members.  But I am struggling with  
5    this one.

6               BRENDAN SULLIVAN:  Okay.  Andrea?  Thoughts,  
7    comments?

8               ANDREA HICKEY:  Yes.  So I'd like to ask the  
9    applicants whether they'd consider a lower number of  
10   children attending the revised -- the space as revised from  
11   66 down to something lower than that?  I understand the idea  
12   that you'd want to apply for the maximum, and that you'd  
13   want to be able to have some overlap, as you said if you had  
14   a schoolwide event or something like that.

15              But if 66 children have 66 parents -- and I'm not  
16   saying that some parents don't have multiple kids -- that's  
17   an awful lot of people at maximum capacity coming and going.  
18   So I'd ask the applicants if there's any room to consider  
19   perhaps lowering that number?

20              ELKA ZARCHI:  I think we could --

21              RABBI HIRSCHY ZARCHI:  It's about 50, not 60 now.

22              ELKA ZARCHI:  If we could -- so first of all I

1 just want to clarify that most of our families -- because I  
2 know all our potential enrollments for next year -- most of  
3 our families have at least two children in the school, and  
4 also the -- it's probably half the amount of families coming  
5 at 3:30 and half the amount coming staggered from 3:30 to  
6 6:00. So our heaviest time would be at 3:30, but that's not  
7 even the entire school, that's only half of the school.

8 RABBI HIRSCHY ZARCHI: Right.

9 ELKA ZARCHI: So, you know, and so it's a  
10 staggered pickup. So the afternoon is not really an issue.  
11 And also, the morning next year we have some families coming  
12 at 8:00 and some families coming at 8:30. And a few actually  
13 have been coming at 8:45.

14 But also, it's not 66 families by any stretch of  
15 the imagination. The average family has two children like  
16 you see the -- you know, every family that spoke today has  
17 two children in our school. So the average -- it's -- I --  
18 you shouldn't think of it as 66 families --

19 RABBI HIRSCHY ZARCHI: 30.

20 ELKA ZARCHI: It's probably closer to 30, 35  
21 families.

22 ANDREA HICKEY: Could I ask you how many children



1 or families you serve now under the current configuration?

2 ELKA ZARCHI: I can look that up as we speak.

3 RABBI HIRSCHY ZARCHI: 20 --

4 ELKA ZARCHI: Well, we have --

5 RABBI HIRSCHY ZARCHI: 20, 30 and 18 downstairs.

6 That's 28, so 38, 40 --

7 RABBI HIRSCHY ZARCHI: It's about 45, 46.

8 ANDREA HICKEY: All right. The reason I ask is  
9 I'm trying to get a feel for sort of the increase in density  
10 and intensity in the neighborhood.

11 RABBI HIRSCHY ZARCHI: Sure.

12 ANDREA HICKEY: Between what's there now and what  
13 you're proposing.

14 RABBI HIRSCHY ZARCHI: Yeah. It's about 45, 46.  
15 But you know, you know, I should say -- you know, I didn't  
16 hear any exhibits to, you know, to say anything to -- to  
17 suggest otherwise. Every single house on that block --  
18 square block -- is actually owned by Harvard.

19 You have Mather House, which is a tower to -- you  
20 know, a 30 -- 44 floors that's on the corner of the school.  
21 You have Peabody that has multiple towers.

22 You know, I'm -- and then you have that grocery

1 store that sells alcohol that's open until 11:00 and, you  
2 know, 18-wheelers dropping off deliveries there around the  
3 clock would allow us to -- you know, I don't know if, you  
4 know because we're in the application so it's being directed  
5 towards us?

6 I mean, anybody who knows anything about the  
7 neighborhood or about the block understands that there's  
8 probably you have probably several thousand students who  
9 live at Dunster House, Mather House, Peabody Terrace.

10 And that dimension, you know, the shop with the  
11 alcohol and the trucks and the deliveries and people  
12 stopping by all the time in all kinds of vehicles, both  
13 styles to purchase alcohol on the corner there at the corner  
14 of Surrey and Banks...

15 The school -- and I say this not only as an  
16 applicant but also as a family who lives on the block, the  
17 kind of comments we get not daily but hourly by anybody who  
18 walks is one of praise, warmth, and joy that, you know, the  
19 serenity and the warmth that these children bring to the  
20 neighborhood has been incredible.

21 And it's a way of dulling out all the other noise  
22 that exists. The noise of the traffic is not -- are not

1 these wonderful young children who have very loving and  
2 caring and watchful parents.

3 It may be other factors that this is the  
4 neighborhood -- you know, it's Harvard Square, it's Harvard  
5 campus, every building, all our neighbors are Harvard-owned  
6 properties.

7 So you have students, you have undergrads. I  
8 mean, they're all lovely in their own right, but obviously,  
9 you know, it's obviously a very different culture, 18-22-  
10 year-olds who live at Mather House and then Peabody Terrace  
11 and the alcohol store, et cetera, et cetera.

12 ELKA ZARCHI: I just want to add that I did ask  
13 quick scan on my -- on our enrollments. So right now, I  
14 think we're averaging -- for right now, I think that our  
15 number for families next year is about 40, because it's a  
16 lot of returning families with added siblings.

17 ANDREA HICKEY: Thank you.

18 ELKA ZARCHI: So I don't think the number of  
19 families is actually increasing.

20 ANDREA HICKEY: Thank you. Mr. Chair, that's all  
21 I have at the moment.

22 BRENDAN SULLIVAN: Any questions?

1           RABBI HIRSCHY ZARCHI: Final comment that all the  
2 additional spaces are going to be going to existing families  
3 who want to bring basically a second child. So either their  
4 current child goes up a class and their toddler will be  
5 enrolled in a lower class -- so arguably the number of  
6 families won't increase an iota because of this one-  
7 classroom expansion.

8           BRENDAN SULLIVAN: Okay. Thank you. Matina, any  
9 questions, or comments at this time?

10          MATINA WILLIAMS: Sorry. No, I just -- you know,  
11 you say you have a -- you have one person that's going to be  
12 standing outside working traffic? Is that what I heard,  
13 that helps with drop-off?

14          ELKA ZARCHI: Not directing traffic, making sure  
15 that the rules that we put in place for drop-off as in, "Do  
16 not block, do not block neighbors' driveways, do not congest  
17 the sidewalks, do not -- you know, please cross at the  
18 crosswalk" yes. I or an Administrator will be outside every  
19 day.

20          MATINA WILLIAMS: There -- she's there now. But  
21 now, like, starting this week when we heard about this  
22 complaint, that job description was made very clear to make

1       sure that nobody is abusing nice neighbors.

2               MATINA WILLIAMS:   Nice neighbors.   Okay.   Thank  
3       you.

4               BRENDAN SULLIVAN:   When I reviewed this case --  
5       obviously I sat in the original petition -- and yes, it was  
6       to be temporary while 243 Hampshire Street was being  
7       renovated.   But also, to be honest with you, I did not think  
8       at the time that it did not improve the basement.

9               I think that it probably -- thinking for myself,  
10       probably would have been okay with them using the structure.  
11       I believe at that time I thought it was going to be an  
12       entire structure.

13              I am very partial and sympathetic to day care  
14       facilities as a parent who used a neighborhood childcare  
15       facility within walking distance of our house, as a  
16       grandparent who has picked up grandchildren actually up in  
17       Burlington.   We used a day care facility at a temple.   And  
18       it was a wonderful experience.   And, again, the temple was  
19       in a residential area.   And it was a wonderful experience  
20       for my grandchildren.

21              And also, I hear the bemoanings of my nieces and  
22       nephews who having young children are trying to find day

1 care facilities, and there's a long wait line list. And  
2 finding it very, very difficult to find places that they can  
3 have to service their children during the day and to protect  
4 them.

5 So I'm very partial to this. When I looked at  
6 this proposal -- and if we can pull up the basement plan,  
7 Staff? It was just up there; sorry I should have had you  
8 keep it there.

9 When I looked at this night and day the proposed  
10 basement plan, what I saw was the addition of two toilet  
11 rooms, which I think will be a great asset to the children  
12 and staff of the existing facility.

13 Yes, there is a -- call it a classroom or an open  
14 space there, but I also think that that will allow  
15 potentially maybe more students -- more people there -- and  
16 I also look at it as an area that allows some more space for  
17 the children, which in these uncertain times with COVID that  
18 space, distance from one another is a huge, huge plus and of  
19 great concern.

20 And rather than constricting, restricting space, I  
21 think that the addition of this space will add tremendously  
22 to the safety of the children by providing additional toilet

1 facilities and also some additional space. So I'm very much  
2 in favor of this.

3 There are going to be some comings and goings  
4 issues. I think there always is when anything is in the  
5 middle of a residential neighborhood. I think that Rabbi  
6 has heard and Elka has heard the concerns.

7 And I think -- again, for the past two years they  
8 have operated there very well. And I think that they will  
9 address, be cognizant and sensitive to any future issues.

10 So I am very much in favor of this for those  
11 reasons, and vote to support the special permit.

12 So going back to --

13 JASON MARSHALL: Mr. -- Mr. Chair --

14 BRENDAN SULLIVAN: Jason?

15 JASON MARSHALL: -- can I just -- can I just say,  
16 so your comments as somebody who had sat on the original  
17 case were very helpful to me. Thank you for that. Can I  
18 ask -- as I understand it, the use, the allowable use here  
19 runs through 2024, it's temporary, is that correct?

20 BRENDAN SULLIVAN: The current was -- the  
21 presentation at the time was for a -- to be for a few years  
22 while the petitioner's facilities was being renovated, yes.

1 But there was no time limit put on it. There was no date  
2 certain that it expired.

3 JASON MARSHALL: Okay. I thought I had a memory  
4 of a 2024 date in the record. To the extent there is that  
5 kind of a date, if we were to vote favorably on this, would  
6 the approval here also be subject to that time restriction?

7 BRENDAN SULLIVAN: Well, again, there was just  
8 presentation that it would be for a few years, not in  
9 perpetuity, whether or not the Board voted that time that --  
10 I think if it was only going to be for -- and again, trying  
11 to -- for myself going back, sitting on the case at the time  
12 that it was yes, temporary, but we did not put any time  
13 limit on it.

14 So what does that say? That says that if there  
15 was a concern that it was going to be expired in three  
16 years, four years, or something like that, I think we would  
17 have put that on at the time. I think that because there  
18 was no date certain expiration that we allowed it to  
19 continue.

20 So the special permit that we're granting now, the  
21 existing one has no expiration date on it. The one that  
22 we're granting tonight could not have an -- will not have an



1 expiration date on it, unless the Board so deemed.

2 JASON MARSHALL: Well, I'm just -- I am seeing it.  
3 it looks to me --

4 JIM MONTEVERDE: Excuse me.

5 JASON MARSHALL: -- like there is --

6 JIM MONTEVERDE: Yeah, there is.

7 JASON MARSHALL: -- a precedent.

8 JIM MONTEVERDE: I'm just -- I'm reading the  
9 paperwork from the City. And it basically stated, I'm  
10 looking for a date on here, from 2021 July, and it basically  
11 reads -- I just found the date -- it says, "Chair further  
12 moved -- [da-da-da-da-da] and the evidence before the Board  
13 on the condition that this special permit terminates August  
14 31, 2024, at which time there will be no ability to use  
15 these temporary classrooms as proposed by the petitioner,  
16 except if further zoning relief is granted."

17 BRENDAN SULLIVAN: Jim, what --

18 JIM MONTEVERDE: Signed by the Vice Chair, you.

19 BRENDAN SULLIVAN: Send --

20 JIM MONTEVERDE: So I'm in the file, I'm in the  
21 file -- I'm in the electronic file.

22 JASON MARSHALL: It's on -- it's on -- it's on --

1 BRENDAN SULLIVAN: Oh, all right. I know.

2 JASON MARSHALL: PDF page 19 in the electronic.

3 JIM MONTEVERDE: Oh, sorry. Yeah, yeah, yeah. I  
4 didn't count the pages. Thank you.

5 BRENDAN SULLIVAN: All right. Thank you.

6 JIM MONTEVERDE: And it's the bottom paragraph.

7 BRENDAN SULLIVAN: Well, that escaped me, and I  
8 looked here in the file.

9 JASON MARSHALL: In any case, having now  
10 confirmed, and thank you, Jim, my understanding would be  
11 that any approval here would run concurrent with that  
12 timeline, and therefore this approval in the prior special  
13 permit could be considered holistically again if the  
14 applicant requested and the Board can consider it at the  
15 time.

16 So with that understanding, which is -- it's my  
17 understanding, I would be inclined to vote in favor.

18 BRENDAN SULLIVAN: To have this permit run  
19 concurrently with the original grant?

20 JASON MARSHALL: Correct. So you'd still have  
21 that -- what is it, August?

22 BRENDAN SULLIVAN: August 31, 2024?

1 JIM MONTEVERDE: Correct.

2 BRENDAN SULLIVAN: So that they could come back  
3 and get further relief at that time?

4 JASON MARSHALL: Yeah, correct.

5 BRENDAN SULLIVAN: Would that be the assessment of  
6 the Board?

7 JIM MONTEVERDE: Yeah.

8 BRENDAN SULLIVAN: Yeah? Should we have this  
9 relief, this special permit run concurrently with the  
10 original relief and expire on August 31, 2024?

11 ANDREA HICKEY: I --

12 JIM MONTEVERDE: Further that zoning relief is  
13 granted.

14 JASON MARSHALL: And this is a --

15 JIM MONTEVERDE: Yeah.

16 JASON MARSHALL: -- this is a request for a  
17 variance, so just to be clear on that. It is a different  
18 request for relief.

19 BRENDAN SULLIVAN: This is a request for a special  
20 permit.

21 JASON MARSHALL: Uh?

22 BRENDAN SULLIVAN: I'm sorry. Wait a minute. I

1 have two different files here.

2 JASON MARSHALL: No, it's a variance.

3 BRENDAN SULLIVAN: It's a variance, sorry. Right.

4 "A BZA special permit was issued 2021 to operate a  
5 day care at 65 Banks Street. Due to the increase in demand  
6 for the petitioner's day care and educational services, we  
7 would like to finish and utilize the basement space of the  
8 existing structure to accommodate more families and children  
9 from the community."

10 "Table of Dimensional Requirements, 10.30  
11 variance, alteration or enlargement of a nonconforming  
12 structure not otherwise permitted in 8.22.1, 8.222 (sic).  
13 Also, a special permit to expand the day care use from the  
14 first and second floor into the basement."

15 So they're asking for basically a use. The  
16 alteration or enlargement of a nonconforming structure, and  
17 that also the expansion of the day care use. So it's a  
18 variance and a special permit.

19 MATINA WILLIAMS: So they are looking to expand  
20 the day care?

21 BRENDAN SULLIVAN: So what is before us is to  
22 grant a variance, and then also to grant a special permit.

1 Is that how you read it too, Jason?

2 JASON MARSHALL: I don't see the special permit  
3 request in the application. And maybe I'm -- maybe I'm just  
4 missing it. I'm looking at page 1 of the record, and I see  
5 the box checked for "Variance."

6 BRENDAN SULLIVAN: Yeah, on the petition on the  
7 file, it says, "Variance." But then also, "Special permit"  
8 which will expand the day care use from the first or the  
9 second floor. And it cites Article 4 Section 4.33 Day Care  
10 Use, Section 4.56 Institutional Use Regulation, which  
11 requires a special permit.

12 So --

13 JASON MARSHALL: Are others seeing that too? I'm  
14 just -- I'm --

15 ANDREA HICKEY: Yeah.

16 JASON MARSHALL: -- and I'm looking at page 1 of  
17 the file electronically and I'm --

18 ANDREA HICKEY: Right. Hi, it's --

19 JASON MARSHALL: I don't see that cited.

20 BRENDAN SULLIVAN: Yeah, I think --

21 ANDREA HICKEY: -- it's Andrea Hickey speaking. I  
22 think they didn't check off, "Special permit" but it seems

1 pretty clear to me that the content of the application was  
2 to sort of conjoin a variance and a special permit to kind  
3 of piggyback on the special permit that exists at present  
4 for that use.

5 I do see on our list of cases for tonight it's  
6 listed as both, 'Variance' and 'Special Permit.' Curious as  
7 to how it was actually advertised, because I think that's  
8 important. Mr. Chair, can you speak to that?

9 BRENDAN SULLIVAN: The advertisement calls for a  
10 variance.

11 ANDREA HICKEY: And not for the special permit?

12 BRENDAN SULLIVAN: And a special permit to expand  
13 the day care use from the first and second floors into the  
14 basement.

15 ANDREA HICKEY: All right. So that's how the  
16 advertisement was sort of issued?

17 BRENDAN SULLIVAN: Correct.

18 JASON MARSHALL: Okay.

19 ANDREA HICKEY: Correct.

20 JASON MARSHALL: I'm good with that. Thank you,  
21 Andrea, and Mr. Chair.

22 ANDREA HICKEY: All right. And if -- if I could

1 speak for a moment, I agree that there is a limitation in  
2 terms of time for the special permit that was heard and  
3 decided upon earlier.

4 I think if we are to grant the special permit in  
5 this case, that we have to sort of be consistent with the  
6 special permit that was previously decided, because the  
7 applicants have not sort of made a request in this hearing  
8 at least that that sort of date either be extended or  
9 terminated.

10 I think before we decide this case, we may want to  
11 give the petitioners the opportunity to perhaps amend their  
12 filing and come back again before we decide if they do want  
13 to sort of present a petition to remove that deadline. Just  
14 an idea.

15 I'm prepared to decide on what we have before us  
16 tonight, but I do feel constrained by the date that's  
17 previously been decided.

18 So I'll yield to you, Mr. Chair.

19 BRENDAN SULLIVAN: Yeeha. I think, Andrea, you're  
20 touching on the same point that I'm going around in my head  
21 here that if we grant the variance, then that runs with the  
22 land that -- however, there is a special permit hanging on

1 the property. But that is -- expires.

2 So how do we grant a variance? But then the  
3 special permit expires in 2024. That the variance, other  
4 than the Use Variance, does not expire?

5 ANDREA HICKEY: Right.

6 BRENDAN SULLIVAN: And so, I think the point that  
7 you're making is that perhaps this application, with the  
8 [2:45:28 indiscernible] of an attorney, may need to be  
9 amended and possibly tidied up so that we could grant maybe  
10 two forms of relief, but then also request that time limit  
11 be eliminated. Is that what you're asking for?

12 ANDREA HICKEY: That's what I'm saying should be  
13 an option for the applicants. I think it really is up to  
14 the applicants whether they want to proceed on what's before  
15 us tonight, or whether they want the opportunity to perhaps  
16 amend their filings to address the time limitation in the  
17 original special permit.

18 BRENDAN SULLIVAN: Okay. All right. Morris and  
19 Rabbi, do you understand what we're asking is that  
20 potentially go back, we continue this matter tonight, go  
21 back and go through the nuances of the requested relief and  
22 potentially amend it so that it basically tidies it up into



1 one form of relief, be that a variance and also request that  
2 potentially the time limit on the special permit be asked to  
3 go away?

4 JASON MARSHALL: Yeah. I mean, I appreciate --  
5 first of all, thank you very much for that feedback and  
6 consideration. And I just want to be respectful to the  
7 Committee's time... You know, one option is that we pause and  
8 come back and eliminate the expiration date, if I understood  
9 it correct, and then petition in that manner.

10 Oher another approach perhaps would be to greet,  
11 impose the limit of Change of Use with the original  
12 expiration dates and separate the variance from that, and  
13 then we could come back, you know, should we need -- should  
14 we want to come back and address that at a future point, we  
15 can have a discussion at that time.

16 But this way we close out -- we close out at least  
17 the matter of the -- because I mean considering the time  
18 schedule with September approaching and the new school year  
19 and all the work that's involved in getting it ready, I  
20 wouldn't want -- you know, I'm trying to do the responsible  
21 thing here.

22 And I'm thinking that if we can, you know, resolve

1 the question of the additional space and bathrooms in the  
2 basement today, that would -- that would be the -- that  
3 would allow, you know, reasonable time to get this work  
4 completed properly in time.

5 So -- and then we could always come back at a  
6 later date? Does that make any sense?

7 ANDREA HICKEY: I think you'll have to come back  
8 at a later date. I don't think it's optional. I think  
9 because there's an expiration on the underlying special  
10 permit, you're forced to come back.

11 My only question is, do you want to try to deal  
12 with that now as part of your variance application and get a  
13 new date and come back with all one case, or do you want to  
14 sort of kick the expiration of the special permit down the  
15 road a bit, knowing you'll have to come back?

16 ELKA ZARCHI: Yeah.

17 ANDREA HICKEY: Because once it expires, you have  
18 no right to continue that use.

19 RABBI HIRSCHY ZARCHI: Right. So -- so, you know,  
20 I appreciate that clarification. So that's -- so again, if  
21 I understood you correctly, we're happy to kick it down --  
22 you know, for a later time and agree now to impose the

1 expiration limited on this additional -- on this additional  
2 space that we're applying -- we applied for today.

3 ELKA ZARCHI: With the understanding that we have  
4 to come back sooner than later to --

5 RABBI HIRSCHY ZARCHI: If --

6 ELKA ZARCHI: -- if we need it to discuss -- to  
7 discuss further relief.

8 ANDREA HICKEY: All right. Mr. Chair, I think  
9 that you have some latitude in this case to perhaps for  
10 efficiency so that we're not sitting on this exact same sort  
11 of case a year or two down the line, do you want to require  
12 that this come back, or are you prepared to hear it as is?

13 BRENDAN SULLIVAN: Well, one of the problems is if  
14 we grant the variance to allow them to use the property as a  
15 day care center and that the special permit is the expansion  
16 of that day care center into the basement, so there are --  
17 there's one form of relief, but then also there's the other  
18 form of relief, which now has a time limit to it.

19 I think what the Rabbi is saying is that he's  
20 looking at the clock and seeing the calendar going by and  
21 needing to have the space ready for September, because  
22 that's when he needs to be up and operating.

1 I am prepared to give them the relief that they  
2 are requesting and if the special permit gets kicked down to  
3 2024, then they'll have to come back and ask for either  
4 continuation of that or for it to go away.

5 ANDREA HICKEY: Thank you, Mr. Chair. I'm  
6 prepared to vote in favor of that as well, as long as in our  
7 findings we make it clear that there is an expiration date  
8 to be dealt with somewhere in the future. Thank you.

9 BRENDAN SULLIVAN: Okay. Jason, can you chime in  
10 on this?

11 JASON MARSHALL: I agree with that.

12 BRENDAN SULLIVAN: Okay. Jim Monteverde?

13 JIM MONTEVERDE: Agree.

14 BRENDAN SULLIVAN: And Andrea? I mean, I'm sorry,  
15 FAWCETT?

16 MATINA WILLIAMS: I agree with that.

17 BRENDAN SULLIVAN: Okay. And I may need some help  
18 from the Board here on this too. Let me make a motion,  
19 then, to grant the requested relief for 65 Banks Street as  
20 per the application's supporting statements and dimensional  
21 form contained therein. We are granting a variance under  
22 Section 5.31 8.223, which is an alteration or enlargement of

1 a nonconforming structure, and then Section 4.33b, for a day  
2 care use.

3 The Board finds that a literal enforcement of the  
4 provisions of the Ordinance would be substantial hardship to  
5 the petitioner because it would preclude the petitioner from  
6 continuing using the structure as a day care center, use  
7 which was granted by special permit by this Board July 15,  
8 2020.

9 That the existence of this use has been in the  
10 continuance use since then. Has been an asset to the  
11 community, has serviced the community, and that for this  
12 particular use to not be allowed would cause substantial  
13 hardship to the petitioner and also to the people that it  
14 services.

15 The Board finds that the hardship is owing to the  
16 fact that it is located in a Residential C-1 Zone. It is  
17 encumbered by the existing ordinance, and that and other  
18 institutional use ordinances, which predate the existence of  
19 this particular structure, but encumbers its change of use.

20 The Board finds that desirable relief may be  
21 granted without substantial detriment to the public good --  
22 in fact the public will be well-served by having such

1 facility in the residential neighborhood servicing the  
2 neighborhood.

3 The Board particularly notes the graduate school  
4 dormitories in the close proximity and the number of people  
5 who use this facility for day care services.

6 The Board finds that desirable relief may be  
7 granted without substantial detriment to the public good, or  
8 nullifying or substantially derogating from the intent and  
9 purpose of the ordinance.

10 The Board finds that the petitioner is seeking to  
11 finish and utilize an existing basement space in order to  
12 accommodate more families, children, provide additional  
13 toilet facilities and additional room for the students in  
14 which to enjoy the benefits of the day care services.

15 Relief is granted on the acceptance of the  
16 petition and the supporting statements.

17 On the motion, then, to grant the variance as per  
18 the motion, Jim Monteverde?

19 JIM MONTEVERDE: In favor.

20 BRENDAN SULLIVAN: Jason Marshall?

21 JASON MARSHALL: In favor.

22 BRENDAN SULLIVAN: Andrea Hickey?

1           ANDREA HICKEY: In favor.

2           BRENDAN SULLIVAN: Matina Williams?

3           MATINA WILLIAMS: In favor.

4           BRENDAN SULLIVAN: Brendan Sullivan in favor.

5           [All vote YES]

6           On the affirmative vote of five members of the  
7 Board, the variance as per the application is granted now  
8 for the special permit to expand the day care's use from the  
9 first floor into the basement area, which can be granted by  
10 the granting full term -- which can be allowed by the  
11 granting of the special permit.

12           The Board finds that the requirements of the  
13 ordinance can be met with the granting of the special  
14 permit.

15           The Board finds that traffic generated, or  
16 patterns of access or egress would not cause any additional  
17 congestion, hazard, or substantial change in the established  
18 neighborhood character.

19           The Board finds that the existing operation has  
20 been in operation since 2020? With --

21           RABBI HIRSCHY ZARCHI: 2021.

22           BRENDAN SULLIVAN: -- the Board finds that

1 continued operation of or development of adjacent uses, as  
2 permitted in the Zoning Ordinance, would not be adversely  
3 affected by the nature of the proposed use.

4 The Board finds that there would not be any  
5 nuisance or hazard created to the detriment of the health,  
6 safety and/or welfare of the occupants of the proposed use.

7 In fact, the Board finds that the addition of the  
8 space in the basement to provide additional toilet  
9 facilities and some additional classroom space would be an  
10 asset to the occupants and users of the facility.

11 And the Board finds that the proposed use would  
12 not impair the integrity of the district or adjoining  
13 district, or otherwise derogate from the intent and purpose  
14 of the ordinance, which is to provide day care facilities  
15 not otherwise offered in the public schools, and also that  
16 it be an asset in close proximity to residences in the  
17 neighborhood.

18 And also find that the day care facility is  
19 governed by the laws and regulations of the Commonwealth of  
20 Massachusetts.

21 All those in favor of granting the special permit  
22 and with the condition that said permit expires in



1 conjunction with the existing special permit governs the  
2 property?

3 ANDREA HICKEY: Mr. Chair, if I could just add  
4 that we should tie in the underlying special permit Case  
5 Number BZA-121039, which has a condition that it terminates  
6 on August 31, 2024 and that the special permit before us  
7 tonight will also terminate in -- on the same date, August  
8 31, 2024, unless the petitioners come before the Board to  
9 either extend that date or extinguish a date altogether.

10 BRENDAN SULLIVAN: Great. Thank you. So noted  
11 and incorporated by reference as part of the record.

12 On the motion to grant the special permit, Jim  
13 Monteverde?

14 JIM MONTEVERDE: In favor.

15 BRENDAN SULLIVAN: Jason Marshall?

16 JASON MARSHALL: In favor.

17 BRENDAN SULLIVAN: Andrea Hickey?

18 ANDREA HICKEY: Yes, in favor.

19 BRENDAN SULLIVAN: And Matina Williams?

20 MATINA WILLIAMS: Yes, in favor.

21 BRENDAN SULLIVAN: And Brendan Sullivan in favor,  
22 with the condition.

1 [All vote YES]

2 Five affirmative votes, the special permit is  
3 granted. Thank you all.

4 RABBI HIRSCHY ZARCHI: Thank you very much.

5 ELKA ZARCHI: Thank you so much, everyone. We  
6 really, really appreciate your support for our community.

7 BRENDAN SULLIVAN: I'm sorry?

8 JEFF ROBERTS: They were just saying thank you,  
9 Brendan. And nice job, by the way, on that.

10 BRENDAN SULLIVAN: Thank you.

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(8:50 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Andrea  
Hickey, Jason Marshall, and Matina  
Williams

BRENDAN SULLIVAN: Thank you. The Board will hear  
Case No. 170726 -- 10 Hazel Street.

[Pause]

10 Hazel Street?

DEBORAH FAWCETT: Oh, there I am up on the upper  
left.

BRENDAN SULLIVAN: Hi.

DEBORAH FAWCETT: Good evening. My name is  
Deborah Fawcett. I'm the attorney representing the owner of  
the property in question, Joan Wheelis. Joan's also  
participating in this Zoom hearing, as is Brigitte Steins,  
who's the architect for the project.

Joan has lived in Cambridge a long time, and has  
lived and worked in this particular neighborhood since 1989.  
She's owned 10 Hazel Street for since 2011, and she is  
currently renting at a tenant's. She lives two doors down  
around the corner at 218 Garden Street.

1           10 Hazel Street is a small, one-story house. It  
2 has 956 square feet of living space. It was built in 1961,  
3 but the Historic Commission has determined that it doesn't  
4 meet their criteria requiring a hearing.

5           I'm here before you now because at this point in  
6 her life, Joan wants a house that has some features at 218  
7 Garden Street does not. Like many of us -- certainly myself  
8 -- Joan has problems with sore knees, and she wants an  
9 elevator in the house. She also doesn't want to struggle to  
10 shovel snow off her car anymore, because she parks on the  
11 street.

12           She is a psychotherapist and wants to have space  
13 in the house to continue that practice, which of course is a  
14 home occupation permitted as-of-right.

15           She wants to have ample space for overnight  
16 guests, and in particular to accommodate comfortably her  
17 son, who she anticipates may come to live with her and to  
18 and to help her out as time goes on.

19           Joan tells me that this part of Garden Street is  
20 sometimes called, "Great Swamp Way" because there's a lot of  
21 runoff coming downhill. And she's experienced basement  
22 flooding as a result and some related problems. And she

1 doesn't want to experience that anymore, either.

2           Maybe most importantly, Joan really appreciates  
3 the existential threat that climate change poses to all of  
4 us. And she wants to have a sustainable, energy efficient  
5 home that's as green as she can reasonably afford.

6           So the proposed design accomplishes all of these  
7 objectives. And there are many elements to make the house  
8 great, including triple-pane windows, green building  
9 materials and finishes, shading to prevent overheating.

10           It's designed to follow the sun, providing natural  
11 daylight to indoor rooms, roof and wall insulation that will  
12 exceed code requirements.

13           She also wants to put exterior insulation at the  
14 basement of the house, and it's going to be a combination of  
15 geothermal and solar energy with heat pumps that will be  
16 energy-efficient, but will not make a lot of noise to  
17 disturb neighbors.

18           Unfortunately, it's not feasible to convert -- to  
19 make this happen in 10 Hazel Street. It's just too small,  
20 ceilings are too low and so forth. So Joan and her  
21 architect examined the building carefully, and they just  
22 decided that that was not feasible.

1           This lot, like others in the immediate  
2 neighborhood, which were laid out in plan I think 1911 is  
3 preexisting, nonconforming. The lot size is 4756 square  
4 feet, which is somewhat less than the required minimum of  
5 5000. And it's 41 feet wide, as opposed to 50, which is the  
6 requirement.

7           And it's because of these deficiencies in area and  
8 width of the lot that we're here asking for some minimal, we  
9 think, variances from the requirements.

10           The floor area ratio, the requirement is 0.5. We  
11 are -- the design includes 97 square feet more than the  
12 maximum would be allowed because of the lot being  
13 undersized. So the floor area ratio we would end up with is  
14 0.52. Then there are two small intrusions into the side  
15 yards, the small canopy on the north or left side of the  
16 building if you're standing in the street, which would be  
17 three feet by three feet.

18           And on the other side on the right side or south  
19 side of the property, we would like to include a small kind  
20 of bump out, a bay-like projection on the second floor only  
21 of the bedroom. And that would project one foot nine inches  
22 into that side yard on the right side.

1 Both of those arguably fall within the provision  
2 of Section 5.24.2, which I will just quote, "projecting  
3 eaves, chimneys, bay windows, balconies, open fire escapes,  
4 and light projections, which do not project more than three  
5 and a half feet --" which these would not, "-- and are part  
6 of a larger building no more than 35 feet high. This is  
7 going to be the maximum, 35, but not over. May extend into  
8 the minimum yard requirements."

9 When we met with Ranjit, or I spoke with him, he  
10 was -- he suggested that these projections might fall within  
11 that provision, which would exempt us from the requirement  
12 of -- I mean we wouldn't need a variance, because the  
13 intrusions would be okay. But we wanted to be cautious and  
14 conservative, and that's why we're asking for variances for  
15 those two projections as well.

16 Finally, we're hoping to get a variance to intrude  
17 into the both side yards four inches at the basement level  
18 to accommodate the application of exterior insulation, which  
19 there's a provision in the ordinance that would allow this  
20 if it were an existing building, but not for a new one. But  
21 it does serve the purpose quoted in Section 2241 of the  
22 ordinance to remove potential impediments to the

1 construction of exterior walls with additional insulation.

2 So that's our proposal. I'm happy to answer any  
3 questions. I think that, as I say, the building was not  
4 deemed architecturally or historically significant enough to  
5 warrant protection by the Historical Commission.

6 This new building would contribute to the City's  
7 commitment to protecting the environment. It would be a  
8 much more energy-efficient and sustainable building.

9 A new system for collecting rainwater should  
10 diminish the downhill runoff. Hazel Street runs downhill  
11 from Fayerweather to Garden, and there would be  
12 substantially more open space than is required.

13 And Joan is an avid and skilled gardener, and I'm  
14 sure will do a beautiful job making this property lovely.  
15 And I think it would, far from being a detriment, I think it  
16 will substantially enhance and probably improve the value of  
17 the neighboring properties, as well as 10 Hazel Street.

18 It won't increase density of development or  
19 traffic. It will be more energy efficient, and as I said  
20 before, will not generate noise. It's in a scale of the  
21 front setback is completely consistent with the surrounding  
22 neighborhood.



1           As I said, many of these lots were laid out before  
2     the Zoning Ordinance was adopted, and there are a lot of  
3     houses in the neighborhood who don't have much of a side  
4     yard at all.

5           I think -- oh, I also wanted to let you know that  
6     Joan has spoken with and shared her plans with as many  
7     people as she could contact in the neighborhood, and I think  
8     there have been 15 letters of support that were submitted  
9     along with her application. And that includes the two  
10    properties on either side, the immediately abutting  
11    properties as well as some properties across the street.

12           BRENDAN SULLIVAN: All right. Good. Thanks.  
13     Okay.

14           DEBORAH FAWCETT: Thank you.

15           BRENDAN SULLIVAN: Let me open it up to members of  
16    the Board. Jim Monteverde, any questions at this time?

17           JIM MONTEVERDE: No questions, thank you.

18           BRENDAN SULLIVAN: Jason Marshall, any questions?

19           JASON MARSHALL: No questions at this time, thank  
20    you.

21           BRENDAN SULLIVAN: Andrea?

22           ANDREA HICKEY: Yes. I am having a bit of a hard

1 time sort of following the plan to compare the current  
2 structure with what's proposed. Could I ask someone on the  
3 presenter's side to bring us to one of the slides that will  
4 clearly show sort of existing versus proposed?

5 DEBORAH FAWCETT: Actually, if you bring up slide  
6 17, that shows the Dimensional Table.

7 ANDREA HICKEY: Right. I have that. So I'm  
8 looking for something like a plot plan.

9 DEBORAH FAWCETT: Oh, sure.

10 ANDREA HICKEY: I'm not an architect, so I'm  
11 trying to just visualize --

12 DEBORAH FAWCETT: Sorry.

13 ANDREA HICKEY: What is the footprint now, versus  
14 what is it -- what are you proposing in terms of the massing  
15 on the lot? So --

16 DEBORAH FAWCETT: This is the plot plan that shows  
17 the existing --

18 ANDREA HICKEY: Correct.

19 DEBORAH FAWCETT: -- conditions.

20 ANDREA HICKEY: Right. I understand that.

21 DEBORAH FAWCETT: Okay. And if you go down to  
22 Slide 5 would probably be helpful. This is the floor area

1 ratio analysis.

2 And I think if you -- over on the right side,  
3 Olivia, you can see a neighborhood comparison. The first-  
4 floor plan, which is in slide 10, shows the canopy that  
5 we're talking about.

6 And the -- and the purpose of that is to protect  
7 people -- patients, although Joan doesn't have many patients  
8 coming to her home office at this point, I think a lot of it  
9 is over the phone at this point, but for those who do come,  
10 the canopy would protect them from rain while they're  
11 waiting to come in. And it's --

12 JIM MONTEVERDE: Can I make -- sorry, this is Jim  
13 Monteverde. Can I make one suggestion that might answer the  
14 question that was asked?

15 DEBORAH FAWCETT: Yes.

16 JIM MONTEVERDE: If you would go to -- what sheet  
17 am I on, I'm on Sheet 16, I believe, it shows that there's a  
18 photograph of the existing condition. No, wrong sheet,  
19 sorry.

20 DEBORAH FAWCETT: No, that's not it.

21 JIM MONTEVERDE: I'm on the one that has the  
22 survey, and it has the photograph, front, and rear of the

1 current building.

2 DEBORAH FAWCETT: Oh.

3 ANDREA HICKEY: Jim, what page of the --

4 DEBORAH FAWCETT: On page --

5 ANDREA HICKEY: -- PDF, is that --

6 DEBORAH FAWCETT: Slide 3.

7 JIM MONTEVERDE: This one.

8 DEBORAH FAWCETT: This is -- again, these are  
9 existing conditions. But these are some photos of 10 Hazel  
10 Street now.

11 JIM MONTEVERDE: Agree. Yeah. So --

12 DEBORAH FAWCETT: Right?

13 JIM MONTEVERDE: -- that gives you a sense --  
14 Andrea, that gives you a sense of what it's like, you know,  
15 from the street?

16 ANDREA HICKEY: Right. I --

17 JIM MONTEVERDE: Right?

18 ANDREA HICKEY: -- 100 percent have that. I'm  
19 looking --

20 JIM MONTEVERDE: Yeah.

21 ANDREA HICKEY: -- for something that -- I'm  
22 looking for something just that simple for what's proposed.

1 JIM MONTEVERDE: Right.

2 DEBORAH FAWCETT: Okay.

3 JIM MONTEVERDE: Well, if you --

4 BRIGITTE STEINS: May --

5 JIM MONTEVERDE: -- if you go to the next slide --

6 BRIGITTE STEINS: May I introduce myself? My name  
7 is Brigitte Steines, InkStone Architects. So I'm the  
8 architect here. And we produced the drawings, so maybe I  
9 can help out here.

10 So I think the best -- the best slide to go to to  
11 compare besides the images and seeing the open space is also  
12 the R2 drawing, which is I believe the third one on your --

13 ANDREA HICKEY: I think it's Slide 6.

14 BRIGITTE STEINES: Or Slide 6. Yeah, the slides  
15 are different. So this gives a very good overview of what  
16 is -- if you're looking for that?

17 ANDREA HICKEY: Yeah. I'm looking for sort of  
18 what exists versus what is proposed.

19 BRIGITTE STEINES: Right. So --

20 ANDREA HICKEY: How the structure lies on the lot.

21 BRIGITTE STEINES: Of course. So there are two  
22 ways to compare it. One is the footprint, and if you

1 compare it with the existing plot plan, then you can see  
2 that our footprint got bigger. If you look at the open  
3 space, there is still a whole lot of more open space than  
4 other buildings in the neighborhood.

5 The other way to compare it is the floor area.  
6 And then there is -- there the floor plan is probably more  
7 helpful --

8 DEBORAH FAWCETT: Slide 5.

9 BRIGITTE STEINES: -- than the plot plan. But  
10 maybe the R2 plan we are looking at right now is not easy to  
11 read, so maybe I can walk you through that, what the  
12 footprint means.

13 I don't know, Olivia, if you can make the -- we  
14 can see the full picture? At least in cannot, or can I see  
15 that, really? Maybe a little smaller. Thank you so much.

16 So if you move it -- this is the back. Let's  
17 start from the back side, since we see -- okay. So now  
18 that's the front side. So on the right side you're going to  
19 see Hazel Street with a driveway very similar to what it is  
20 right now.

21 The first block rectangle where it says, "roof  
22 terrace" is a one -- is a single-story structure. There is

1 a courtyard which is open. It's on grade of level. And  
2 then everything that is gray is more two and a half stories  
3 high.

4 Then if you can move the plan going more to the  
5 right, the roof terrace is not as high as the roof, so it's  
6 about two stories high, and in the back is the wood deck.

7 So this is the footprint area, and on the top of  
8 that where it says, "Window wells" these are window wells  
9 coming out of the basement -- one out of a bedroom, and one  
10 out of an office area. I don't know if that helped, that  
11 explanation. If you were looking for the footprint?

12 ANDREA HICKEY: Yeah. Sometimes we see plans that  
13 are on -- one plan will show the proposed and like a hashed  
14 line for the existing, just to make it easy for those of us  
15 who are not experts --

16 BRIGITTE STEINES: Yeah.

17 ANDREA HICKEY: -- at reading a plan --

18 JIM MONTEVERDE: Yeah. --

19 ANDREA HICKEY: -- to kind of visualize.

20 JIM MONTEVERDE: I think --

21 ANDREA HICKEY: I'm sorry, Jim.

22 JIM MONTEVERDE: Yeah, I'm sorry.

1           ANDREA HICKEY: Go ahead.

2           JIM MONTEVERDE: I think there is one on Sheet T1  
3 the neighborhood plan.

4           BRIGITTE STEINES: Yes, the T1. It's very small.

5           JIM MONTEVERDE: Well, if you blow that up --

6           BRIGITTE STEINES: Sorry, can I interrupt you?

7           JIM MONTEVERDE: No, that's okay.

8           BRIGITTE STEINES: Yeah.

9           JIM MONTEVERDE: Blow that up when you get there.

10          BRIGITTE STEINES: On the very top, it's very  
11 small, but it's the high-level comparison. It's the T1 on  
12 the very beginning, the very first --

13          DEBORAH FAWCETT: I think it might be Slide 2,  
14 Olivia.

15          BRIGITTE STEINES: Or maybe it's two. But verify.  
16 Yes.

17          JIM MONTEVERDE: There we go. Yep.

18          BRIGITTE STEINES: This one. If you can zoom into  
19 that plot plan exactly there where you are?

20          JIM MONTEVERDE: Right.

21          BRIGITTE STEINES: Exactly.

22          JIM MONTEVERDE: So --



1 BRIGITTE STEINES: So --

2 JIM MONTEVERDE: If you see that ghosted in  
3 rectangle?

4 ANDREA HICKEY: Yes.

5 JIM MONTEVERDE: That, I believe, is the existing.

6 BRIGITTE STEINES: This is correct.

7 JIM MONTEVERDE: And the balance in -- brown? I'm  
8 color blind.

9 BRIGITTE STEINES: Correct.

10 JIM MONTEVERDE: But --

11 ANDREA HICKEY: Yes.

12 JIM MONTEVERDE: -- is the proposed. How's that?

13 ANDREA HICKEY: That's good. It was buried in  
14 there, unfortunately.

15 JIM MONTEVERDE: Yeah.

16 BRIGITTE STEINES: It was really small; I have to  
17 admit.

18 DEBORAH FAWCETT: Sorry.

19 ANDREA HICKEY: All right. My only other question  
20 -- again, not being an architect -- so you're presenting  
21 that the height of the building as proposed will not be  
22 higher than 35 feet, correct?

1           BRIGITTE STEINES: This is correct.

2           ANDREA HICKEY: And what is the lowest point from  
3 which you're measuring that 35 feet?

4           BRIGITTE STEINES: We are measuring from the  
5 existing grade. So what we did, Deborah and I, to be really  
6 sure that we are doing the right thing, we actually met in  
7 person with Ranjit, and also had a couple of phone  
8 conversations.

9           So we took the existing average grade, what we got  
10 from the certified surveyor, and measured from there the 35  
11 feet up. And I think to see that best is going to the  
12 elevation and to the front elevation, which is Sheet A --

13          DEBORAH FAWCETT: Slides 13 --

14          BRIGITTE STEINES: Down, down --

15          DEBORAH FAWCETT: -- and 15 --

16          BRIGITTE STEINES: -- down, down. Yes.

17          DEBORAH FAWCETT: How about the --

18          BRIGITTE STEINES: This one looks good. Yes. So  
19 there you see a green line. And that says, "existing  
20 average grade." Can you see that?

21          ANDREA HICKEY: I do see that.

22          BRIGITTE STEINES: Yes.

1           ANDREA HICKEY: So I'll ask my colleague, Mr.  
2     Monteverde or anybody who might know the answer to this  
3     question, is the existing average grade the proper place  
4     from which to measure height, or wouldn't it be the lowest  
5     point, like, the lower part of a window well or the lower  
6     part of the --

7           BRIGITTE STEINES: This -- yeah.

8           DEBORAH FAWCETT: -- specifically --

9           BRIGITTE STEINES: Let me -- let me add that. So  
10    the way we were got that explained, we did include the  
11    window wells. So the window well depression is included.  
12    The driveway is considered as an exception.

13                 So where we are looking at at the front elevation,  
14    this is measured from the average existing grade, while if  
15    we would go to the next elevation to the next sheet where we  
16    see the window wells, you will see there is a green line  
17    there as well.

18                 But you see the numbers?

19           DEBORAH FAWCETT: Mm-hm.

20           BRIGITTE STEINES: 1,2,3,4, and the number 2 3 and  
21    4 are measuring, and you can see the -- you can see the  
22    measurement in pink. And it's counted from the very bottom

1 of the window well up to the roof area.

2 ANDREA HICKEY: So the distance from the bottom of  
3 the window well to the roof is --

4 BRIGITTE STEINES: 34.10 at that side of the roof.

5 ANDREA HICKEY: Understood. Thank you very much.  
6 That's much clearer to me.

7 BRIGITTE STEINES: Okay.

8 ANDREA HICKEY: That's all I have.

9 BRIGITTE STEINES: It is very tricky, the height  
10 calculations.

11 BRENDAN SULLIVAN: Andrea, it's -- that's the way  
12 it's calculated by the department, anyhow. And it is the  
13 same calculations, the same way you figure people coming in  
14 for access and for window wells in basements.

15 And what triggers -- they may very well be at, say  
16 34.9 or something now, they're adding window wells to allow  
17 for fenestration and exit from a basement bedroom -- and  
18 that window well basically increases the height, even though  
19 the building hasn't changed at all. So --

20 ANDREA HICKEY: Right. That was why I asked the  
21 question --

22 BRENDAN SULLIVAN: Yep.

1           ANDREA HICKEY: So I had a firm understanding as  
2 to whether --

3           BRENDAN SULLIVAN: Yeah.

4           ANDREA HICKEY: That window well situation was  
5 taken into consideration, and it looks like it's been  
6 addressed.

7           BRENDAN SULLIVAN: Yes.

8           ANDREA HICKEY: It looks like the Building  
9 Department is fine with it, and I have no questions. I just  
10 wanted to understand that.

11           BRENDAN SULLIVAN: Yes. It is -- that depth if  
12 you will, is calculated into the average grade around the  
13 house. So.

14           ANDREA HICKEY: I have nothing further. Thank  
15 you.

16           BRENDAN SULLIVAN: Okay. Matina, any questions,  
17 or comments at this time?

18           MATINA WILLIAMS: No.

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

1           If you're calling in by phone, you can raise your  
2 hand by pressing \*9 and unmute or mute by pressing \*6. And  
3 you'll have up to three minutes to comment.

4           UNIDENTIFIED SPEAKER:   Edwardo Berlin?

5           EDUARDO BERLIN:   Yes.   I'm sorry, this is probably  
6 not the right moment in this meeting to ask this.   I just  
7 wanted to confirm that 241 Grove Street is off the agenda,  
8 because I have it on the agenda online, but I also have an  
9 e-mail from the owner saying that it's not.   Just wanted to  
10 confirm that.   I'm sorry for the intrusion.

11          BRENDAN SULLIVAN:   It is open?

12          OLIVIA RATAY:   It was continued.

13          EDUARDO BERLIN:   Can you hear me?

14          BRENDAN SULLIVAN:   That was continued until June  
15 30.

16          EDUARDO BERLIN:   Thank you.   That's all.   Thanks  
17 so much.

18          BRENDAN SULLIVAN:   Yep.   There was nobody calling  
19 in.   We are in receipt of correspondence.   It's a form  
20 letter.

21                 "Dear Board of Zoning Appeal, I am a neighbor of  
22 Joan Wheelis at 10 Hazel Street.   I had an opportunity to

1 review Joan's plans to demolish the existing house on the  
2 property and to build a new house in its place, which Joan  
3 intends to make a home."

4 "I understand that because of the lot itself is  
5 somewhat smaller and narrower than the standard, the plans  
6 will require the Board of Zoning Appeal to grant variances  
7 to exceed the maximum floor area ratio by about 0.2 percent,  
8 97 square feet, to install exterior installation that will  
9 extend four inches into the side yards to build three-foot  
10 wide canopy that will extend three feet into the left side  
11 yard and for the second-floor bedroom to project about one-  
12 foot-nine from the façade on the right side of the building.

13 "I have no objection to the Board granting these  
14 variances, and I support Joan's plans for her new home."

15 There are some 16,17 that I counted letters in  
16 support. And that is the sum and substance of any  
17 communication. I will close the public comment part.  
18 Deborah, any further comments at this time?

19 DEBORAH FAWCETT: No. I think it's all been said.  
20 I'm glad that you explained that it's -- the height is  
21 measured from the existing average grade, which definitely  
22 takes into account the window well.

1           BRENDAN SULLIVAN: Okay. Great. Okay, thank you.  
2 All right. I'll close the presentation part of the meeting,  
3 and by and the Board will discuss it among themselves. Jim  
4 Monteverde, your thoughts. We're being requested to grant a  
5 special variance.

6           JIM MONTEVERDE: I am fine with it. I'm  
7 comfortable.

8           BRENDAN SULLIVAN: Okay. Jason Marshall?

9           JASON MARSHALL: Thanks, Mr. Chair. I don't have  
10 any feedback at this time.

11          BRENDAN SULLIVAN: Okay. Andrea Hickey?

12          ANDREA HICKEY: No further questions. Thank you,  
13 Mr. Chair.

14          BRENDAN SULLIVAN: Matina Williams, any comments,  
15 or questions? Ready for a vote?

16          MATINA WILLIAMS: No comments or questions at this  
17 time.

18          BRENDAN SULLIVAN: All right. Let me make a  
19 motion, then, to grant the relief requested, as per the  
20 drawings, supporting statements and dimensional forms,  
21 drawings initialed by the Chair for the new construction,  
22 which exceeds the FAR and also there is some side yard



1 requirement setback violations.

2           The Board finds that a literal enforcement of the  
3 provisions of the ordinance would involve a substantial  
4 hardship to the petitioner, because it would preclude the  
5 petitioner from constructing a new building to replace an  
6 outdated, inefficient, very small, relatively small for the  
7 neighborhood, house on an existing lot.

8           The Board finds that the existing house predates  
9 the ordinance, is encumbered by it by the size of the lot,  
10 also the side yard requirements and also the FAR, so that  
11 any addition or modification or improvement to the house,  
12 which has to be an expansion of the house, would require  
13 some relief from this Board.

14           The Board finds that desirable relief may be  
15 granted without substantial detriment to the public good.  
16 The Board finds that the proposed new structure will have  
17 many economical and ecological benefits to the city, also to  
18 the occupant of the structure.

19           That the design will replace a very small, one-  
20 story house. And the Board finds that the Historical  
21 Department has found it of no historical architectural  
22 significance.

1           The Board finds that desirable relief may be  
2 granted without substantial detriment to the public good, or  
3 nullifying or substantially derogating from the intent and  
4 purpose of the ordinance -- the intent and purpose of the  
5 ordinance is to allow the petitioners, homeowners, to bring  
6 their residences up to far more efficient standards with  
7 today's modern technology.

8           The Board also notices the -- that there would not  
9 be any increase in traffic. There would not be any increase  
10 in the use of the property. It could be allowed to be a  
11 two-family; this will be a single-family home, so that the  
12 use and intensity will remain the same and have no impact on  
13 adjoining properties.

14           The Board finds that -- there should be some more  
15 findings -- desirable relief may be granted without  
16 substantial detriment to the public good. In fact, the  
17 proposed design will enhance the neighborhood with an  
18 attractive design and far more efficient structure.

19           The Board finds that desirable relief may be  
20 granted without nullifying or substantially derogating from  
21 the intent and purpose of the ordinance, as previously  
22 stated, to allow homeowners to improve their home to far

1 more energy efficiency, and also to make it more livable and  
2 accommodating to modern standards.

3 On the motion, then, to grant the relief  
4 requested, Jim Monteverde?

5 JIM MONTEVERDE: I vote in favor.

6 BRENDAN SULLIVAN: Jason Marshall?

7 JASON MARSHALL: In favor.

8 BRENDAN SULLIVAN: Andrea Hickey?

9 ANDREA HICKEY: Yes, in favor.

10 BRENDAN SULLIVAN: Matina Williams?

11 MATINA WILLIAMS: Yes, in favor.

12 BRENDAN SULLIVAN: And Brendan Sullivan yes.

13 [All vote YES]

14 BRENDAN SULLIVAN: On the five affirmative votes,  
15 the variance is granted. Good luck.

16 COLLECTIVE: Thank you so much. Thank you. Thank  
17 you very much.

18

19

20

21

22

\* \* \* \* \*

(9:22 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Andrea  
Hickey, Jason Marshall, and Matina  
Williams

BRENDAN SULLIVAN: Okay. The Board will now hear  
Case No. 167013 -- 49 Alpine Street.

[Pause]

Mr. Welsh? 49 Alpine Street?

MICHAEL WELSH: Sorry. I just had to unmute  
myself there. Mr. Chairman and members of the Board, my  
name is Michael Welsh.

I'm the attorney for Alex Yu and Siyu Huang, who  
have recently purchased 47-49 Alpine Street. And they're  
seeking to renovate the existing house to add space for  
themselves, their two children and the parents who will be  
living with them.

Alex and Siyu to are both working professionals in  
their 30s with full-time jobs, so their parents will be  
living with them to help take care of the kids and Alex and  
Siyu are also --

BRENDAN SULLIVAN: Let me -- Michael, let me just

1 interject here.

2 MICHAEL WELSH: Sure.

3 BRENDAN SULLIVAN: That I don't know if you  
4 reviewed the file, but there is substantial, and I would say  
5 valid opposition to the proposal. And I was just wondering  
6 if you your client has any outreach to the community. Are  
7 you aware of the amount of opposition?

8 I guess where I'm going is that I'm trying to  
9 avoid spending the next hour discussing this matter, and  
10 then possibly continue it, so that you can have further  
11 discussions with the neighbors and address their concerns  
12 and their opposition, because then it would be a case heard.

13 And it may be timewise difficult to get all five  
14 members back together within the next two months, because of  
15 our schedules and all.

16 The other option would be if you can proceed, but  
17 one other option would be to continue this matter, and you  
18 could possibly come back next month, maybe the middle of the  
19 month, middle of July, having addressed the issues, having  
20 talked to the neighbors, and then come back to us with  
21 either you -- some agreement, or you may come back and say  
22 that you agree to disagree.

1           So I throw that out to you as an option.

2           MICHAEL WELSH: I appreciate that. And I did see  
3 the letters that were submitted. And so my clients did do  
4 some outreach. They have spoken with the neighbors. I've  
5 read and seen their concerns.

6           And this -- the design that's before you today is  
7 a revised proposal from the original one. The original  
8 proposal was more modern design with a full third story.  
9 And the primary concerns were the density, the bulk and the  
10 full third story, and the fact that it didn't align with the  
11 character of the neighborhood.

12           So the design was changed from that to have a  
13 pitched roof with dormers to make it more consistent with  
14 the neighborhood.

15           And the main -- I would say I don't want to speak  
16 for the neighbors, but one of the primary concerns is that  
17 the floor area -- the gross floor area wasn't reduced to the  
18 amount that they would have liked to have seen it. And the  
19 primary reason for that is because --

20           BRENDAN SULLIVAN: So all right. Well, let me  
21 just --

22           MICHAEL WELSH: Go ahead.

1           BRENDAN SULLIVAN: -- so that was -- the drawing  
2     that's in front of us is dated 04-20-22. So that's the  
3     latest. And that is a revision to --

4           MICHAEL WELSH: Yes, that's correct.

5           BRENDAN SULLIVAN: -- original plans?

6           MICHAEL WELSH: Yes, that's correct.

7           BRENDAN SULLIVAN: Okay. So I guess my question  
8     is you being appraised of the opposition, whether or not you  
9     want to proceed tonight or you want to avail yourself of a  
10    continuation to address the concerns that are -- some of the  
11    letters have come in as early as today, you know, yesterday,  
12    recently. So anyhow, shall we proceed, or would you like to  
13    continue the matter and come back next month?

14          MICHAEL WELSH: Could I have 30 seconds to just  
15    consult with my client?

16          BRENDAN SULLIVAN: Yeah, sure.

17          MICHAEL WELSH: Would that be okay?

18          BRENDAN SULLIVAN: Yep.

19          MICHAEL WELSH: Okay, thank you. I appreciate  
20    that.

21           [Pause]

22           I just consulted with my client. I -- so we'll

1 take a continuance. I know we're already running late  
2 tonight. So I appreciate the -- your concern with that, and  
3 we also appreciate the neighbors' concerns, so we'd like to  
4 work with them and see if we can do something.

5 BRENDAN SULLIVAN: Okay. So a continuation? July  
6 28 as a -- will that work for you and your client?

7 MICHAEL WELSH: Yes, that will be fine. Yes.

8 BRENDAN SULLIVAN: All right. Let me -- on the --  
9 let me make a motion, then, to continue this matter to July  
10 28, 2022 at 6:00 p.m. on the condition that you sign a  
11 waiver to the statutory requirement for a hearing and a  
12 decision to be rendered thereof; that if you request a form  
13 Maria will not be here, Olivia will if you request a form  
14 from Olivia, she can send it to you, you can sign it and  
15 send it back. I would ask that that form be returned to  
16 somebody by a week from next Monday to the Department.

17 That you change the posting sign to reflect the  
18 new date of July 25, 2022 at 6:00 p.m., any new submittals  
19 that are not currently in the file be in the file by 5:00  
20 p.m. on the Monday prior to July 28.

21 I think that that should cover it. And obviously  
22 you have access to any of the files and the letters. On the



1 motion to continue this matter to July 28, Jim Monteverde?

2 JIM MONTEVERDE: In favor.

3 BRENDAN SULLIVAN: Jason Marshall?

4 JASON MARSHALL: In favor.

5 BRENDAN SULLIVAN: Andrea Hickey on the  
6 continuance?

7 ANDREA HICKEY: Yes to the continuance and just to  
8 -- again -- clarify for the record that this would be  
9 continued as a case not heard.

10 BRENDAN SULLIVAN: Correct. Matina Williams?

11 MATINA WILLIAMS: Yes to the continuance.

12 BRENDAN SULLIVAN: Okay. And Brendan Sullivan  
13 yes.

14 [All vote YES]

15 Five affirmative votes, the matter is continued  
16 until July 28 at 6:00 p.m. Thank you.

17 MICHAEL WELSH: All right. Thank you very much.

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(9:29 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Andrea  
Hickey, Jason Marshall, and Matina  
Williams

BRENDAN SULLIVAN: Okay. The Board will hear Case  
No. 170145 -- 10 Van Norden Street. 10 Van Norden?

SHANNA BOUGHTON: Good evening. Shanna Boughton  
on behalf of the petitioner, John Denehy.

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

SHANNA BOUGHTON: Yes. Good evening. Shanna  
Boughton on behalf of the petitioner, John Denehy.

BRENDAN SULLIVAN: Okay. Let me give a little bit  
of a background, and you can correct me if I misspeak or --  
the history behind this for the Board is that there was a  
fire at 10 Van Norden, and that the petitioner, whether it  
be John Denehy or the contractor came down and applied for a  
building permit to repair the fire damage. Is that right,  
Shannon (sic)?

SHANNA BOUGHTON: Yes.

BRENDAN SULLIVAN: Okay. Could the Board -- I'm

1       sorry, could Staff pull up with the existing building before  
2       the fire looked like?

3               JIM MONTEVERDE:   There's a view of it on the  
4       survey sheet, Mr. Chair.

5               SHANNA BOUGHTON:   Yeah.   There should be one in  
6       the file.

7               JIM MONTEVERDE:   Kind of a grainy, little one but  
8       --

9               BRENDAN SULLIVAN:   Yeah.   Okay.   So that was the  
10       building prior to the fire.   And apparently the fire was in  
11       the top left corner of the third floor, was it?   Or the  
12       second floor or something?

13              SHANNA BOUGHTON:   Second floor.

14              BRENDAN SULLIVAN:   Okay.   Then so there was a fire  
15       there and it came down to the building permit to repair the  
16       fire damages.   And then the repairs looked like -- let me  
17       see, the -- and that's what the repairs came out to be.

18              So what you're asking for tonight is that there  
19       was -- I'll paraphrase it, I guess, is that there was far  
20       more work done than what was permitted by the permit?   Is  
21       that fair to say, Shannon?

22              SHANNA BOUGHTON:   Yes.   I think it's -- you know,

1 particularly with regard to the roofline while the top pitch  
2 is not higher, the -- as you could see, there's like -- I  
3 don't know if you call them, "dormers" now that are on the  
4 side of each?

5 BRENDAN SULLIVAN: Well, yeah.

6 SHANNA BOUGHTON: So it's changed the pitch of the  
7 roof.

8 BRENDAN SULLIVAN: Yeah, the original has --

9 SHANNA BOUGHTON: And increased --

10 BRENDAN SULLIVAN: -- changed --

11 SHANNA BOUGHTON: -- on each side of the home in  
12 that area. So --

13 BRENDAN SULLIVAN: And the left side goes all the  
14 way down the entire length of the building?

15 SHANNA BOUGHTON: Correct.

16 BRENDAN SULLIVAN: All right. And the right side  
17 basically replaces a small dormer that was present there?

18 SHANNA BOUGHTON: Yes.

19 BRENDAN SULLIVAN: And ties into an existing  
20 feature of the house? I don't know if you have a side view  
21 or not?

22 SHANNA BOUGHTON: Correct, on the right side.

1 BRENDAN SULLIVAN: Okay, right there.

2 SHANNA BOUGHTON: There, yes. Because this is the  
3 current status, what it looks like.

4 BRENDAN SULLIVAN: So basically, what you're  
5 asking is for us to legalize I guess what was expanded. And  
6 I guess the question is ask is how did this happen? Or  
7 maybe it's immaterial at this point?

8 SHANNA BOUGHTON: Well, you know, I will say what  
9 happened in regard -- it's no excuse, obviously, it should  
10 have been done beforehand, before the City drew it to my  
11 client's attention -- you will see in the file there is a  
12 letter from our architect, Christopher Bailow. And in  
13 there, he didn't believe that a special permit was required  
14 because the floor area ratio stayed the same.

15 So Mr. Denehy was relying on that in not seeking a  
16 special permit. And --

17 JIM MONTEVERDE: I'm not sure that that's correct.

18 SHANNA BOUGHTON: I understand that.

19 JIM MONTEVERDE: I mean, I understand the statement,  
20 but there just -- it can't be. When you were under that  
21 original roof pitch, and if you're measuring any space  
22 that's five-foot tall, and now you've raised that roof so

1 that you have the entire floor area, you've definitely  
2 gained square footage.

3 SHANNA BOUGHTON: Understood.

4 JIM MONTEVERDE: That has to affect your FAR.

5 SHANNA BOUGHTON: Right.

6 JIM MONTEVERDE: Sorry to interrupt you.

7 BRENDAN SULLIVAN: And again, for somebody who's  
8 in the business, you have a permit to do a certain amount of  
9 work, and then you just disregard that and then just keep on  
10 going without going back to the Building Department and say  
11 -- well, first of all good common sense is that you're  
12 expanding beyond what you asked for for the building permit.  
13 It's just bad behavior. That is one issue.

14 The other issue is on the dimensional form. If we  
15 can pull up the dimensional form?

16 Again, the existing conditions, we want to know  
17 what the existing conditions were before the fire.  
18 Basically, what you're basically including in this is what  
19 it is now. The existing conditions, taking into  
20 consideration the expansion. That's felonious. We cannot  
21 have that.

22 It has to be what the existing condition of the

1 house was prior to the fire, before getting the building  
2 permit to repair it. So we need to know what that number  
3 is, and then the 2266 is probably what it is now.

4 And that then changes all of those numbers  
5 probably down below.

6 SHANNA BOUGHTON: Understood.

7 BRENDAN SULLIVAN: So I don't see how the  
8 application can go forward because there's a defect in the  
9 application, which is the dimensional form.

10 SHANNA BOUGHTON: So if we can request, then, a  
11 continuance, then to the next hearing, and I will relay to  
12 Mr. Denehy that he needs to obtain a new architect, then, so  
13 that these are all corrected.

14 BRENDAN SULLIVAN: Right. And it should be run by  
15 the Building Department too and the Commissioner to make  
16 sure that all the calculations are correct.

17 SHANNA BOUGHTON: Are accurate.

18 BRENDAN SULLIVAN: Let me open it up to members of  
19 the Board. Jim Monteverde, are you in agreement that the  
20 matter needs to be continued?

21 JIM MONTEVERDE: Absolutely.

22 BRENDAN SULLIVAN: And Jason Marshall?

1 JASON MARSHALL: Emphatically yes.

2 BRENDAN SULLIVAN: Andrea?

3 ANDREA HICKEY: Yes. This cannot go forward as  
4 it.

5 BRENDAN SULLIVAN: Okay. Matina?

6 MATINA WILLIAMS: Yes. This is -- needs a  
7 continuance.

8 BRENDAN SULLIVAN: And Brendan Sullivan yes that  
9 accepting the request for a continuance. Let me make a  
10 motion, then, to continue this matter to the earliest date  
11 we can do it is -- when, August -- August 18, 2022.

12 Let me make a motion, then, to continue this  
13 matter to August 18, 2022, as a case not heard on the  
14 condition that the petitioner and petitioner's counsel sign  
15 a waiver to the statutory requirement for a hearing and a  
16 decision to be rendered thereof.

17 Such waiver shall be obtained by the Building  
18 Department, Special Services. Shall be signed either by the  
19 petitioner or counsel. That it be returned by 5:00 p.m. on  
20 the week from Monday.

21 That the posting sign -- and I would ask that the  
22 posting sign be changed from behind the window, which is in



1 the well -- and that it be put -- mounted on the fence or  
2 potentially just inside the fence, potentially on a piece of  
3 plywood and you can put a piece of plastic over it, but that  
4 it not be putting it in the window is -- does not meet the  
5 requirements of the ordinance.

6 That the posting sign be changed to reflect the  
7 new date of August 18, 2022, and the new time of 6:00 p.m.

8 That any new submissions will have to be, that  
9 they be in the file by 5:00 p.m. on the Monday prior to the  
10 August 18 hearing.

11 And I think that covers it.

12 On the motion, then, to continue this matter, Jim  
13 Monteverde?

14 JIM MONTEVERDE: In favor.

15 BRENDAN SULLIVAN: Jason Marshall?

16 JASON MARSHALL: In favor.

17 BRENDAN SULLIVAN: Andrea Hickey?

18 ANDREA HICKEY: Yes, in favor.

19 BRENDAN SULLIVAN: Matina Williams?

20 MATINA WILLIAMS: Yes, in favor.

21 BRENDAN SULLIVAN: In favor.

22 [All vote YES]

1           BRENDAN SULLIVAN: On the five affirmative votes  
2 of the members of the Board this matter is continued until  
3 August 18. See you then.

4           SHANNA BOUGHTON: Thank you.

5           BRENDAN SULLIVAN: And that concludes tonight's  
6 agenda. Thank you all. Excellent work.

7           JIM MONTEVERDE: All right.

8           MATINA WILLIAMS: Thank you.

9           COLLECTIVE: Thank you.

10          MATINA WILLIAMS: Goodnight, everyone.

11          ANDREA HICKEY: Good work, Mr. Chair. Thank you.

12          MATINA WILLIAMS: Good work, Mr. Chair.

13          JIM MONTEVERDE: Bye-bye.

14          MATINA WILLIAMS: Bye.

15          BRENDAN SULLIVAN: Bye now, Matina. Stay well.

16 [9:40 p.m. End of Proceedings]  
17  
18  
19  
20  
21  
22

## 1 CERTIFICATE

2 Commonwealth of Massachusetts

3 Middlesex, ss.

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

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

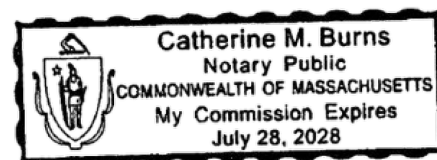
12 In witness whereof, I have hereunto set my hand this  
13 23rd day of June, 2022.

14  
15 

16 Notary Public

17 My commission expires:

18 July 28, 2028



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