

BOARD OF ZONING APPEAL FOR THE
CITY OF CAMBRIDGE GENERAL HEARING
JULY 14, 2011 7:00 P.M.

in

Senior Center
806 Massachusetts Avenue
Cambridge, Massachusetts 02139

Brendan Sullivan, Chairman
Constantine Alexander, Vice Chair
Tad Heuer, Member
Thomas Scott, Member
Mahmood Firouzbakht, Member

Sean O'Grady, Zoning Specialist

REPORTERS, INC.

CAPTURING THE OFFICIAL RECORD

617.786.7783/617.639.0396 (Fax)

www.reportersinc.com

I N D E X

<u>CASE</u>		<u>PAGE</u>
10093	--	3
10102	--	6
10103	--	36
10119	--	69
10120	--	87
10121	--	89
10122	--	96
10123	--	117
10124	--	128/167
10125	--	157
10126	--	180
10127	--	241

P R O C E E D I N G S

(7:05 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: We'll call the meeting of the Board of Zoning Appeal to order for July 14, 2011. The first case that we will hear is case No. 10093, 148 Richdale Avenue. Is there anybody hear interested in that matter?

(No Response.)

BRENDAN SULLIVAN: The Board is in receipt of correspondence dated July 10th to Maria Pacheco and members of the Cambridge Board of Zoning Appeal. "Due to our not yet having prepared our presentations sufficiently for this upcoming meeting, we request you grant us a continuance of our appeal until the next one to which we might be scheduled. Please reply with that date.

We do understand that it may not be until September."

On the motion to continue this matter on September?

SEAN O'GRADY: 8th.

BRENDAN SULLIVAN: September 8th. Everybody will be here on the 8th? Mahmood?

TAD HEUER: Does it matter?

MAHMOOD FIROUZBAKHT: It's a case heard?

CONSTANTINE ALEXANDER: It's a case heard, Richdale?

SEAN O'GRADY: Okay. You have the sheet.

BRENDAN SULLIVAN: Can everybody be here on September 8th.

(Board Members agreed.)

BRENDAN SULLIVAN: On the motion to continue this matter on until September 8, 2011 at seven p.m. on the condition that the Petitioner change the posting sign to reflect

the new date, September 8, 2011, and time of seven p.m. All those in favor of continuing the matter.

(Show of hands).

BRENDAN SULLIVAN: Five in favor of continuing the matter.

(Sullivan, Alexander, Heuer, Scott, Firouzbakht.)

(7:10 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case No. 10102, 163 Hampshire Street. Is there anyone here for that matter? If you would just give your name, please, spell your last name and your address for the record, it's being recorded.

FRANTZ BRIZARD: First name is Frantz Brizard B-r-i-z-a-r-d for 163 Hampshire Street.

BRENDAN SULLIVAN: You may have to speak up just a little bit. Or pull that closer to you, Mr. Brizard. Thank you.

FRANTZ BRIZARD: Yes.

BRENDAN SULLIVAN: Okay. And what is it that you would like to do?

FRANTZ BRIZARD: I would like permission to open a coffee shop. I'm

already building a studio already. So it would be just a service to our clients, extra service to our clients.

BRENDAN SULLIVAN: You own the building?

FRANTZ BRIZARD: No, I don't, no.

BRENDAN SULLIVAN: You don't own the building, but you operate this spot here; is that correct?

FRANTZ BRIZARD: Also this spot here.

BRENDAN SULLIVAN: And this spot is vacant now?

FRANTZ BRIZARD: Yes, it's vacant now.

BRENDAN SULLIVAN: How long has it been vacant?

FRANTZ BRIZARD: Maybe a year now. Maybe just a year.

BRENDAN SULLIVAN: And the owner has been trying to rent it, have they?

FRANTZ BRIZARD: It's under my lease, too. So I've been trying to find things to do with it for a while now. So I finally came up with the coffee shop idea.

CONSTANTINE ALEXANDER: Are you going to own the coffee shop? Are you going to run it?

FRANTZ BRIZARD: Yeah.

BRENDAN SULLIVAN: And the reason why you came up with that idea? Obviously you think you're going to make a go of it.

FRANTZ BRIZARD: Yes, yes, yes.

BRENDAN SULLIVAN: Have any of your existing customers expressed an interest in it?

FRANTZ BRIZARD: Yes, I mentioned it before by talking to them, and they all agree it would be a great idea. Of course, now they are go to Starbucks and sometimes they go to the Dunkin' Donut so I feel like having it right there on the premises will be a good

thing for my clients.

BRENDAN SULLIVAN: What type of food will you be serving?

FRANTZ BRIZARD: Sandwiches and pastries.

BRENDAN SULLIVAN: Okay. Hours of operation?

FRANTZ BRIZARD: We're hoping to be open from seven to nine o'clock.

BRENDAN SULLIVAN: Seven to nine.

CONSTANTINE ALEXANDER: Seven days a week?

FRANTZ BRIZARD: Seven days a week, yes.

BRENDAN SULLIVAN: What's the hours of operation of the present one?

FRANTZ BRIZARD: Until eight o'clock. It's short hours, from ten to four.

BRENDAN SULLIVAN: So you're open seven days at the salon.

FRANTZ BRIZARD: No, six days.

BRENDAN SULLIVAN: Six days at the salon.

CONSTANTINE ALEXANDER: Is that seating all indoors or outdoors?

FRANTZ BRIZARD: Well, I'm hoping that 80 percent of our customers will be takeout. And maybe 20 percent will be eat in. Except for the existing client that we have right now, I'm hoping that they come for coffee and go to the hair salon.

CONSTANTINE ALEXANDER: Are the tables outdoors?

FRANTZ BRIZARD: No. There's no room.

CONSTANTINE ALEXANDER: And inside how many tables or how many people will be seating?

FRANTZ BRIZARD: First, I don't think about tables in there, but I think now maybe I put in, I would say maybe six tables. Six. Once I put in six, that's not that big

deal, I put in seating.

BRENDAN SULLIVAN: Sean, when he goes before Licensing, does the applicant have to provide the total number of seating? And is there any threshold for us to consider at all?

SEAN O'GRADY: Well, you can decide how many seats you want in the cafe, and that is linked of course to the concept of parking. But within the Special Permit you have total control over that. Now --

TAD HEUER: We're not doing a Special Permit, it's a Variance.

SEAN O'GRADY: I'm sorry. Under the Variance, well you can still control that because you can control anything. But it's part and parcel with the Special Permit section of the Fast Food Ordinance which we normally fold in.

TAD HEUER: Is the parking subsumed under the use variance or is that separate?

Relief parking.

SEAN O'GRADY: Well, the thing is if you look under the table for fast food, it -- it sort of --

TAD HEUER: But we don't need to make fast food findings here, do we? Do we? We don't.

SEAN O'GRADY: I'm not sure we need to, but we usually do.

TAD HEUER: Okay.

SEAN O'GRADY: And so --

BRENDAN SULLIVAN: You know what may trigger some of this, not necessarily what we do, but, you know, we can accept the plan as presented, which has seven stools, 16 seats. So you're up to 23 proposed occupancy. It may be the -- well, again, handicap accessible, but also make it into both men's and women's restrooms under the plumbing code, sanitary code, may trigger some requirement on the Petitioner. Is that --

SEAN O'GRADY: I'm sorry.

BRENDAN SULLIVAN: Yes, having seven stools and 16 seats, 23 occupancy, that may trigger some other requirement on the plumbing or sanitary code --

SEAN O'GRADY: Yes.

BRENDAN SULLIVAN: -- which is separate from us, obviously.

SEAN O'GRADY: Separate from us he's going to be controlled by -- once he breaks the 20 seats with the plumbing and like you said, depending on the size, they have to meet the architectural rules of so many square feet for per person so that could be a further limitation. I think the Licensing Board probably has the ability to stay their own number. But the number usually comes -- the first line you generally cross is our line here.

BRENDAN SULLIVAN: They'll look at our decision, any incumbrances we put on it,

and then if they want to enhance it, they can't detract from it. If they want to enhance it or add to it, they can do that. Hours of operation I guess would come into --

SEAN O'GRADY: No, you say for whatever reason they can only have 16 seats here, they can't say 18.

BRENDAN SULLIVAN: Yes, they cannot enhance it.

SEAN O'GRADY: Oh, I see what you're saying, right. You can draw a line, yeah.

BRENDAN SULLIVAN: Yes, okay.

SEAN O'GRADY: Lines will be drawn in that absence.

BRENDAN SULLIVAN: Any other questions?

Mahmood, do you have any questions?

MAHMOOD FIROUZBAKHT: Just to confirm, I don't recall from the file whether we do have authorization signoff by the owner of the building. Looks like we do. Okay.

BRENDAN SULLIVAN: Gus, any questions?

CONSTANTINE ALEXANDER: When we granted a use variance for the pizza joint on Mass. Ave. we imposed questions that we would impose if you're granting a Special Permit, which is where some of these fast food requirements come before us. I think we do the same thing. I think, for example, we do, did we not tie it to the actual -- we can't do it for a Variance anyway?

SEAN O'GRADY: You can't do it for a Variance, yes.

CONSTANTINE ALEXANDER: I don't remember how we did it, but I know we sort of incorporated a Special Permit rules to this Variance as a condition of granting this Variance. So that's no different than if they wanted a fast food enterprise.

SEAN O'GRADY: It's not so much the conditions as it is findings.

CONSTANTINE ALEXANDER: And the findings I don't remember.

SEAN O'GRADY: Yes. I mean, I suppose you can go just make a hardship finding, but we've always referred to those. Is that your memory?

BRENDAN SULLIVAN: Correct.

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: That's the only observation.

THOMAS SCOTT: I remember the same thing. The pizza place didn't impose a set of conditions.

BRENDAN SULLIVAN: Let me open it to public comment.

Oh, do you have any questions at this time, Tad?

TAD HEUER: No.

BRENDAN SULLIVAN: Is there anybody here who would like to speak on the matter at 163 Hampshire Street?

(No Response.)

BRENDAN SULLIVAN: I see nobody in attendance.

There is a letter in the file from the Planning Board being dated May 25th, regarding 163 Hampshire Street. "The Planning Board reviewed the use variance request for the coffee shop and supports this application because the building already configured foreground floor retail which enlivens the neighborhood and provides an active street scape as well as a neighborhood amenity."

And that is the only other correspondence.

You don't have any correspondence or petitions that you gave a haircut form or no free haircuts or anything like that?

FRANTZ BRIZARD: I've thousand dollars about that.

BRENDAN SULLIVAN: Okay. Anything

to add at all?

FRANTZ BRIZARD: For the record, at first I thought I could put 23 seats, but like I said, you got the actual size and I'm guessing now maybe 18 seats, maybe 19 maximum.

BRENDAN SULLIVAN: Yes, I guess. My thought is I have no problem with the plan as submitted because I really don't know if the space is going to accommodate that number of seats if -- it may or may not. Once you get down -- should you get relief from this Board, once you get down and apply for a permit, then you may find some other issues that may become burdensome to you. They may say to you, you know, once you exceed 18, then that throws it into another realm for whatever reason, and then dollar signs start to add up and then you say well, it's just not worth it.

FRANTZ BRIZARD: I understand.

BRENDAN SULLIVAN: Personally myself, I would accept the plan as submitted showing an occupancy of 23, because I think you've done the work, and if that's what it would accommodate, so, I don't have a problem with that anyhow.

TAD HEUER: I guess this is more of a comment to the Board and not necessarily to the petitioner because I like what they want to do. I guess my issue is, again, exactly the same issue we had with the pizza shop on Mass. Ave. which is that even though the application says that this is commercially zoned and it looks commercial, the reason we're here is it's not commercial zone, it's a Residential C-1 Zone, which is for apartments only, for residences, and there's nothing, except strangely, an art studio that's allowed in terms of commercial uses in a residential zone. And certainly the building is designed for foreground floor

retail, but I haven't heard a hardship for why in fact that it's designed that way as a hardship for the Petitioner. Maybe it's a hardship for the owner, but I'm having difficulty distinguishing this mood of an eating establishment into an area not zoned for, and granting a use variance, as opposed to a Special Permit exactly the same way I had questions about how that was possible on the Mass. Ave. So anyone can explicate why they're different.

BRENDAN SULLIVAN: I think personally it originates from the planning and they decide somewhere in response to probably City Councillors or whomever to just designate as a C-1 Zone which is residence. And then they really don't look at what the impact of that is. We now sitting here with the impact of that because it is for residence. Well, it really wasn't built for residence, it's not really designed for

residence and yet it is all of a sudden sort of hit with the Scarlet Letter of residence. And so that to change, to go to anything else other than what it has been and been abandoned, then obviously it would require some relief from us. To get the proposed use is obviously an amenity to the residents is part and parcel of the residents to have a coffee shop. And I think it's a shortcoming on how the ordinance is written.

TAD HEUER: So it's more like Western Ave.?

BRENDAN SULLIVAN: Correct.

TAD HEUER: Than Mass. Ave.?

BRENDAN SULLIVAN: Well, it's just that.

TAD HEUER: Canary Street?

BRENDAN SULLIVAN: Yeah, they just sort of zone out uses that really serve the neighborhood. And that this -- and this has always been a commercial block. And I think

it -- there are a lot of "For rent" signs up and down the street, but yet it's served the neighborhood. And I think that once they almost said okay, and they draw a big rectangle or a square someplace and they say that's now C-1.

TAD HEUER: Isn't part of the issue they don't draw big squares, they're pretty unsquare-like?

BRENDAN SULLIVAN: Well --

TAD HEUER: Around the neighborhood.

BRENDAN SULLIVAN: There's no rectangles, I think you're right.

TAD HEUER: I think I would have an easier time if they're rectangles. It seems they're drawn around the city as explicit as they may be.

BRENDAN SULLIVAN: And if you listen to the City Council hearings, and a lot of this stuff, in the Ordinance Committees is

that the people in the neighborhood come down and said, you know, we want residences, we want residences. And then, of course, when all of a sudden justice starts and housing Cambridge comes up and buys a block, we don't want these residences. This is not what we meant. Well, this is what you got. This is what we zoned in. And so --

THOMAS SCOTT: Isn't the space really designed for commercial use? I mean, could you really have a residence there the way it's designed presently? I mean, it's commercial left and right, why would you put a residence right in the middle at that first floor?

TAD HEUER: I don't disagree with that, but I'm also not the City Council.

BRENDAN SULLIVAN: If you put in a residence, the next thing is a parking requirement. And they say well, we're landlocked. We have no -- there's no place

to put a car. We have that down in Cambridge Street a few years ago when the person all of a sudden designed, okay, we'll put in underground parking. No, we don't want that because then you have to back out onto the sidewalk. You know, we can't have it. I mean, it's just -- I think it's a shortcoming in the Ordinance and not reality. That's the way I read it.

TAD HEUER: Sean, have we granted Variances? Presumably for the other elements on that commercial block are also permissible by right because they're all Res C-1. Have we been granting repeated Variances to those?

SEAN O'GRADY: I don't know. I mean, I can't picture what's there. I mean, do you know any of the establishments?

CONSTANTINE ALEXANDER: We have done by the hospital on Cambridge Street. We've granted -- there are some -- it's

residentially zoned and there are some little storefronts. So we allowed a dry cleaner to move in. We allowed an accountant's office in a building where it's supposed to be only residential. So we have done that on the basis that the structures are such that it's not functioning residential use and to not allow it, the building would be torn down and that's too much of a hardship. We have done that. And on Cambridge Street.

THOMAS SCOTT: And it looks like there's residence above.

TAD HEUER: Of course there are. It's C-1 Zone.

SEAN O'GRADY: They're all grandfathered to the extent that they haven't had a two-year lapse, but the thing is that the grandfathering is to the subset of what the previous use was. So that if the previous use was a hair salon, then you can be a nail shop or a hair salon and that's it.

TAD HEUER: Right.

SEAN O'GRADY: There's also, frankly, a lot of people who just never think to ask the question, because it's been there for 80 years and they just keep renting.

TAD HEUER: Okay.

SEAN O'GRADY: Between all of those.

BRENDAN SULLIVAN: There aren't too many grandfathers left because by the number of the for rent/for lease signs all around the city.

SEAN O'GRADY: That's true.

BRENDAN SULLIVAN: The older businesses are going out of business, people retire, people dying off, and that the new people who want to open up a store, all of a sudden are hit with the hard core reality of rent and they can't make a go of it. So there's an awful lot of opening and closing, opening and closing.

Now, with this petition the same thing,

you have a business next-door, and that, having now two businesses adjoining, one can help the other. I think that's --

FRANTZ BRIZARD: Two, so we also have the hair salon, so it's actually two business there already.

BRENDAN SULLIVAN: Yes, I think that one helps to feed the other. And I think that's your whole business plan and concept.

FRANTZ BRIZARD: Yes, it is.

BRENDAN SULLIVAN: And so that this individual can probably make a go of it.

TAD HEUER: Like I said, I'm thrilled that he's doing it, I'm just not sure we have the jurisdiction to allow him to. I have a feeling that's not going to matter at the end of the day.

CONSTANTINE ALEXANDER: I think it's important that we grant -- I am in favor of granting relief. We grant it just to operate a fast food enterprise. And if

someone else -- if you decide to stop business, dry cleaners wants to move in and do dry cleaning on the premises, for example, they have to come back before us. I think we want to be clear we're not granting carte blanche commercial use in this residential district.

BRENDAN SULLIVAN: And I also think that that's the other flip of the coin as far as why they zoned certain uses out, is that as in Western Avenue, oh, we don't really mean for all these businesses to close down and no new business to come in. We just want to view what businesses do. Hence, so in other words, we want to have a review process in place.

TAD HEUER: Right. And that's what a Special Permit is under that very detailed creative potential legal uses.

BRENDAN SULLIVAN: Okay. Now that we have solved those problems, anybody else

have anything further to add?

MAHMOOD FIROUZBAKHT: I guess in terms of limitation of limiting our Variance to a fast food use, how much further can we take that kind of a limitation? I guess what I wouldn't want to see is, let's say you operate for a few years and you decide to move on and you find another location and the landlord decides to rent to Subway or some other fast food establishment, which quite frankly I don't know if that fits as local coffee shop to sell sandwiches in that location. Given that we're not under the Special Permit realm, how far can we take that limitation to limit it to, I don't know, this character of fast food use that we're contemplating right now?

CONSTANTINE ALEXANDER: I think, for example, we cannot discriminate against Subways or McDonald's or whatever in favor of a local fast food enterprise. That would be

something we couldn't do.

BRENDAN SULLIVAN: I think what you're saying is -- well, how can we restrict it to what is before us?

MAHMOOD FIROUZBAKHT: Right. And what is before us is a coffee shop, sandwiches, pastries.

CONSTANTINE ALEXANDER: With conditions on Western Avenue, again, we have that one up, not the one where they rebuilt the building, but the fellow up the street, we limit it to the kind of food, because there was concern from the neighbors of rodents and trash pickup and we put limitations on the kinds of things that could be done at the fast food order establishments.

TAD HEUER: I was going to say even though we're in a Variance, 10.34 says: In granting a Variance, the Board may attach such conditions, safeguards and limitations of time, use and other development features,

such as those listed in Section 10.44, as are determined necessary to protect the surrounding neighborhood including the continued existence of any particular structure, but excluding any conditions, safeguards or limitations based on the continued ownership of the land or structures to which the Variance pertains by the applicant, petitioner or any owner.

As long as it's not granting Variance specific to Mr. Brizard, I think you can impose whatever condition you wish.

CONSTANTINE ALEXANDER: Right.

BRENDAN SULLIVAN: Okay.

CONSTANTINE ALEXANDER: I think that's a good idea. Coffee, pastries and sandwiches.

FRANTZ BRIZARD: Right.

BRENDAN SULLIVAN: Let me make a motion to grant the request for the Variance to allow the premises at 163 Hampshire Street

to be used as a coffee house/fast order food establishment as per the proposal, and the plan submitted initialed by the Chair.

The Board finds that literal enforcement of the provisions of the ordinance would have a substantial hardship to the petitioner because it would preclude the petitioner from operating this establishment at this particular location.

The Board notes that the existing property is vacant, has been vacant for sometime, and that this will, this granting of this Variance will allow it to become a viable entity.

Again, the hardship is owing to the fact that such use is not permitted in the zoned area, a residential zone, and that any commercial use/food establishment would require relief from this Board.

That the Board finds that desirable relief may be granted without substantial

detriment to the public good. In fact, the Board finds that the proposed use would be an amenity to the residential neighborhood and would not be substantially or derogating from the intent and purpose of the ordinance.

The Board grants the relief on the condition that the Board accepts the proposed plan not to exceed the number of seating arrangement as proposed. The petitioner may reduce the number of seating as deemed appropriate.

Now you're going to need to help me out with this one, too. The Board finds that the proposal is for the sale, distribution of coffee/beverages and the like. Freshly made sandwiches/pastry. Anything else that you perceive?

FRANTZ BRIZARD: Maybe juice bar.

BRENDAN SULLIVAN: Okay, beverages.

FRANTZ BRIZARD: That's it.

BRENDAN SULLIVAN: Just bar.

CONSTANTINE ALEXANDER: Anything related to potato chips and things like that?

FRANTZ BRIZARD: Yeah.

CONSTANTINE ALEXANDER: Anything that would be normal for the side orders for a sandwich establishment such as potato chips.

BRENDAN SULLIVAN: Okay.

Anything else that we could throw in there? Pickles, onions, ketchup? What else?

CONSTANTINE ALEXANDER: I think that's good enough.

BRENDAN SULLIVAN: Hours of operation, we'll let Licensing take care of all of that. All right.

So on that motion to grant the relief requested?

(Show of hands.)

BRENDAN SULLIVAN: Four in favor.

(Sullivan, Alexander, Scott,

Firouzbakht.)

BRENDAN SULLIVAN: And one opposed?

TAD HEUER: Only under
jurisdictional rights.

BRENDAN SULLIVAN: Motion granted.
Good luck.

FRANTZ BRIZARD: Thank you.

(7:40 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case No. 10103, Seven Montgomery Street. Please give us your name for the record and give us your address.

STEVE ALIANO: I'm Steven Aliano A-l-i-a-n-o and I live at 286 Park Street in Medford, Mass.

BRENDAN SULLIVAN: Are you going to speak?

PAUL ZRHBRUZ: Paul Zrhbruz Z-r-h-b-r-u-z and I'm the architect.

BRENDAN SULLIVAN: If you could just refresh what you want to do here. I know that the last time we asked you to come back and

do the dimensional form, which I guess you have redone and resubmitted. So if you could just very briefly refresh our memory on exactly what's --

STEVE ALIANO: I'll get this opened up. There's a knee wall on the on A-2 that you can see in the blueprints, and pretty much underneath that knee wall that main set of stairs where you enter the home, which is the main entrance, there's a bathroom under there. So, I pretty much just want to remove -- I want to remove these stairs, continue this knee wall all the way up to the second floor. And I also want to raise this roof an extra five feet. So this little knee wall on the side will extend to seven feet and then the roof. And also these, these two back decks, one on each floor which is six-foot, six away from the finish face of the siding.

BRENDAN SULLIVAN: And the purpose

for all of this is to accommodate?

STEVE ALIANO: My family. My dad's sick so he needs someone to pretty much get in there and take care of him. So just kind of open the house and make it enough room for him and enough room for me and sort of, you know, so we can all live together.

BRENDAN SULLIVAN: (Inaudible).

STEVE ALIANO: Yes, he does.

CONSTANTINE ALEXANDER: How many square feet are in the structure now and how many square feet are you proposing to add to the structure in this space?

PAUL ZRHBRUZ: Let's see, we have square footage as of -- I think it's 630 square feet. It's 960.

CONSTANTINE ALEXANDER: 960 to your form.

PAUL ZRHBRUZ: And then up to 15.

CONSTANTINE ALEXANDER: So you want to almost double the size?

PAUL ZRHBRUZ: Well, we're doing it on two floors.

CONSTANTINE ALEXANDER: That's the size of the floor area. And as I see your dimensional form, and this is important to us, the FAR. The district requires no more than 0.5. Today you're at 0.76, small structure. So you're over 50 percent more than what is permitted of our Zoning By-Law. And you want to go to 1.25 in a 0.5 district which is two and a half times what the district permits, No. 1.

And No. 2, off of your dimensional form your structure today is non-conforming on all four sides for setbacks. And you want to reduce one non-conforming setback even further. And I guess it's a rear yard where you're supposed to have at least 25 feet, you now have 14 feet, two inches and you want to go to seven feet, eight inches.

STEVE ALIANO: Correct.

CONSTANTINE ALEXANDER: You're going roughly to a third of what is required by our Zoning By-Law.

STEVE ALIANO: Yes.

CONSTANTINE ALEXANDER: That's a lot of relief you're seeking from us. I just want to point that out. And I guess we need to know why we should grant relief. This kind of relief in a situation like this where we're supposed to basically uphold the integrity of our Zoning By-Law, except what I'm going to call minor adjustments, but you're talking about rewriting the dimensional requirements for this district with respect to your property.

STEVE ALIANO: Well, the base -- the basement is going to be getting floor -- the floor from the basement is going to be rising. So it's not going to be living space down there. I think it's supposed to be seven foot, four?

MICHAEL GOODE: It's seven foot now. It's going to be under seven.

STEVE ALIANO: It will be under seven now. It will be pretty much a boiler and --

CONSTANTINE ALEXANDER: But the square footage, if you're under seven, I think it's seven, eleven. Whatever it is. Seven, eight. That doesn't count towards your floor area FAR. That's not in the calculation now. You're not taking it out.

Am I right, Sean?

SEAN O'GRADY: The line is at seven. Seven feet is the magic number. So to the extent they are below it, they have seven feet and they're coming less than seven feet.

MICHAEL GOODE: So the basement is included right now because it is, but we're going to lose that basement space for 800.

I'm Michael Goode, I'm a contractor trying to help Steve out.

TAD HEUER: So you're going to be going, when we look at that form and that form says you're going from 960 to 1580 --

MICHAEL GOODE: Correct.

TAD HEUER: -- what's included in the 960? Does that include the basement?

MICHAEL GOODE: It includes the basement.

TAD HEUER: Plus the first floor plus the eaves and under the first floor that totals 960?

MICHAEL GOODE: And, exactly. Two errors. One error. Not an error. But the way it's read with the 960, the attic space, as of right now is actually not habitable. Says it's got a six-nine ceiling and it doesn't have the knee walls on the side. So, the dimensions you would actually add in are roughly seven foot wide in the middle with not a legal ceiling, but we left the 960 in.

TAD HEUER: Your --

PAUL ZRHBRUZ: And that is down in the basement.

MICHAEL GOODE: Same as on the 1500. We left that in because it's habitable now but the floor's built on dirt.

TAD HEUER: So you're saying that at the end of the day if we were to grant you relief and everything was the way you wanted it, 1580 is not the number?

MICHAEL GOODE: No, you're gonna lose roughly 500 square feet of liveable space with the addition added on.

TAD HEUER: Okay.

THOMAS SCOTT: Is he trading off the basement space for the upper?

MICHAEL GOODE: More or less, yes.

THOMAS SCOTT: It's not reflected.

MICHAEL GOODE: We did do two calculations. I when I talked to Sean, I asked do we leave it in? I don't want to make it look like you're going to end up with the

same calculations if I took it out. I didn't want to leave it out.

THOMAS SCOTT: That would help you.

CONSTANTINE ALEXANDER: I'm totally confused. I'm sorry. That's just me.

TAD HEUER: I think it would help you in some sense because it would show you going from 960 to 1060 let's say. Right. So it looks like a smaller difference, but quite frankly right now the space is hidden. You're talking about the envelope in the massing of the property and the basement space no one can see. You could go down seven feet. It could go down 20 feet, no one could tell from the street, right?

MICHAEL GOODE: Right.

TAD HEUER: Now you're saying that's basically unusable, but we're going to tack it on and flip it to the top of the house. By doing that you're, yes, maybe you're FAR number looks more reasonable.

MICHAEL GOODE: Looks more reasonable, correct.

TAD HEUER: But you're putting in a lot of massing on a very small lot and you're bumping up the house and also pushing out on to the porch area.

MICHAEL GOODE: It's bumping up, but only the lot, the building size itself, I think, is six-foot, one by six feet. It's a small corner that's going to be an additional support form. It's only one small corner.

BRENDAN SULLIVAN: The massing of the house.

MICHAEL GOODE: We're going up, exactly. So we're going to go five feet up.

STEVE ALIANO: There's actually a bathroom you guys know, I'm sure. There's actually a bathroom underneath this. And this is the wall that we want to build on top of. It just eliminates those steps.

PAUL ZRHBRUZ: So we're not

expanding the footprint and we're taking and raising it up.

TAD HEUER: I get that. I think part of the issue you're hearing is the raising it up is going to create a lot of bulk on a lot that is possibly the smallest lot I've ever seen. And maybe there's one on up John Bellis Circle that is smaller.

PAUL ZRHBRUZ: Right, and if you look at all the neighbors, that's the smallest house on the block because everyone else has regular size houses.

THOMAS SCOTT: Is there real zero open space on the lot? That's what it says on the dimensional form.

TAD HEUER: I don't know.

SEAN O'GRADY: It's all driveway.

CONSTANTINE ALEXANDER: It's all driveway?

SEAN O'GRADY: It's all paved.

MICHAEL GOODE: All driveway. Very

little green space.

TAD HEUER: It's only 1200 square feet.

MICHAEL GOODE: That's the real hardship Steve has to move in to help his dad. You can't fit two people in that house.

THOMAS SCOTT: What's the nature of the houses around the house? One story, two story?

PAUL ZRHBRUZ: They're all two story.

STEVE ALIANO: Two stories, three families.

PAUL ZRHBRUZ: Here are the photographs.

BRENDAN SULLIVAN: How long has your dad lived in the house?

STEVE ALIANO: I'd say over 20 years.

TAD HEUER: How old is the house?

STEVE ALIANO: It was made in 1872.

It's a '74 -- is what the paperwork that the city gives out. It says 1872 to '74.

TAD HEUER: So it's functioning as a house for 135 years?

STEVE ALIANO: When I got the original picture from the city when the house was made, they actually, the difference that I only saw was there used to be a shed in the back. And where that knee wall was, actually looked like a -- where the brick was was actually a stucco finish and then there's no railing. It hasn't changed much at all actually. It hasn't changed at all.

TAD HEUER: I guess part of my point is -- I appreciate, you know, living needs may be more than they are, may be more today than they are back then. But the fact that it's 900 square foot house, it's a small house, you know, but no smaller than any apartments in Cambridge. And it's been used, you know, I presume continuously since it was built.

MICHAEL GOODE: If you look at the perspective of the third floor as it is right now, it's not actually a living space. I mean, I think Steve as a kid didn't have a bedroom there, but it's actually a six-foot nine peak in the middle and you've got knee walls in the ends, I think three feet wall.

STEVE ALIANO: I think Paul actually made a scale on the blueprints that you can actually see if you were a normal size, you know, person inside the home, and besides, the stairs, the footprint actually stays the same. The footprint is going to be the same as it is now then when we're done.

BRENDAN SULLIVAN: Right. You're stressing the footprint and I appreciate that, but it's the bulk, the massing.

CONSTANTINE ALEXANDER: Is the footprint going to be the same? You're going to be extending to the yard?

MICHAEL GOODE: Unfortunately, you

are. The board small piece of the corner.

CONSTANTINE ALEXANDER: Okay, so the footprint is not the same?

MICHAEL GOODE: No. It's not the same.

MAHMOOD FIROUZBAKHT: What are you contemplating for the basement once you're done?

STEVE ALIANO: The basement is going to be unfinished. It's going to be boarded up. Less than seven feet under there. It's going to be an unfinished bare basement, concrete floor.

TAD HEUER: There is a reason.

BRENDAN SULLIVAN: What about the bathroom?

STEVE ALIANO: The bathroom's pretty old.

BRENDAN SULLIVAN: Yes or no?

STEVE ALIANO: I am keeping the bathroom. The existing bathroom that's

there.

TAD HEUER: Is there a reason not to just finish the basement?

STEVE ALIANO: Well, because I'm actually a -- I'm in the construction field, so, you know, I kind of need the basement when I move in with my dad. I have tons of tools, ladders, compressors, jack hammers. I mean, you name it, I have it. And I just need space to put it all. And I can't really put sheds out in the backyard.

TAD HEUER: Where do you put it now?

STEVE ALIANO: Well, I have my own place in Medford. My dad lives there with his girlfriend. I mean, it's small with them two. Just imagine if I move in there who had kids down the line.

TAD HEUER: I think at that point. I don't want to be pertinent, three people plus two people in a house, even if it's 1500 square feet, it seems like a small amount of

space for a large amount of people. Maybe not, but --

STEVE ALIANO: I agree.

TAD HEUER: I mean, part of this is being rift by the fact that you want to be able to keep this house. And I guess the countervailing question is isn't it better if you're looking for that kind of space, you need to be looking at a different house other than this one and have someone who can use a house that size and buy it from you and everything else? It's different.

STEVE ALIANO: The thing is, too, that, you know, I'm just going to throw this out there. My dad, I believe, is on Social Security, and he has other things that he gets, you know, for someone that's in his position. And if he were to sell this home, you know, those things would stop because it shows that, you know, he doesn't owe much on the home. It would show that, you know, that

he has money. So he can lose his medical and stuff like that.

TAD HEUER: But wouldn't that be the point, he'd have money?

STEVE ALIANO: It wouldn't be that much, though.

TAD HEUER: But he'd also gave a place to live. You put that towards rent.

STEVE ALIANO: I'm sure he would lose his free medical and whatever else, assistance.

MAHMOOD FIROUZBAKHT: You know, part of the reason I wondered about the basement space. He obviously needs some height on the third floor. And I understand about needing the basement on the third floor, but to the extent that you were going -- that was going to be uninhabitable space, can you reconfigure the floor so you take away some height from the basement and you add that height to your third floor so you

have some additional headroom up there? But maybe you're not necessarily adding so much massing to the rest of the house, you know, to get, you know, to get some of the square footage that you're looking for which I think might be a little bit demanding of this size lot.

STEVE ALIANO: Yeah, that would -- I mean, if that's what I would have to do, then I mean that's what I would do, yeah.

BRENDAN SULLIVAN: It's an awful lot of massing.

MICHAEL GOODE: Way too much square footage for the size lot, that's what you're asking for.

BRENDAN SULLIVAN: And I'm not sure like you -- at the back porches and the back porch, whatever you want to call it, seems to be rather grand. I understand the need for an outdoor space. What does he use now for outdoor space just the area outside, right?

STEVE ALIANO: What does he use now to enter the home?

BRENDAN SULLIVAN: No. I mean, for outdoor space to go out.

STEVE ALIANO: He sits on top of this little porch right here (indicating).

BRENDAN SULLIVAN: I guess where I'm headed, I would like to reduce the amount of massing. It's a lot of massing. It's a lot of house.

CONSTANTINE ALEXANDER: If we point out to you, you're hearing, I think, loud and clear a lot of reluctance from this Board on the plans you submitted. The massing being the biggest issue. I think I'm joined by my other colleagues on this. If we take a vote tonight and we turn you down and you want to revise the plans with less massing, you may be precluded from doing that for two years. We have a motion of repetitive petition. You have to come back before with new plans,

convince our Board, and then the Planning Board that these are different plans than before, and there's a standard in the statute. And then, and only then, would we consider the plans.

The alternative is to one more time continue this case, go back to the drawing boards and come back with more modest plans than you have now and see if you can persuade us then. But you won't be in the box of maybe having no ability to do anything for two years.

STEVE ALIANO: Okay.

TAD HEUER: Just so you know, we're sitting, I think I can say this for the Board, if the notion of the Zoning Ordinance is that when it was put into place, we have all these houses, you know, like this house which are on some size lots and they have impacted with each other, and the notion of the Zoning Ordinance is ultimately to eliminate

non-conforming uses, and a bit less to not perpetuate a non-conforming use, and one of the things that they were concerned about when they put zoning in place was a lot of these very small houses, very small lots packed in next to each other. The last thing they want is to have those grow and expand without any constraint without someone's budget. And when we're faced with one of these very small undersized lots that violates, as Mr. Alexander says, not just the floor area ratio but the lot coverage and all the setbacks and everything else, the first thing we're looking at is ultimately why is this house still existing? Why are we trying to keep this house going? One of the reasons you want to keep the house going, you want it to have value, it could be used. I think what we're hearing it's a big task to go with what you've got, you might put on the site if you had a field somewhere out in Cambridge. So

I guess, you know, kind of what we're asking, you know, is there a way to help us split that line between ideally what you like and, you know, the fact that the law constrains us to say, you know, look very cautiously on any kind of additions to a house that's already in this condition. In condition, I mean where it is not -- it's actual.

STEVE ALIANO: Right.

BRENDAN SULLIVAN: I think maybe one more go-round of suggesting what you've heard from us and really making -- scaling back a wish list. To me this is a wish, you know, this would be ideal. This would be very nice, but it's really beyond. Suggest what we said and come back with something that is more scaled back, but that will suit your needs also. Get you to the finish line, but maybe not as large a scale, that's all.

STEVE ALIANO: Okay.

THOMAS SCOTT: Have you shown the

design to your neighbors?

PAUL ZRHBRUZ: Yeah.

STEVE ALIANO: It's all been the same neighbors since I was a little boy.

THOMAS SCOTT: What kind of reaction do you get when you show them that you want to expand the house?

STEVE ALIANO: I talked to people three houses to the right of me. I talked to the person to the left of me. I talked to the two people -- three people across the street, and no one seemed to mind. It's all people, like I said, that I've known since --

BRENDAN SULLIVAN: Did you live in this house with your dad at all?

STEVE ALIANO: I grew up in this house.

BRENDAN SULLIVAN: And how many siblings?

STEVE ALIANO: I have another brother.

BRENDAN SULLIVAN: So four people have lived there. I'm sure that in the years past there's property in North Cambridge and Rindge Avenue and Montgomery and Jackson there was probably, you know, traditional mother, father and probably five, six kids in all those houses, you know.

PAUL ZRHBRUZ: And also you can see the dad's in a wheelchair and we would like to put the bathroom on one floor.

BRENDAN SULLIVAN: We're very sympathetic to that. We're very sympathetic to that.

PAUL ZRHBRUZ: And all the houses around the existing house is double the size.

TAD HEUER: They're on larger lots. This house is on almost all of its lot. I mean, it's not your fault that your lot is tiny but that's where you are.

PAUL ZRHBRUZ: Yeah.

TAD HEUER: I mean, I think -- I

would want to see you coming back that prioritize those kinds of things. You know, the bathroom is in the basement right now. We want a bathroom on the main level. You know, we want some outdoor space. And we want to be able to use that second floor somehow, so maybe that's -- maybe that's a smaller increase in the roof height. Maybe it's locating the bathroom and saying this is our real priority. You know, saying we want some outdoor space, but maybe not two decks, and thinking about the kind of option and really prioritizing what are crucial in order to keep this usable, and not, as the Chairman said, you know, everything you would do if you had the unlimited opportunity.

STEVE ALIANO: Right, right. And that's pretty much what this is.

MICHAEL GOODE: We're asking your opinion on how to do this. My only thought of being a builder without getting the height

on the second floor, it's not liveable. We're putting in furnishing. If they could reconstruct the porch so far and get rid of them.

BRENDAN SULLIVAN: But the second floor has been used as residence.

MICHAEL GOODE: It was used for two small children and a twin bed. Really it's not habitable if you look at the drawing.

THOMAS SCOTT: Could you dormer it, though? Did you think about the possibility of dormering the second level? And could you make the basement level, like you said, you know, raise the floor? Why do you have to raise the floor in the basement?

MICHAEL GOODE: It's built on dirt.

STEVE ALIANO: We want to make it healthier.

THOMAS SCOTT: Could you dig down? There's only four steps down currently, and your dad's in a wheelchair. It seems like

you would want to introduce a ramp or something to be able to get into that level. Maybe that level could be his apartment, you know.

STEVE ALIANO: Right now, you know, he walks pretty good and stuff like that, and we didn't want to eliminate like totally use the stairs and stuff like that. Like, he's good for six, seven, eight, nine stairs. We didn't want to limit that totally. We wanted him to do something, go up and down the stairs. And the other thing was, you know, I just thought, you know, saying what you're saying, I feel like we would be on top of each other. Because like, you know, Mike was saying, growing up as small boys, that's really tight even for, you know, two seven, eight-year-old boys.

CONSTANTINE ALEXANDER: I think what you're saying, and I think on face value you're making the point that Mr. Heuer was

making earlier, that there are times when the structure doesn't work for what you want. And we can't, and the Zoning Laws don't allow you to do what you want. Therefore, it's time to either make compromises or to look for other houses.

STEVE ALIANO: What if we did something like --

CONSTANTINE ALEXANDER: We can't tell you. We're not going to give you an advisory opinion.

BRENDAN SULLIVAN: I think you need to do just what we said, go back huddle and come back.

CONSTANTINE ALEXANDER: And understanding with something more modest.

BRENDAN SULLIVAN: You may come back with a couple of variations. You may come back and say no, this is it, you know, and then we'll go accordingly. But I think you need to suggest what we said, huddle and then maybe

make some adjustment or not.

MAHMOOD FIROUZBAKHT: And sorry, to the extent that this wasn't already in the file, I would find it extremely helpful to have letters of support from your direct abutters and/or have them come in on your behalf, you know, and lend support. Because, you know, we sort of represent the interests of the folks who are not here as well as the Zoning Board. And not knowing, you know, where they stand and certainly, you know, it's helpful to have conversations with them, but that's from a sort of a file and having the requisite information in there to allow us to, you know, understand where others, direct abutters stand would be helpful to have that in the file, particularly if you come up with a plan that's not for the zoning.

STEVE ALIANO: Okay.

BRENDAN SULLIVAN: So --

CONSTANTINE ALEXANDER: Case heard.

BRENDAN SULLIVAN: -- possible
continuance of the matter as a case heard.
Sean, what date?

SEAN O'GRADY: September 22nd now.

CONSTANTINE ALEXANDER: I can't be
here. I don't plan to be here on the 22nd as
a case heard.

BRENDAN SULLIVAN: We're closed out
on September the 8th?

SEAN O'GRADY: Yes, we just put our
third case.

TAD HEUER: Do we know what the other
two are?

SEAN O'GRADY: I don't, no.

TAD HEUER: We have to start making
notes.

SEAN O'GRADY: That's true.

BRENDAN SULLIVAN: Why don't we put
it on for September 8th anyhow?

SEAN O'GRADY: Yes.

BRENDAN SULLIVAN: That would be okay for you. We have other matters?

CONSTANTINE ALEXANDER: Does that give you enough time to rethink and, you know, you've got to get it in the file the Monday before.

STEVE ALIANO: I believe Paul's on vacation that week.

CONSTANTINE ALEXANDER: It's up to you when you want to have it. The point is all five of us have to sit on the case when you come back to us.

BRENDAN SULLIVAN: So September 8th or October.

CONSTANTINE ALEXANDER: One of those two dates.

STEVE ALIANO: Is it absolutely necessary to --

BRENDAN SULLIVAN: No.

STEVE ALIANO: We'll take September 8th.

BRENDAN SULLIVAN: I'm sure he can coach the finer points.

Let me make a motion to continue this matter to September 8 2011 at seven o'clock as a case heard on the condition that the petitioner change the posting sign to reflect the new date of September 8th and the time of seven p.m.

So you just want to change what's there now, make sure you maintain the sign at least 14 days prior. It doesn't have --

STEVE ALIANO: If it runs past this and I run out of space?

TAD HEUER: We'll give you a new one.

BRENDAN SULLIVAN: Yes, yes, as long as it's legible.

All those in favor of continuing?

(Show of hands).

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer, Scott, Firouzbakht.)

(8:05 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case No. 10119, 100 Cambridge Park Drive. Do you have a business card?

Okay, introduce yourself for the record.

ATTORNEY WILLIAM PROIA: For the record, Bill Proia from Riemer and Braunstein representing the applicants tonight. Matt Taylor is with me. And along with him Andrew Manning from Moore Engineering.

Pretty simple, we have a by-right daycare use in the building. And as part of our regulatory requirements, we have to have some outdoor space, play space and provide shade and in the outdoor play space. And the building right now is at maximum FAR at 1.75,

and the shade structures are adding 0.01 to the FAR. So it would be -- it would go from 1.75 to 1.76 if the Board grants the relief.

And, Andrew, if you want to go up quickly and we'll just sort show you the layout. They did a really nice job with the outdoor play space and how it connects to the inside space.

TAD HEUER: Could you just pull that up closer?

ANDREW MANNING: Yes.

Just for the record, my name is Andrew Manning M-a-n-n-i-n-g. The project at 100 Cambridge Park Drive, for your reference on the plan, Cambridge Park Drive is on the top. The five-story office building. This is the primary access drive to the rear. In the rear of the property is all the shared parking, and right behind that is the railroad tracks and staging yard with all the sidings right approximately here.

So, the Kindercare Daycare facility is in the back corner of the building, which was formerly office, now daycare. So, with that here's a blowup site plan of that corner of the building. Again, Cambridge Park Drive on the top.

ATTORNEY WILLIAM PROIA: I just want to interrupt for one minute. I neglected to say, we mentioned this at the last time, but we weren't taking testimony. The parking configuration you see there and the request we're asking before regarding the parking, we want to make a formal request to withdraw that. We don't need to have the parking formatted or configured that way.

TAD HEUER: You're just here on the FAR?

ATTORNEY WILLIAM PROIA: It's just the FAR, exactly for the shade --

CONSTANTINE ALEXANDER: And isn't there a landscaping issue, too?

ATTORNEY WILLIAM PROIA: That would only be related to the parking.

CONSTANTINE ALEXANDER: Parking, got it.

ATTORNEY WILLIAM PROIA: So that goes away with the parking request, yes.

Sorry, go ahead.

ANDREW MANNING: So, the indoor facility for the daycare's approximately just under 5,000 square feet. 48 and change. They've reconfigured some of the exterior walls to allow daycare space to access an exterior playground, which is required by daycare regulations. Within that playground area exterior there is a requirement for shade structures. Those are just on this plan highlighted in blue. They break down to a couple of different types of structures. One of them, these three locations right here, are actually sunshade structures which is a cloth that allows some

light to come through, but not direct sunlight blazing on the children. Those are located over actual play structures. Some of them are ones are a sandbox, so the kids can play outside but not in the sun.

Two other structures are wooden pergolas, but by definition they don't meet the code for the requirements of spacing on the pergola structure. But they are standard pergolas. Four posts, beams and rails on the top. They're 10-by-10. And then two other structures, as you can imagine a playground for a daycare facility, there's lots of toys, lots a pieces around. So there's two eight-by-twelve storage sheds located, one in the preschool area and one in the infant area so that those toys can be put away and longevity of those. They add to FAR because they are closed. So the total sum of those structures is 772 square feet. Of that the building is -- I'll use roughly 137,000

square feet in FAR today. So when you do the math, we're generous rounding up to 0.01. But it is -- the building was at the time, designed and built to what was allowed at that time, a 1.75. Subsequent the rules have actually gone down. We can't even gain the Special Permit because we're at the maximum allowed for that zone.

TAD HEUER: So the zone right now is 1.75?

ANDREW MANNING: With the Special Permit. It's by right 1.25.

TAD HEUER: So you built them?

ANDREW MANNING: They're built, yes.

TAD HEUER: So, and this may be -- well, I'll just ask. You need 772 square feet. Is there a reason you can't get 772 square feet out of the existing building?

ANDREW MANNING: It's currently utilized the maximum extent.

TAD HEUER: Well, I know it's currently utilized to the maximum extent. But you could say we'd really like a daycare facility, but instead of going to the Board and asking for 772 square feet that literally is sunshade, and I'm thinking even as FAR, but legally couldn't you say if you need 772 square feet, you have a couple of unused storage rooms in the basement that we will, you know, close up, finish off, you know, four floor or something, take that out of the FAR and use that FAR to stay under 1.75 with the sunshade that we now want?

ATTORNEY WILLIAM PROIA: We are working with ISD to try to figure out if there was some space like that and did a survey with the landlord. And hard to believe, but it's pretty well completely used at this point. We couldn't find any. I mean, we found a portion of that, we'd still have the issue. We couldn't find the whole 772 or more, so we

still have some kind of FAR relief required.
I mean, it would be smaller, but --

TAD HEUER: Okay.

CONSTANTINE ALEXANDER: Plus you have to be taking away commercially valuable space just to have a sun -- I mean, it's an easier way of doing it, is to do what you're doing, to come before us to get a Variance for what looks to be, from my judgment, an innocuous structure on the side and not take away the other commercial space that you already have.

ATTORNEY WILLIAM PROIA: Well, I mean, that's the other consideration.

BRENDAN SULLIVAN: Somebody puts a calculator to it and say forget the daycare. I mean, that's the reality of the situation.

TAD HEUER: And I think that most people if you're looking for a daycare, can find a daycare to be a very valuable commercial addition to that vicinity. I

think your square footage goes, in terms of value, way up once you have the daycare facility. And I think it more than outweighs the 772 square feet --

CONSTANTINE ALEXANDER: If we turn them down tonight, they can then go after and use your solution of going back and trying to find space in the building and avoiding it.

TAD HEUER: Sure.

ATTORNEY WILLIAM PROIA: I don't know if you had a chance to look, but we provided photographs of the typical shade structures that we're proposing.

CONSTANTINE ALEXANDER: We all looked at the file.

ATTORNEY WILLIAM PROIA: Yes, I wanted you to see what they looked like.

BRENDAN SULLIVAN: Even the storage of the, again, the toys and probably chairs and stuff like that, that's not FAR? Is it because -- where's -- oh, he's not here. I

thought that was --

THOMAS SCOTT: Isn't that an accessory use?

BRENDAN SULLIVAN: Eight by 12 by -- cannot exceed eight feet or something? What's are the sides of those?

ANDREW MANNING: The two storage sheds are 8 by 12, which is 72 square feet each.

BRENDAN SULLIVAN: Yes.

ANDREW MANNING: There's two, 10-by-10 pergolas.

BRENDAN SULLIVAN: But what's the height of the, eight by -- do you know?

ANDREW MANNING: Six feet on the eave?

UNIDENTIFIED MALE FROM THE AUDIENCE: Probably closer to eight feet on the eave. But if there's a requirement to keep them at a lesser level, say eight feet, we can certainly accommodate.

ATTORNEY WILLIAM PROIA: If the question is --

BRENDAN SULLIVAN: Sean has reviewed all this and it's all required? Okay.

ATTORNEY WILLIAM PROIA: Yeah, we tried to find ways that some of these things wouldn't trigger the FAR, but the way that the definition is written, I mean, we talked about, and we know cases in the city where someone was just putting a shed roof over their porch as an entrance to block rain or weather, and that triggered it. So we couldn't really find a way around it, the definition and the interpretation of the definition.

TAD HEUER: Are these permits -- are they retractable at all? So that if it's not raining, can you pull them in?

ANDREW MANNING: The sunshade structures themselves are removable. And

they do remove them in the winter so that the wear and tear of snow doesn't tear them apart. So they do come out. But, again, if it's sunny in the morning and raining in the afternoon, no, they don't run out and take off the structure, the sunshade itself. The four --

TAD HEUER: It's not like the Skydome.

ANDREW MANNING: That's right. There's no ratchet that pulls these back and forth.

ATTORNEY WILLIAM PROIA: The only thing we came up against was temporary structures are permitted with the code. So we -- if we try to classify them that way, but making them more portable or, you know, flexible, we can have that.

MAHMOOD FIROUZBAKHT: Further question on the material. On the cloth material is that designed to be adequate to

keep out UV rays and sort of protect the kids that are in the shade playing?

ANDREW MANNING: It's specifically what it's designed for. It's hard to describe. The material is almost like actually needle punched and so that it's -- I don't even know how you want to describe it. It allows ambient light -- you know, it allows a light to come through so it's not dark and shaded underneath, but it is designed to keep the -- meet the definition of sunshade for the state regulations.

ATTORNEY WILLIAM PROIA: And I think part of the reason is the load, right? It's porous so you don't have sail effect with the structures.

TAD HEUER: Right.

BRENDAN SULLIVAN: Okay. Any other questions?

Let me open it to public comment. Is there anybody here who would like to speak on

the matter, 100 Cambridge Park Drive?

(No Response.)

BRENDAN SULLIVAN: I see nobody in attendance.

There is correspondence from the Planning Board dated June 20, 2011 to the Board of Zoning Appeal. "The Planning Board reviewed the Variance for a sunshade storage and parking spaces at the child care center. We would like to support this relief, as well as the childcare use at the office building. The combination of daycare with the office use as well as its close proximity to the Alewife T station makes this a sensible location. The proposed modifications for the use present minimal negative impacts to the existing office use or abutting uses in the office district."

Okay. Any last words of wisdom?

ATTORNEY WILLIAM PROIA: I'll leave that up to you.

CONSTANTINE ALEXANDER: We have the last word.

ATTORNEY WILLIAM PROIA: We have to make our case. We presented it pretty thoroughly.

BRENDAN SULLIVAN: Put the onus on us? Okay.

Gus, what is your --

CONSTANTINE ALEXANDER: I have no problem.

BRENDAN SULLIVAN: Tom?

THOMAS SCOTT: I'm good with it.

BRENDAN SULLIVAN: Tad?

TAD HEUER: I'm fine.

BRENDAN SULLIVAN: And Mahmood?

MAHMOOD FIROUZBAKHT: Shade is good.

BRENDAN SULLIVAN: Let me make a motion to grant the relief requested for the addition of -- I'm sorry, what is it 700?

ATTORNEY WILLIAM PROIA: 772.

BRENDAN SULLIVAN: 772 square feet of outdoor shade space at 100 Cambridge Park Drive, The Knowledge Learning Corp. facility to provide shade within the childcare center outdoor area per CMR. It's as per Mass. General Law Section 15D and 600 CMR 7.0 and also the two storage sheds as proposed on the plan and for the photo simulations as presented to the Board.

The Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner as it would preclude the addition of these much needed and necessary and mandated structures.

The hardship is owing to the fact that the existing site is fully occupied and at its limit of FAR. And any addition of this particular nature, which is quite minimal, would require some relief from this Board.

The Board finds that desirable relief

may be granted without substantial detriment to the public good, and act as a public amenity to the children and staff that are using the facility.

And that relief may be granted without nullifying or substantially derogating from the intent and purpose of the Ordinance.

All those in favor of granting the relief?

TAD HEUER: Do we need to tie it to a plan?

BRENDAN SULLIVAN: Well, I did, the plan and also the photo simulations. The plan was --

TAD HEUER: Right. So you know those are the locations of where they're going to be?

BRENDAN SULLIVAN: Yes, and also the photo simulations.

ATTORNEY WILLIAM PROIA: Yes.

THOMAS SCOTT: Do we have to mention

the parking being retracted?

BRENDAN SULLIVAN: We are giving no relief from the parking because none is being requested, right.

All those in favor of granting the relief?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer, Scott, Firouzbakht.)

ATTORNEY WILLIAM PROIA: I have a question. Do you have an estimate of when the decision might be filed?

BRENDAN SULLIVAN: It will take about six weeks.

(8:20 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case No. 10120, 101 Larchwood Drive. Is there anybody here on that particular matter?

(No Response.)

BRENDAN SULLIVAN: No correspondence?

There is correspondence to the Board of Zoning Appeal dated 7/13/11. "We are requesting more time to resolve a last minute property line inquiry with our abutter. We believe that this will be resolved by the September hearing and we hope to continue then. Our property is 101 Larchwood Drive. Thank you for your understanding, Zeke

Brown." Z-e-k-e B-r-o-w-n. Who is the architect.

Make a motion, then, to continue this matter until -- where are we September?

CONSTANTINE ALEXANDER: 22nd it's got to be now.

BRENDAN SULLIVAN: September 22, 2011 at seven p.m. on the condition that the petitioner change the posting sign to reflect the new date of September 22nd, and the time of seven p.m. as a case not heard.

CONSTANTINE ALEXANDER: And the further condition they sign a waiver for a time of decision.

BRENDAN SULLIVAN: I have that.

CONSTANTINE ALEXANDER: You have that? Okay, good.

BRENDAN SULLIVAN: Yes.

All those in favor of continuing this matter to then?

(Show of hands).

BRENDAN SULLIVAN: Five in favor.

(8:25 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The case will hear case No. 10121, 260 Lexington Avenue/247 Fresh Pond Parkway.

Mr. Rafferty.

ATTORNEY JAMES RAFFERTY: Good evening, James Rafferty. 130 Bishop Allen Drive with the applicant George Bechwati B-e-c-h-w-a-t-i.

We learned late this afternoon of a request sent to the Board from the Mayor requesting a continuance to allow an opportunity for further dialogue with some neighbors. We're having dialogue now. It's productive, but in deference to that

request, and I think with the goal towards being able to resolve issues that would then take less time before the Board, we would be requesting a continuance.

I spoke to Mr. O'Grady, and he said that there was a limited opportunity two weeks from this evening. I don't see him here.

CONSTANTINE ALEXANDER: Well, while we're deciding that. When I looked at the file, there were no supporting statement or dimensional form. I don't know if it was removed. Is it in the file? If it's not, we need to get it in before the next hearing.

ATTORNEY JAMES RAFFERTY: I confess I didn't prepare the application so.... I do have a dimensional form. I'm surprised it's not in the file.

CONSTANTINE ALEXANDER: I want to make sure it's in the file.

ATTORNEY JAMES RAFFERTY: I appreciate that. Isn't that the dimensional

form?

BRENDAN SULLIVAN: That's the dimensional form.

TAD HEUER: It's in there.

BRENDAN SULLIVAN: The supporting statement is lacking I believe.

Well, you may want to review the file.

CONSTANTINE ALEXANDER: Yes.

ATTORNEY JAMES RAFFERTY: Thank you.

BRENDAN SULLIVAN: For completeness and for accuracy.

If we can get a hold of Mr. O'Grady just to make sure.

CONSTANTINE ALEXANDER: I'll go get him.

ATTORNEY JAMES RAFFERTY: I don't mind getting him. I represented to the neighbors that we would be requesting a continuance. And even though some of them seem prepared to go forward, I think there

were a few people that thought the continuance was a good idea. So I think it's probably the most efficient use of everyone's time for the continuance.

BRENDAN SULLIVAN: They may want to review the file.

ATTORNEY JAMES RAFFERTY: Yes. I'm a late arrival here so I will do that.

SEAN O'GRADY: Sorry, gentlemen.

BRENDAN SULLIVAN: 260 Lexington Avenue, Sean, to be continued until?

ATTORNEY JAMES RAFFERTY: I had requested the two weeks if that was possible because the neighbors were --

SEAN O'GRADY: Okay. You have you know the three, but it's again up to you if you feel that it's --

CONSTANTINE ALEXANDER: This is the 28th of July?

ATTORNEY JAMES RAFFERTY: Yes.

CONSTANTINE ALEXANDER: I thought

the 28th was a really long agenda.

TAD HEUER: The 28th we have the church I believe.

CONSTANTINE ALEXANDER: I thought there were one or two other cases. We really jammed that in.

SEAN O'GRADY: We jammed August 11th.

CONSTANTINE ALEXANDER: August 11th? Okay.

SEAN O'GRADY: We have eight regulars and three continued listed for the 28th.

CONSTANTINE ALEXANDER: I'm confusing August.

SEAN O'GRADY: Okay.

BRENDAN SULLIVAN: So the 28th of July is open?

CONSTANTINE ALEXANDER: If we want to have four cases.

SEAN O'GRADY: If you want four

cases, right?

BRENDAN SULLIVAN: It's up to the Board.

CONSTANTINE ALEXANDER: I don't think it will be a controversial case.

ATTORNEY JAMES RAFFERTY: I was going to say, I would anticipate given the tenure of the dialogue in there, this continuance -- had that letter arrived, two days earlier I would suspect we wouldn't need this continuance.

BRENDAN SULLIVAN: We're going to inform the Mayor of the Monday before.

ATTORNEY JAMES RAFFERTY: I'll leave that to the Chair. I don't find it in my interest to correct the Mayor.

BRENDAN SULLIVAN: So we will continue this matter until July 28th at seven p.m. as a case not heard on the condition that the petitioner sign a -- well, I don't think we need a waiver. Do we want them to sign it

anyhow?

ATTORNEY JAMES RAFFERTY: Probably good practice just to sign it.

BRENDAN SULLIVAN: We will sign one anyhow.

And then also that you would change the posting sign. Change the posting sign to reflect the new date of July 28th and the time of seven p.m.

CONSTANTINE ALEXANDER: Just make sure you do that, because if you don't, we won't be able to give it to you.

GEORGE BECHWATI: Yes sir. Yes, sir.

BRENDAN SULLIVAN: On the motion to continue?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(8:30 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case No. 10122, 60 Acorn Park.

SEAN O'GRADY: Brendan, what happened to Larchwood?

BRENDAN SULLIVAN: We continued that to September 22.

SEAN O'GRADY: Okay, very good. And the five on the --

BRENDAN SULLIVAN: Correct. As a case not heard.

Mr. Rafferty.

ATTORNEY JAMES RAFFERTY: Thank you. Mr. Chairman, again, for the record James Rafferty on behalf of the applicant

Forrester Research. Seated next to me is.

JEAN BARANOWSKI: Jean Baranowski.
(Inaudible).

ATTORNEY JAMES RAFFERTY: Can you
spell Baranowski?

JEAN BARANOWSKI: Yes.

ATTORNEY JAMES RAFFERTY: And speak
up a bit.

JEAN BARANOWSKI: Jean Baranowski
B-a-r-a-n-o-w-s-k-i. I'm the Vice
President of corporate services for
Forrester.

RICK DONOVAN: And Rick Donovan from
Leggat McCall Properties. L-e-g-g-a-t
M-c-C-a-l-l Properties.

ATTORNEY JAMES RAFFERTY: So,
Mr. Chairman, this is an application for
relief under the city sign ordinance, and the
most significant aspect of the relief is the
height limitation that exists in this
district and many other districts, but the

MXD district. And limitation is that signs cannot be placed higher on the wall of a building than 20 feet.

Forrester Research is a company that's been a Cambridge-bred company located in Technology Square for several years now. They have become the first tenant to move out to the new Discovery Park, the former Arthur D. Little site along Route 2. It's a project that really has a lot of advantages. The reclaiming of the Alewife Reservation, an opportunity to connect through to the Alewife T station. So Forrester is excited about being there. But the building, Acorn Park, while it is a public way, it is really not much more than a driveway into that park. So the topography of that location is much lower than the main artery, the commercial road Route 2. And the building competes visually with an above-grade parking garage. That parking garage was necessary to eliminate a

vast amount of surface parking on the site and create fields and open space. And if Board members have had an opportunity to be out there, you'll see and Charles LeRay is here on behalf of the landlord, he's counsel for them. But a very extensive plan with the Conservation Commission, a course out of which was to remove the surface parking, put it on above-grade parking structure. That structure sits rather prominently on front of this building. And the building is also located behind a bowling alley on Route 2. So the sign is proposed, and we're all very mindful of signs, it's a source of great interest, we know, in the past year in the civic life of the city. So I encouraged the applicant to look at a simple, modest sign that could achieve that. And they went so far as to create a mockup. And if you've had an opportunity to go up there, there's actually a temporary sign that went up some

weeks ago that is the exact dimensions of this sign. It's kind of a banner that you would see at like on a construction site. But it actually happens to totally reflect the dimensions size and location of this Forrester banner.

As you know, buildings can have signs along faces, faces of the public way. So the applicant is not seeking to put a sign on the Acorn Park side of the street facing the reservation. We did have some conversation with some activists involved with the reservation, and they were supportive of the notion that, from the reservation side, you would not see signage. But you would see it from highway side.

TAD HEUER: They want it to be off the reservation?

ATTORNEY JAMES RAFFERTY: Yes, that's probably what they're thinking about.

So the hardship really is related to the

need to create a little identity there. They're the first building out there. There are multiple buildings. Even during the construction process and the fitting up that's going on now, has been a challenge Ms. Baranowski tells me, for people to locate the building, whether it's the servicemen, the furniture people, the fit-out people. So the sign will serve a way-finding purpose. And it will also allow people who are travelling on Route 2 to see the building. It's modest in size and scale. And it really has physical constraints in front of the building including other buildings and landscaping that makes the 20-foot limitation, would make the sign totally ineffective.

CONSTANTINE ALEXANDER: How high will the sign be?

ATTORNEY JAMES RAFFERTY: The sign is at the top of the building, and I think the

building height, we understand to be about?

RICK DONOVAN: It's about 90 feet.

ATTORNEY JAMES RAFFERTY: The 90 feet.

CONSTANTINE ALEXANDER: It will be 90 feet roughly high rather than the 20 feet? That's no more 20 feet than the Zoning Law requires?

And what about the size of the sign? It's bigger than -- 60 square feet is all you're supposed to have. Are you looking for a Variance on the size of the sign as well?

ATTORNEY JAMES RAFFERTY: Yes. The sign certification form will reflect the size. Again, though, you could have signs on other faces of the building. There are at least two public ways. So the combined area is slightly less than what the total -- the combined area of the sign is slightly less than what the total area -- the combined area of the sign is less than what the total area

of the signage on the building could be. But it is true that the dimensional relief that's sought is for the height and for the area of the sign.

CONSTANTINE ALEXANDER: And just again for the record, how big is the sign? What are the areas of the sign be?

RICK DONOVAN: It's 90 square feet.

CONSTANTINE ALEXANDER: 90. And our zoning says?

RICK DONOVAN: 60.

CONSTANTINE ALEXANDER: 60.

ATTORNEY JAMES RAFFERTY: It's one of those signs, thought, but because it's an oval, it's interesting, there are parts of the sign that are part of a shield that are included in that calculation, so if it were just the letters Forrester without the oval, it gets much closer to the allowed area.

CONSTANTINE ALEXANDER: I understand.

BRENDAN SULLIVAN: Is Forrester the only tenant in the building?

JEAN BARANOWSKI: Yes.

TAD HEUER: Will you be the only tenant in the building or is there other unlet space.

JEAN BARANOWSKI: No one in that space. We have rights, but no tenant.

TAD HEUER: Would you be amendable to a condition that in exchange for this sign that no other sign you could put up by right on the other faces would be allowed?

ATTORNEY JAMES RAFFERTY: Yes.

JEAN BARANOWSKI: We have plans to put a --

ATTORNEY JAMES RAFFERTY: A monument sign, I think.

TAD HEUER: Above height.

ATTORNEY JAMES RAFFERTY: Oh, yes. This would be the only sign seeking relief for height.

BRENDAN SULLIVAN: It would be order as of right.

TAD HEUER: Yes.

Just a quick question. There are two dimensional forms here. I presume this is the one that you intend, the longer one. Just for --

ATTORNEY JAMES RAFFERTY: Yes, the dimensional form, we wanted to focus on the dimensions of the building. And then we got the PUD Special Permit information from the Planning Board and we included that's. But that's project-wide not just the building.

TAD HEUER: So along with the GFA of 200,000 is the project-wide, but that's the PUD; is that right?

ATTORNEY JAMES RAFFERTY: No. The 200,000 is probably the building.

RICK DONOVAN: That's the building, the 200,000.

ATTORNEY JAMES RAFFERTY: The

900,000 number is the project.

RICK DONOVAN: Right.

TAD HEUER: So this one that says 22,000 we can just throw out?

ATTORNEY JAMES RAFFERTY: 22,000? I have 209,027.

TAD HEUER: I have that one and I'll raise you one. I have that one, too. Is that just incomplete?

ATTORNEY JAMES RAFFERTY: Yes, that's -- I don't know what that -- I apologize.

TAD HEUER: Okay.

ATTORNEY JAMES RAFFERTY: That doesn't look like something from my office, but even the height of the building -- I don't know.

TAD HEUER: Okay.

ATTORNEY JAMES RAFFERTY: This is the correct one.

TAD HEUER: That one?

ATTORNEY JAMES RAFFERTY: Yes.

TAD HEUER: Okay.

And can you just go over the location of the sign? And maybe this is just because of photo sims -- are the photo sims of the actual simulated sign that's up there right now, is that what's up there now?

JEAN BARANOWSKI: This is a mockup that we did.

ATTORNEY JAMES RAFFERTY: So is that -- I'm sorry, I think the question is is that a photo of what's there or is that a Photoshopped sign?

RICK DONOVAN: That's a photo of what's there.

TAD HEUER: Okay.

ATTORNEY JAMES RAFFERTY: That's what's there today.

And is that the location on the building that the sign is actually going --

JEAN BARANOWSKI: It's the height.

But the proposed location is actually to the right a little bit more.

TAD HEUER: So that was my question.

BRENDAN SULLIVAN: So, it's realtime photo simulation?

ATTORNEY JAMES RAFFERTY: But same size and height but slightly --

JEAN BARANOWSKI: Shifted to the right.

ATTORNEY JAMES

RAFFERTY: -- shifted to the right.

TAD HEUER: It's reflected on this?

JEAN BARANOWSKI: On this, yes.

TAD HEUER: Yes.

So reflected on the work order, that would be the location of the sign, this one that's tucked into the right-hand side corner?

RICK DONOVAN: Yes.

JEAN BARANOWSKI: Yes.

TAD HEUER: And it would be as

demonstrated on the work order, an oval sign, not an oval within a rectangle because of a banner --

RICK DONOVAN: The way it appears there it's a banner. And we just tried to approximate the color for the background in it.

TAD HEUER: I understand.

ATTORNEY JAMES RAFFERTY: Oval alone.

TAD HEUER: So we're tying relief to plans it should be to this and not necessarily to that, less we confuse Inspectional.

ATTORNEY JAMES RAFFERTY: Yes.

THOMAS SCOTT: And the letters are illuminated. And it says that the perimeter is illuminated, but it doesn't show it in this sketch, but it shows it in this sketch. Which is correct?

RICK DONOVAN: The band?

THOMAS SCOTT: The band. Is there

an illuminated band around the oval?

Because it shows --

BRENDAN SULLIVAN: Just for highlight purposes.

ATTORNEY JAMES RAFFERTY: Yes, it's an internally illuminated sign.

RICK DONOVAN: The letters are. But the illumination intended around the oval is what we'll call halo-lit. So it will be an LED directly behind the sign. Not illuminated through the sign, but just sort of halo lighting.

THOMAS SCOTT: Okay.

BRENDAN SULLIVAN: So define the sign --

THOMAS SCOTT: To define the building slightly. And then illuminated --

RICK DONOVAN: Yes.

THOMAS SCOTT: Okay.

ATTORNEY JAMES RAFFERTY: But it complies with the illumination requirements.

THOMAS SCOTT: I like that actually.

ATTORNEY JAMES RAFFERTY: It's a handsome sign. It has a brush finish letter.

BRENDAN SULLIVAN: Any other questions by members of the Board?

Mahmood?

MAHMOOD FIROUZBAKHT: No.

BRENDAN SULLIVAN: I don't believe there's any correspondence. I don't think the Planning Board sent anything in.

CONSTANTINE ALEXANDER: I don't think the Planning Board weighed in on this one.

BRENDAN SULLIVAN: Let me open it to public comment.

Is there anybody here who would like to speak on the matter of 60 Acorn Park?

(No Response.)

BRENDAN SULLIVAN: I see nobody in attendance. I will close public comment.

Any final words of rebuttal or wisdom?

CONSTANTINE ALEXANDER: Or lack thereof?

ATTORNEY JAMES RAFFERTY: I learned long ago to stop talking.

BRENDAN SULLIVAN: Okay, we'll remember that.

Any problems with any of this? Anybody?

I'll make a motion to grant the relief requested for the erection of a sign as a non-conforming -- as per the plan and photo simulations submitted and initialed by the Chair.

The Board finds that a literal enforcement of the provisions of the ordinance would involve a substantial hardship on the petitioner as it would preclude the petitioner from some much needed identification from the highway.

The Board finds that the hardship is owing to the location of the existing

building. The fact that a structure parking garage is in front of it, does hide a substantial portion of the building from the public way, and that portion of the building which a sign could be erected as of right.

The Board finds that desirable relief may be granted without substantial detriment to the public good.

And the Board finds that relief would not nullify or substantially derogate from the intent and purpose of the ordinance.

Anything else to add to that?

CONSTANTINE ALEXANDER: Tad has suggested limiting the signs on the other sides of the building, plus the height of the building not higher than what is?

BRENDAN SULLIVAN: I'm tying the relief to the --

CONSTANTINE ALEXANDER: I don't think there's anything on the side that was submitted to show the height. It shows the

exterior dimensions of the sign.

THOMAS SCOTT: We should make sure it's clear.

BRENDAN SULLIVAN: It does not show. It shows the 200 -- no, I'm sorry, that's the length of the building. It does not -- that the building be -- I'm not sure if we can define the actual height of that sign, can we? Other than the location.

ATTORNEY JAMES RAFFERTY: It's on the parapet of the building facing the highway.

CONSTANTINE ALEXANDER: I just want to make it clear they can't put -- someone else can put a billboard on top of the building with the sign even higher.

BRENDAN SULLIVAN: Well, they could not put anything else up there without -- anything above 20 feet anyhow without coming down in front of the Board.

CONSTANTINE ALEXANDER: No, no.

But if we grant relief from the height requirements of this sign, they can move the sign up. Theoretically they can do that.

ATTORNEY JAMES RAFFERTY: Well, I would say that there's a recent building permit, the elevations are on file at ISD. It's a Planning Board Special Permit case. We've got elevations here, but they're just so small I can't make out the numbers. But it's clearly at the parapet of the --

CONSTANTINE ALEXANDER: No higher than the parapet of the building.

BRENDAN SULLIVAN: What I might request is that before I sign the decision is that we --

ATTORNEY JAMES RAFFERTY: Get a blown up version of this.

BRENDAN SULLIVAN: Somehow define the height of the building.

ATTORNEY JAMES RAFFERTY: We just say if we blew these up adequately so that

those dimensions could be read?

BRENDAN SULLIVAN: Yes. And just give us a yardstick on that, that's all. That should be easy.

Okay, on the motion to grant the relief.

(Show of hands).

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer, Scott, Firouzbakht.)

ATTORNEY JAMES RAFFERTY: Thank you very much.

(8:45 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case 10123, 125 Chestnut Street. Would you please give your name for the record. Please spell your last name and your address.

SUSAN SHELKROT: I'm Susan Shelkrot S-h-e-l-k-r-o-t at 125 Chestnut Street.

BRENDAN SULLIVAN: Okay, Susan, what is it that you would like to do?

SUSAN SHELKROT: I'm seeking to add a door to the side of my house where there currently isn't a door and then steps down to the ground.

BRENDAN SULLIVAN: And the reason for the door? This is a Variance and a Special Permit. The Variance is to build a

landing and three stairs. This triggers FAR, Sean?

CONSTANTINE ALEXANDER: It's setback.

BRENDAN SULLIVAN: Setback, sorry.

SEAN O'GRADY: Yes.

SUSAN SHELKROT: So the reason for the door is to simply access the side yard that is otherwise inconvenient and unsafe for children. Right now we need to go through two sets of doors, through a parking area and around the side.

BRENDAN SULLIVAN: To access the back?

SUSAN SHELKROT: To access the side yard because of the parking area in back as opposed to having a door right out of our home to access the side yard, which is much more convenient and safe in order to monitor children and in order to provide direct access without multiple doors that can lock

while someone is outside without being monitored.

BRENDAN SULLIVAN: Yes. So it's access, quick access to them.

SUSAN SHELKROT: Right.

BRENDAN SULLIVAN: Visually you can still see them, I guess, from your house, can you?

SUSAN SHELKROT: It's easier through an open door. I mean, you know, if I go up to the window and look carefully, I would be able to see --

BRENDAN SULLIVAN: Yes, right.

SUSAN SHELKROT: But I wouldn't be able to see my child as he were walking around.

BRENDAN SULLIVAN: Yes, yes, right. Okay. That's where you lose contact.

SUSAN SHELKROT: Exactly. And because it's a parking area, you know, it feels during that time as though he needs to

be escorted as opposed to just being out there.

CONSTANTINE ALEXANDER: The Variance you're requiring with the setback, I think the landing is close to four feet to the lot line. The neighbor whose lot you're going to be four feet from, have you spoken to that neighbor?

SUSAN SHELKROT: We have. And there's an e-mail she had sent to me where I believe I submitted where she said she didn't have any problems with what we were requesting. It happens to be, I think you can probably see in the plan, it's up against their driveway is there. And the rest of it is open. We really tried to -- we tried to do it as an unobtrusive, unoffensible (sic) way, and we did talk with the neighbors. And I have several letters of support. I have additional letters of support if you want them. So I'm happy to provide that. So

everybody that we spoke with said that it did not in any way interfere with their lives.

BRENDAN SULLIVAN: Is there a form in purple?

SUSAN SHELKROT: This is from other abutters Feinberg and Shulman. The Board --

BRENDAN SULLIVAN: (Inaudible).

SUSAN SHELKROT: Yeah, they are the ones on the other side of that fence. It's their driveway. It's where they -- it's their driveway and where they keep their trash. So it wasn't of much consequence to them.

BRENDAN SULLIVAN: Yes, okay. There's two there. Keep one for your records.

Any questions from the Board? Let me open it to public comment.

Is there anybody here who would like to speak on the matter of 125 Chestnut Street?

(No Response.)

BRENDAN SULLIVAN: I see nobody in attendance.

The Board has received correspondence dated July 9th to the Board of Zoning Appeal. "As a neighbor and an abutter to Susan Shelkrot and Eric Kupferberg of 125 Chestnut Street, we fully support the request for zoning for zoning appeal. The requested modification to the residences will improve their home and not cause any specific disturbance to others."

There's correspondence from Nan Stein S-t-e-i-n, "Writing in support for a Variance to install a door from the dining room to our building's side yard. We fully support the sketch they've shown me, including the four stairs with some planters which are required to connect to the ground. The restricted access significantly impedes using this area currently."

There is correspondence from Ken Kamrin

K-a-m-r-i-n, 129 Chestnut Street, writing in support of the application. I appreciate that they considered several locations for the door and a proposing one that works both with the interior configuration of the rooms and also with several factors outside." And he believes that the addition of the door and the stairs would in no way adversely affect the character of the property for anything. And that is that.

I'll close public comment.

Any final words or pleadings? No?

SUSAN SHELKROT: I can go on if need be, but I think it's pretty straight forward.

CONSTANTINE ALEXANDER: You don't need be.

BRENDAN SULLIVAN: Okay.

Gus, any --

CONSTANTINE ALEXANDER: No, I'm fine.

BRENDAN SULLIVAN: Tom?

THOMAS SCOTT: I'm good.

BRENDAN SULLIVAN: Tad?

TAD HEUER: Fine.

BRENDAN SULLIVAN: Mahmood?

MAHMOOD FIROUZBAKHT: Fine.

BRENDAN SULLIVAN: Let me make a motion to grant the relief requested for a Variance to construct a porch....

CONSTANTINE ALEXANDER: Landing.

BRENDAN SULLIVAN: Landing. With steps that are going to be setback as per the plan provided.

The Board finds that a literal enforcement of the provisions of the ordinance would involve a substantial hardship to the petitioner as it would preclude them from having the reasonable access to the outside property for the enjoyment and for the enjoyment and also the safety of other occupants.

The hardship is owing to the size of the

lot, the siting of the house on the lot, and the inability to locate this at any other location without requiring some relief from this Board.

The Board finds that desirable relief may be granted without substantial detriment to the public good.

And relief may be granted without nullifying or substantially derogating from the intent and purpose of the ordinance.

On the motion to grant the Variance for the landing and the stairs.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer, Scott, Firouzbakht.)

BRENDAN SULLIVAN: Let me make a motion to grant the Special Permit for adding -- you're just changing the door; is that correct? Or adding a door?

TAD HEUER: Adding a door.

SUSAN SHELKROT: Adding a door.

BRENDAN SULLIVAN: Adding a door as per the plans submitted.

The Board finds that the requirements of the ordinance can be met. That traffic generated or patterns of access or egress would not cause congestion, hazard or substantial change in the established neighborhood character. And that continued operation of or the development of adjacent uses as permitted to the Zoning Ordinance would not be adversely affected by the nature of the proposed use. And that there would be no nuisance or hazard created to the detriment of the health, safety or welfare of the occupants of the proposed use or to the citizens of the city.

The Board finds that the relief being requested is a fair and reasonable one and one of more than just convenience, but also safety for the children.

And also that the proposal does not impair the integrity of the district or adjoining district.

All those in favor of granting --

CONSTANTINE ALEXANDER: Is that tied to the plans that she submitted?

BRENDAN SULLIVAN: I did, yes.

CONSTANTINE ALEXANDER: Okay.

BRENDAN SULLIVAN: All those in favor of granting the Special Permit.

(Show of hands).

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer, Scott, Firouzbakht.)

SUSAN SHELKROT: Thank you for your time.

(8:50 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case No. 10124, 194-196 Walden Street.

ATTORNEY JAMES RAFFERTY: Good evening. Mr. Chairman, for the record James Rafferty on behalf of the applicant. Seated to my left is Erika Woodhouse, E-r-i-k-a Woodhouse. And Mrs. Woodhouse's husband Christopher Nicholson, the spouse of Erika Woodhouse to my left.

This is an application involving renovations that are underway at this three-family house on Walden Street. The application sought to do a few things to the house; largely some alterations to some rear porches and some rear egresses. And

relocation and enlargement of a few windows on the non-conforming wall. In the course of exploring the renovation project, the petitioner prepared a plan to create parking, and currently there's a driveway at the property. It's a long driveway.

Historically it has been used for tandem parking. The thinking was that parking in the back would allow for cars to turn out and drive out the street and not back out, a better condition. At the time that that plan was formulated, I think it's fair to say the petitioner had a different expectation of what a better reaction to it would be. We've since learned that there's strong a better reaction, and the applicant does not wish to pursue that element of the appeal this evening. So, to the extent that the petition speaks to relief related to dimensional relief and open space relief associated with creating parking in the rear yard, that's

being withdrawn. In other words, that is not being pursued at this time. Of course, it's all part of one application, so just that aspect of it.

That leaves us then with the dimensional issues presented by the renovation. The house has, I think the photograph will tell the story pretty well. The house has typical rear porches. And the program here is to slide -- the rear porches essentially would get reconstructed, slid over a little in the area of the porches and since two of them are covered or already included in the GFA. There is a small GFA change.

CONSTANTINE ALEXANDER: 1.18 to 1.23.

ATTORNEY JAMES RAFFERTY: Exactly. So it's going from 4493 to 4685. So it's about 107 -- 190 square feet roughly.

CONSTANTINE ALEXANDER: But the

district has got a max of 0.75. So, you're non-conforming now to the extent and you want to slightly increase that?

ATTORNEY JAMES RAFFERTY: That's correct. And the issue presented with the GFA is that in the configuration that the porches are in now, they are not particularly functional, and the egress, the present egress is rather narrow. So, the relocated area will -- it doesn't really have a significant change on the setback issues, but it does, because of the calculations associated with the enclosed space, does lead to a higher GFA.

TAD HEUER: Are you invading your left side setback more? You are, right?

ATTORNEY JAMES RAFFERTY: We are. Not more in the sense of the house itself, but yes, that is correct. The lot is actually narrow. And the setback on that side is noncompliant. And I think the proposal, the

porch does step back. It's not co-planar with the house, but it's proposed. I think the relief on the side where it's -- that's the seven-foot side. And we show it as no change because seven feet is the --

TAD HEUER: Existing.

ATTORNEY JAMES RAFFERTY: -- is the closest part to the property. But these porches, I'm sure it's depicted on the site plan are probably -- I think that's a seven, seven. And the zoning requirement in this district would be a formula. And the formula would be about ten feet.

CONSTANTINE ALEXANDER: Do your clients now occupy or plan to occupy one of the units in the property?

ERIKA WOODHOUSE: They live across the street. We plan to sell them as condos.

CONSTANTINE ALEXANDER: You plan to sell them as three condos?

ERIKA WOODHOUSE: Yes.

TAD HEUER: Is there a reason you've selected this particular egress approach for the porches as opposed to something -- just looking at the plans, it looks like a rather wide across the back type of egress that gives you very little actual porch space. Most of the space you're asking for, am I right, is taken up by stairways to get you up and down.

ATTORNEY JAMES RAFFERTY: That's right. Because they're covered, they're included in the GFA calculation.

TAD HEUER: Right.

ATTORNEY JAMES RAFFERTY: In terms of what's driving the width and dimensions of that --

TAD HEUER: I guess my question is did you consider, for instance, a spiral that would require less space but would allow you that egress out. It might not provide the covered egress, but in an emergency would let you get from the third floor to the third

floor in a cylinder rather than this, you know, back and forth that brings you across the width of the house back essentially to get up there.

ERIKA WOODHOUSE: We didn't consider a spiral. It's actually a good idea. We --

CHRISTOPHER NICHOLSON: However, we did think people were going to be using this back staircase. And we've always thought that spirals are tough to go up and down and these are an easier way to go.

ERIKA WOODHOUSE: I've always felt that spirals were dangerous and precarious but the idea was that if you're using this day-to-day where it's more easy if you were removing snow, and that's something you could do more easily. The space is, the porch space itself will seem bigger than the actual space that you would say is the porch proper because you're using the top steps to put your

porch chairs up there.

BRENDAN SULLIVAN: Is what's driving the porches the capturing of the existing rear staircase to interior space?

ERIKA WOODHOUSE: Yes, yes.

BRENDAN SULLIVAN: So you're taking what is now the interior back stairs, basically pushing that to the outside of the house?

ERIKA WOODHOUSE: Yes.

BRENDAN SULLIVAN: And capturing the inside for the interior space.

ATTORNEY JAMES RAFFERTY: Correct. I mean, it's interior space now. But for programmable space, you're right.

BRENDAN SULLIVAN: Liveable space.

ATTORNEY JAMES RAFFERTY: The way these houses line up this is the kitchen areas allows for expansion. The area -- the reason the GFA occurs is that these, the GFA --

BRENDAN SULLIVAN: Is a little bit

under.

ATTORNEY JAMES RAFFERTY: -- over half of the additional GFA is present because these are covered stairs. And the covering is, in some cases, is just the stair above it, but I think the interpretation has been that that area is included in the GFA.

TAD HEUER: I guess my only comment is that when this came as a parking request, I could understand the rear stairs could be more in terms of their volume, because if you're going to try to access parking in the backyard, then it makes sense that you want to have a rear access. Now you're just going to have a yard.

ERIKA WOODHOUSE: Right.

TAD HEUER: I guess kind of my question was, along with the Chairman's question, if you're essentially bumping your stairs out to reclaim interior space, if your -- it would seem that putting something

like a spiral in would allow you to capture the porch space, still give you your access down to require less of a FAR question, and because you're not really looking to use it on a day-to-day basis to get to your cars, you're just using it to get --

ATTORNEY JAMES RAFFERTY: Well, the driveway does run the length of the house, so I think it's reasonable to assume that some people will choose to use the rear egress because it will give them closer proximity to the parking in the driveway. I must say I've had some projects where these spiral staircases have gone in and I often -- there's one on Huron Ave. at the corner of Huron and Blakeslee and I often wonder how anyone navigates those stairs.

TAD HEUER: I know which one you're talking about.

ATTORNEY JAMES RAFFERTY: Yes, and I always wondered about how egress

requirements with those stairs. I mean this, I think this is a much safer and secure --

CONSTANTINE ALEXANDER: I'm not a fan of spiral staircases.

ATTORNEY JAMES RAFFERTY: Not at all, no. And I know it would -- for those focussed on arithmetic, it would yield a different number. But the point is well taken. I don't think -- the area of the porch, the enclosed porch is actually less it's GFA but it's FGA for a stairway. And I think the detailing here is good. I think there are examples of these where they almost look like tenements sometimes. Gee, they don't look great with these back porches and these pressure treated lumber and all that. This incorporates the stairway right into the deck.

BRENDAN SULLIVAN: It changes the use, though, because now the porches are

meant for outdoor space to sit, hopefully somebody uses them. And now that function is being changed to purely one of egress.

ATTORNEY JAMES RAFFERTY: Well, no, there's a little deck in front of each of them.

BRENDAN SULLIVAN: No one is going to sit there.

CHRISTOPHER NICHOLSON: Oh, I think so.

ATTORNEY JAMES RAFFERTY: More so than the people sitting here?

TAD HEUER: The number of people who have come in and asked us for 55 square foot deck is I would imagine zero. Most people are coming in -- they would say I have 55 foot square deck and I can't use it, please, give me more space.

BRENDAN SULLIVAN: Again, I think what's driving it is the capturing of far more valuable interior space.

ATTORNEY JAMES RAFFERTY: Oh, I would agree. I think that's the prime motivation.

BRENDAN SULLIVAN: And then in other words, now that we've captured this, okay how do we get out of the building? And short of a pole and a slide, well, we can do it this way and this is the way it works. But it does change the function of porches as outdoor liveable space, if you will, to purely egress to satisfy the code requirement.

MAHMOOD FIROUZBAKHT: Who would have access to the --

ATTORNEY JAMES RAFFERTY: Well, I mean the only reason I say, I don't know what the -- is it 50 feet? You've obviously done your homework. The area of those decks beyond the slider? I guess the floor plan must depict that, does it? Does that not look like comfortable to put a table and two chairs?

TAD HEUER: As long as you don't want to use the stairs to get out of the house.

CHRISTOPHER NICHOLSON: We think so.

ATTORNEY JAMES RAFFERTY: The stairs are at different level. The deck's one step up.

TAD HEUER: You gotta go by that table and two chairs -- presuming you want your level of egress.

ATTORNEY JAMES RAFFERTY: No, no.

If I'm on the first floor, and I go in that door, I never get to the deck. And if I go to the second floor, and I'm heading to the third floor, I never step on the deck because the deck is one step raised. And we went over this with Mr. Booz as she designed it. But those are not flush. So that the second and third floor walkers are not literally stepping on the deck as I understand it.

TAD HEUER: So maybe I'm -- what's a door and what's the window? Is that the door there? Or is that the door?

ATTORNEY JAMES RAFFERTY: No, that's -- there are two doors. There's the door into the unit, and then there's a slider coming onto the deck. But the steps have a door, see? There are three doors.

TAD HEUER: Yes, right.

ATTORNEY JAMES RAFFERTY: So that's the door, and then next door is up a step is a deck with the slider.

TAD HEUER: The slider. So this here is a slider onto this space?

ATTORNEY JAMES RAFFERTY: Yes.

TAD HEUER: And I can access the stairs without going out through the slider?

ATTORNEY JAMES RAFFERTY: Exactly. You go through those doors.

TAD HEUER: All right.

ATTORNEY JAMES RAFFERTY: Right.

Is that correct?

I know what you mean, so if the deck then -- if the deck was on one level, then you'd have to go passed the chairs. But I think this was a conscious effort to avoid that conflict. So the third floor person, as they traverse passed one and two, are not going across the porch.

TAD HEUER: Right.

ATTORNEY JAMES RAFFERTY: The length of the porch and going up. So, it's why they're scissor backed and come out a little more.

MAHMOOD FIROUZBAKHT: Will all three units have access or rights to the backyard?

ERIKA WOODHOUSE: We haven't drawn the documents yet. We haven't really decided since we decided today about the parking, rescinding that request, we will probably entertain the fact that all three

will have some space. It hasn't been decided definitively.

BRENDAN SULLIVAN: Okay. Any questions --

CONSTANTINE ALEXANDER: No.

BRENDAN SULLIVAN: -- at this point?

THOMAS SCOTT: No.

BRENDAN SULLIVAN: Tad, any questions?

TAD HEUER: No.

BRENDAN SULLIVAN: Anybody here who would like to speak on the matter 194-196 Walden Street?

(No Response.)

CONSTANTINE ALEXANDER: We have a Special Permit.

ATTORNEY JAMES RAFFERTY: There are a couple of windows on the driveway elevation that are changing, and I did not point those out to you. They constitute the Special Permit portion of the case.

CONSTANTINE ALEXANDER: Before we got to that, did you talk to the neighbors who are most affected by the relocation of the windows?

ATTORNEY JAMES RAFFERTY: Did you talk to the neighbors?

ERIKA WOODHOUSE: We spoke with them. There seem to no objections.

CONSTANTINE ALEXANDER: Did you speak to them and showed them the placement?

ERIKA WOODHOUSE: We did.

CONSTANTINE ALEXANDER: They had no objections?

ERIKA WOODHOUSE: No.

ATTORNEY JAMES RAFFERTY: And they're depicted on sheet VA-1-3 on the west elevation. And the architect has identified the changes there. And is that only one?

TAD HEUER: Is that the changes or is that existing west?

ERIKA WOODHOUSE: The proposals are

behind the back page. Sorry. Two pages back.

TAD HEUER: Right.

ATTORNEY JAMES RAFFERTY: Proposed what?

ERIKA WOODHOUSE: And these are the two.

ATTORNEY JAMES RAFFERTY: Which are the windows?

ERIKA WOODHOUSE: These are different.

BRENDAN SULLIVAN: These are proposed. So it's these windows here that are being changed?

ERIKA WOODHOUSE: They're actually smaller than the original.

MAHMOOD FIROUZBAKHT: What's behind that space?

ERIKA WOODHOUSE: This will be bathrooms here as opposed to --

CONSTANTINE ALEXANDER: They're

bathroom windows?

ERIKA WOODHOUSE: Yes, they're being reduced.

MAHMOOD FIROUZBAKHT: Privacy.

ERIKA WOODHOUSE: Privacy.

BRENDAN SULLIVAN: And then also windows in the basement?

ERIKA WOODHOUSE: Right.

ATTORNEY JAMES RAFFERTY: Yes. Those are, so I think.

CHRISTOPHER NICHOLSON: Those are --

ATTORNEY JAMES RAFFERTY: So, I think our analysis was that making these windows smaller didn't require the Special Permit because they're not being enlarged or relocated.

CONSTANTINE ALEXANDER: They're smaller.

ATTORNEY JAMES RAFFERTY: They're being made smaller which relief isn't

required. And that windows at the basement level, these two windows are being converted to what would be traditional foundation windows to two larger windows.

Now, are there changes to the other elevation?

CHRISTOPHER NICHOLSON: Yes.

ERIKA WOODHOUSE: Yes, sorry, the opposite side.

ATTORNEY JAMES RAFFERTY: East side.

CONSTANTINE ALEXANDER: I thought you were conforming so you don't need a Special Permit.

ERIKA WOODHOUSE: Right. There are changes but not for relief.

ATTORNEY JAMES RAFFERTY: Are you sure of that?

CONSTANTINE ALEXANDER: The dimensional form, I believe that's right.

ATTORNEY JAMES RAFFERTY: It was

seven and a half, but I thought the formula meant that --

TAD HEUER: They're in the setback. Aren't they in the setback on the left-hand side?

CONSTANTINE ALEXANDER: They were in the setback only on one side. Maybe I'm wrong.

ERIKA WOODHOUSE: Only on one side.

ATTORNEY JAMES RAFFERTY: No, I think we need ten seven on both sides, and we've got seven and seven and a half. So the east elevation window changes as opposed to the existing.

ERIKA WOODHOUSE: Just this.

ATTORNEY JAMES RAFFERTY: Again, at the basement level and enlargement. So all three enlarged windows are occurring at the basement level; one on the east side, and two on the west.

CONSTANTINE ALEXANDER: And the

abutter on that side has -- he or she been notified?

ERIKA WOODHOUSE: Yes.

CONSTANTINE ALEXANDER: And no problems?

ERIKA WOODHOUSE: No problems. No she's not. We -- and I would, I'm sure she would agree, we talked a little bit about putting some bamboo in between. But those are not going to be seen because there's a fence there.

CONSTANTINE ALEXANDER: Well, did I hear no objections provided you do something?

ERIKA WOODHOUSE: No, no objection. We've just been friendly talking about gardening issues to make a screen, but it doesn't even affect these windows, because there's a fence that covers this window.

ATTORNEY JAMES RAFFERTY: There are driveways on either side of the house so there's active automobile parking

between -- these are basement windows.

ERIKA WOODHOUSE: So actually the discussion about the gardening has nothing to do with these windows.

MAHMOOD FIROUZBAKHT: Sorry, what's the proposed use for the basement?

ERIKA WOODHOUSE: Living area. That's a bedroom window.

ATTORNEY JAMES RAFFERTY: So it satisfies the egress requirements.

BRENDAN SULLIVAN: So backing up, on sheet VA-1-4, proposed east elevation, we have one new window going in the basement?

ATTORNEY JAMES RAFFERTY: Correct.

TAD HEUER: And can I ask a question? That's a double hung one over one as indicated there? Is it going to be a double hung six over one?

ERIKA WOODHOUSE: That's the one that's going to be --

ATTORNEY JAMES RAFFERTY: Well,

that's the one you mentioned you wanted to --

ERIKA WOODHOUSE: Yes.

ATTORNEY JAMES RAFFERTY: They actually wanted to make that window smaller than is depicted on the plan. And I just learned of that. So I suggested that we should address that to the Board, but it's moving in a direction so can I ask you --

CHRISTOPHER NICHOLSON: Turn it over on its side.

ATTORNEY JAMES RAFFERTY: Is it all right if he draws on this?

CHRISTOPHER NICHOLSON: Not perfect.

TAD HEUER: It's going to be a one by one? Meaning two panes along the side?

CHRISTOPHER NICHOLSON: Yes.

ERIKA WOODHOUSE: No, one single.

TAD HEUER: One single pane.

CHRISTOPHER NICHOLSON: We'd like to slide it open not being fixed.

ATTORNEY JAMES RAFFERTY: It needs to be operable, right?

CHRISTOPHER NICHOLSON: Right.

ATTORNEY JAMES RAFFERTY: Is it awning and it goes out or is it two panes and slides?

CHRISTOPHER NICHOLSON: It slides.

ATTORNEY JAMES RAFFERTY: Two panes, it slides?

CHRISTOPHER NICHOLSON: Uh-huh.

BRENDAN SULLIVAN: You may want to change this one.

TAD HEUER: And that would still operate as an egress?

CHRISTOPHER NICHOLSON: No. We already have an egress in the back of that room. There is an egress window in the back of that room, but it faces the backyard.

ATTORNEY JAMES RAFFERTY: Is it accurate to say that the opening as modified is a smaller opening than is depicted on the

plan or is it about the same?

CHRISTOPHER NICHOLSON: Yeah, I think it's maybe slightly smaller, but it's basically the same. It's the same fairly close to the same dimension.

ATTORNEY JAMES RAFFERTY: Is that accurate?

CHRISTOPHER NICHOLSON: Yeah.

TAD HEUER: And then switching, probably the west elevation. So on the west elevation we have two new windows. Those are not being flipped on their side? Those are.

ERIKA WOODHOUSE: No, they are being flipped on the side.

ATTORNEY JAMES RAFFERTY: They're changing, too?

ERIKA WOODHOUSE: Yes. But they're fixed.

ATTORNEY JAMES RAFFERTY: But they're changing, too?

ERIKA WOODHOUSE: Yes.

BRENDAN SULLIVAN: Can we -- all right, why don't we joint this to the next one. Because I'm going to need some dimensions.

TAD HEUER: The question is do you really want them there? Do you want them on the foundation line?

ATTORNEY JAMES RAFFERTY: Do you want them up higher?

BRENDAN SULLIVAN: I'll tell you what, let me do this: Let me continue this. Let me hear the next case. Adjourn this for the moment, whatever you need. We'll hear the next case. When you're ready, then come back in.

ATTORNEY JAMES RAFFERTY: Fine.

BRENDAN SULLIVAN: Okay? And if you can give the Board a more definitive location.

ATTORNEY JAMES RAFFERTY: Okay, thank you.

BRENDAN SULLIVAN: So on the motion to recess this matter until the petitioner has time to adjust the plan.

ATTORNEY JAMES RAFFERTY: We'll be right back after the next case, don't change the dial.

BRENDAN SULLIVAN: Okay. Let me have you do this one, too, while you're at it. Because we're going to need all of those changes.

(Case Recessed.)

(9:15 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: All right, the Board will hear case No. 10125, Four Berkeley Place. Mr. Myer.

CHARLES MYER: Hello. I'm Charles Myer. Charles Myer and Partners at 875 Main Street, the architects. And with me is my client Thomas Byrne.

We are here for a Special Permit. We have a pre-existing non-conforming house at Four Berkeley Street -- Place. It is non-conforming in FAR and it is also in the side yard setback which is, the setback

requires ten feet. It's an A-2 zone. We're at the widest nine, and the narrowest 8.7 feet. What we'd like to do is this is the side of the house here, and this is an elevation showing the existing side of the house. There's a door and a basement window and another window. We'd like to remove this window and this window and shift the door over and take this little roof off so you can see in silhouette down here. These are the windows being taken out. This is the new door and this is the door to be filled in. Since we filed, there's been one small change. We also want to take out the -- this window here, which is in a stair hall on the second floor, and it's shown here as being taken out. I don't think that's a zoning event because we're reducing the glass.

So, Thomas Byrne has gone to all the neighbors, and we have gotten support from -- I think there's six letters in the

file saying that they're all in support of this. The most important, of course, is Virginia Coleman who lives directly across this side yard, and she's in agreement, too. So, that's it.

BRENDAN SULLIVAN: Is it reflected at all, Charles? That you just mentioned, the window.

CHARLES MYER: So above the shaded door, that one's coming out, too.

BRENDAN SULLIVAN: What are you going to do?

CHARLES MYER: We're going to fill this window in.

BRENDAN SULLIVAN: Okay. So nothing, it's just going to be filled in.

CHARLES MYER: Just filled in.

BRENDAN SULLIVAN: You don't need us for that?

CHARLES MYER: No.

BRENDAN SULLIVAN: You're giving us

the total?

CHARLES MYER: Right.

BRENDAN SULLIVAN: Okay.

TAD HEUER: Is that the shape of the door that you're going to use?

CHARLES MYER: Yes.

TAD HEUER: Just kidding.

You're not planning to turn it sideways or anything?

CHARLES MYER: That's pretty much what it's going to be.

TAD HEUER: Okay. And you're planning on in-filling with the recycled brick, is that?

CHARLES MYER: Yeah, actually we have a front porch on the other side of the house that is falling apart. We have to take it apart and replace it with a wood porch, and all the brick that's there we're going to use it here.

Last week we met with Historic

Commission and they -- the only caveat they had was that they want -- because we can be seen from Craigie Street. So somehow they want to -- they'd like to review our grout and brick. So we're gonna fill in and match. And not only that, my client would like that too.

TAD HEUER: Yes.

CHARLES MYER: So we have the brick and we just need the grout.

BRENDAN SULLIVAN: Any other questions from members of the Board?

Any questions, Mahmood?

MAHMOOD FIROUZBAKHT: No.

BRENDAN SULLIVAN: Let me open it to public comment. Is there anybody here who would like to speak on the matter of Four Berkeley Place?

(No Response.)

BRENDAN SULLIVAN: I see nobody in attendance.

The Board is in receipt of correspondence from Virginia Coleman, Two Berkeley Place. "To the Members of the Board of Zoning Appeal: I am writing in support of granting approval for the Special Permit request for Four Berkeley Place. I live next-door to the right. Tom Byrne has shown us the proposed plans and specifically the shifting of the location of the side door towards the street. I have no issue with it."

Correspondence from Jeff and Molly Pullman. "We are writing in support of the granting of the Variance." And they have no problem.

From Lansing and Julia Fair also in support. I'm sorry, their address is Five Berkeley Place.

Lisa Campoli and Steve Clancy at Three Berkeley Place, they're writing in support of the granting of the relief.

And Jeffrey Rowley at 11 Berkeley Place also writing in support.

Adrian and Sun Young Su Vermeule V-e-r-m-e-u-l-e Six Berkeley Place also writing in support of the proposed relief.

Okay. The purpose of all this is just some shifting inside or something?

CHARLES MYER: Yes.

BRENDAN SULLIVAN: Realigning the deck chairs inside?

CHARLES MYER: We're actually shifting the door over and making it so it opens up in the main hallway of the house. And it, it does a wonderful inside. It makes the kitchen grow by five or six feet in width. It's just a nice -- it works out very nicely.

BRENDAN SULLIVAN: Okay.

Let me make a motion to grant the relief requested for the shifting of the side door towards the street to the left and removing of the two windows as per the plan submitted.

The Board finds that the requirements of the ordinance can be met.

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

The Board also cites letters of support from the immediate abutters.

The continued operation of development of adjacent uses as agreed to the Zoning Ordinance would not be adversely affect the nature of the proposed use. There would be no nuisance or hazard created to the detriment of the health, safety and welfare of the occupant of the proposed use or to the citizens of the city.

And that the proposed use would not impair the integrity of the district or adjoining district otherwise derogating from the intent or purpose of the ordinance.

We are in receipt of correspondence

from the Cambridge Historical Commission that approved the exterior alterations as presented.

All those in favor of granting the Special Permit to perform the work as proposed?

CONSTANTINE ALEXANDER: In accordance with the plans.

BRENDAN SULLIVAN: And in accordance with the plans and initialed and dated by the Chair. All this for a door.

CHARLES MYER: That includes a window, but it's a non-zoning event.

BRENDAN SULLIVAN: Okay.

All those in favor.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer, Scott, Firouzbakht.)

CHARLES MYER: Thank you very much.

(9:25 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: We'll reopen case No. 10124, 194-196 Walden Street. Mr. Rafferty.

ATTORNEY JAMES RAFFERTY: We've determined the dimensions, and we're marking the dimensions, but it's not clear that our scale would be completely correct, but the building code plan, the building permits that we'll have will contain those dimensions. So we've got a rectangle --

CHRISTOPHER NICHOLSON: This is what we want, three by four and it's --

THE REPORTER: Excuse me, are you speaking for the record?

CHRISTOPHER NICHOLSON: No, I'm speaking to her.

CONSTANTINE ALEXANDER:
Mr. Rafferty, the points you were making about the dimensions not being quite.

ATTORNEY JAMES RAFFERTY: Well, I'm saying that we -- they contacted the architect and got the dimensions on the window -- they've drawn them and they, the dimensions are accurate, but whether one were to scale that and find that the opening matches the dimensions perfectly, it's approximate is my point. So, the dimensions will be correct and then the building permits will contain those dimensions.

CONSTANTINE ALEXANDER: I'm sorry. I'm -- what about the location?

ATTORNEY JAMES RAFFERTY:
Location's the same, too.

CONSTANTINE ALEXANDER: Location's the same.

ATTORNEY JAMES RAFFERTY: Whether we've got 36 inches right on the nose, I don't know. Did you do the other wall, too? Put the dimensions on there.

BRENDAN SULLIVAN: As long as Inspector Grover is satisfied.

CONSTANTINE ALEXANDER: So it's basically these dimensions plus or minus ten percent?

ATTORNEY JAMES RAFFERTY: No, these are the dimensions. There's no question the dimensions are correct. It's whether they're completely accurately depicted on the plan. So, what we're calling to be 36 inches, will be 36 inches. It's just that -- maybe I should stop talking.

BRENDAN SULLIVAN: Right, that's fine.

ATTORNEY JAMES RAFFERTY: All three windows the same size?

CHRISTOPHER NICHOLSON: Yeah.

ATTORNEY JAMES RAFFERTY: All three windows are the same size. And they're dimensioned at what dimension?

CHRISTOPHER NICHOLSON: Three by four feet.

BRENDAN SULLIVAN: 36 by 48. Okay, that's fine.

ATTORNEY JAMES RAFFERTY: All three windows in those locations.

BRENDAN SULLIVAN: Good.

TAD HEUER: Two pane.

ATTORNEY JAMES RAFFERTY: I'm sorry?

TAD HEUER: Two pane on sliders?

CHRISTOPHER NICHOLSON: No. One in the bedroom is two pane on sliders and the other ones are fixed.

ATTORNEY JAMES RAFFERTY: Should he put fixed and two pane?

TAD HEUER: Yes, that would be great. Fixed means they are non-openable?

CHRISTOPHER NICHOLSON:

Non-openable.

ATTORNEY JAMES RAFFERTY: Because they're not required. Some of them satisfy egress, others do not.

TAD HEUER: They may indeed, but don't people usually like to have windows open when there have the options?

ERIKA WOODHOUSE: There are other windows in the room that do open.

BRENDAN SULLIVAN: As long as they meet the minimal --

TAD HEUER: I know they meet minimal. That's not my question. Usually it's a saleable feature that when you --

CHRISTOPHER NICHOLSON: It's on a driveway.

CONSTANTINE ALEXANDER: It's not a zoning issue anyway whether the windows open or are fixed or not.

ATTORNEY JAMES RAFFERTY: Tell him

that not me.

TAD HEUER: It's a Special Permit, it can be whatever we want.

CONSTANTINE ALEXANDER: I don't think we should get into non-zoning issues.

TAD HEUER: Well, I'm trying to get -- seeing as the rest of the issues don't seem to be necessarily as clear as I would like, I feel some latitude to ask exactly what is going in. Maybe that's just me.

ATTORNEY JAMES RAFFERTY: You don't agree with the conclusion, I understand, but I think for whatever reason they've concluded one of these windows is non-operable.

TAD HEUER: That's fine.

ATTORNEY JAMES RAFFERTY: I share your skepticism. But....

BRENDAN SULLIVAN: All right. So what you're asking for is a Special Permit to relocate --

CONSTANTINE ALEXANDER: We haven't

voted on the variance either.

BRENDAN SULLIVAN: Add, enlarge or relocate basically three windows. One, two, three, four. Is it four?

ATTORNEY JAMES RAFFERTY: Three.

BRENDAN SULLIVAN: Three windows.

ATTORNEY JAMES RAFFERTY: All located in the basement.

BRENDAN SULLIVAN: As per the plan submitted initialed and dated by the Chair. Okay.

And we went to the public comment part, did we? Did we get that far?

ATTORNEY JAMES RAFFERTY: There was someone here in support but they had to leave.

BRENDAN SULLIVAN: Okay. There is multiple correspondence, but it has to do with an issue that has been taken off the table. So there is no correspondence regarding the relocation of the windows. And we have it at face value from the

petitioner that the neighbors have no problem with that.

CONSTANTINE ALEXANDER:

Mr. Chairman, have we voted on the Variance?

TAD HEUER: No.

CONSTANTINE ALEXANDER: I didn't think we had. Is there any correspondence in the file on the Variance?

BRENDAN SULLIVAN: There is. The only correspondence really only has to do with the parking.

CONSTANTINE ALEXANDER: The parking.

ATTORNEY JAMES RAFFERTY: But as to the porch and stairs?

CONSTANTINE ALEXANDER: Yes.

ATTORNEY JAMES RAFFERTY: None. And no neighborhood opposition.

BRENDAN SULLIVAN: All right. Let me make a motion, then, to grant the request for the Variance to construct, to reconstruct

the rear porches/stair as per the plans submitted.

And the Board finds that a literal enforcement of the provisions of the ordinance would involve a substantial hardship to the petitioner as it would preclude them to redesign, realign the rear porches as per the proposal. The violation being additional floor area which is predated by the stairwells and actually a reduction of the actual porch area is the area underneath the stairway which is required for the rear egress out of the units.

The hardship is owing to the size of the lot, the size and siting of the existing structure on the lot which predates the existing ordinance, and any relief of this nature which the Board finds is fair and reasonable would require some relief from this Board.

The Board finds that desirable relief

may be granted without substantial detriment to the public good, and would not nullify or substantially derogate from the intent and purpose of the ordinance.

The Board grants this on the condition that the work be in compliance with the plans submitted as detailed and the proposed self-elevation.

All those in favor of granting the relief for the porches downstairs.

(Show of hands.)

BRENDAN SULLIVAN: Four in favor.

(Sullivan, Alexander, Scott, Firouzbakht.)

BRENDAN SULLIVAN: One against.
Any statement to that affect.

TAD HEUER: I believe the standard of hardship hasn't been met since there is an egress existing in the building. Usually when we grant relief over FAR for a building that is already non-conforming, it's for the

use of someone who intends to occupy the building. The petitioners represented that this is purely for financial gain, and I believe that had a building that had such an egress and where the increase being requested of this Board is only for financial reasons, does not rise to a level of a hardship under the section.

BRENDAN SULLIVAN: The Variance is granted.

Now for the Special Permit to add, enlarge and relocate existing new windows as per the plan shown for the proposed east elevation, one basement window. And the proposed west elevation, two new windows in the basement level as denoted on the drawing and initialed by the Chair.

The Board finds that the requirement to the ordinance can be met. That patterns of access or egress, traffic generated would not cause congestion, hazard or substantial

change in the established neighborhood character.

Continued operation or development of adjacent uses as permitted in the Zoning Ordinance would not be adversely affected by the nature of the proposed use.

There would not be any nuisance or hazard created to the detriment of the health, safety and/or welfare of the occupants of the proposed use or to the citizens of the city.

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

All those in favor of granting the Special Permit for the windows.

(Show of hands.)

BRENDAN SULLIVAN: Four in favor.

(Sullivan, Alexander, Scott, Firouzbakht.)

BRENDAN SULLIVAN: One opposed.

(Heuer.)

TAD HEUER: I believe that the plans as presented to this Board were not in conformance with the requirements of our rules. That any substantial changes be in the files by five p.m. on the Monday before the hearing. These changes were made in a haphazard way, and I'm not inclined to grant relief on plans that are changed at the last minute in this fashion.

ATTORNEY JAMES RAFFERTY: Thank you very much. Have a good night.

(9:35 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case No. 10126, 61 Dudley. Okay.

MICHAEL WIGGINS: Good evening, Mr. Chairman, members of the Board. My name is Michael Wiggins from the firm of Weston Patrick, 84 State Street in Boston. And I'm here representing Margaret Bond B-o-n-d and William Madsen, the owners of the property at 61 Dudley Street.

61 Dudley Street, I don't know if you've ever been in that vicinity on Halloween, but that's a very close knit neighborhood, pretty

famous for the string of lights that goes up and down the street there. And they're in the middle of that group of houses on Dudley Street. At Meg and Bill's, I'm going to let them speak for themselves briefly about what they're doing, but what they want to do or why they're doing it, but they want to add a story above the existing story to help them.

Because of cramped conditions in the house, the basement is unusable in that house because of the very low ceiling. It's also a quite a narrow lot as you can see. The lot width is supposed to be 50 feet. This is 27 feet, so it's a very short -- but Meg if you can just describe what you do and why you want to do this project.

MARGARET BOND: I guess we can each speak for ourselves. But what we'd like to do -- we both do a tremendous amount of work from home. I'm a university professor. I spent a lot of time writing. I need an office

and need that more and more as the years go on.

So, and Bill is self-employed. Does a tremendous amount of writing and consulting. So we basically we work a lot from home. At the moment we're all over ourselves with computers and papers on the kitchen table kind of operation. And we have envisioned and dreamed about being able to have the space for each of us to be able to really work from home without impinging on the whole living area.

CONSTANTINE ALEXANDER: You will increase the floor area of the house by 50 percent?

MARGARET BOND: Yeah.

CONSTANTINE ALEXANDER: For the record, I want to be clear.

MARGARET BOND: Yeah.

CONSTANTINE ALEXANDER: And that your FAR, you're already non-conforming at

0.54 in 0.5 district. You're slightly over. And you're going to 0.79 which is almost 50 percent more than what's permitted. Were you here for the Montgomery Street case?

MARGARET BOND: We came in at the tail end of it.

CONSTANTINE ALEXANDER: There's a lot of similarities. I'm not saying all identical, but there are similarities.

ATTORNEY MICHAEL WIGGINS: Understood. Before I forget, there is a letter in support that I wanted to add today. That's from the immediate abutter.

So, the one good thing about this lot is that albeit, it's a narrow lot, it's a long lot. It has a substantial backyard here, and Bill and Meg want to reserve that. So this basically, this addition, substantial addition, but it goes up and not out. It doesn't affect adversely we believe any of the neighbors. And the neighbors seem to

agree with this. We have unanimous support from a lot of the neighbors. In fact, pretty much all the neighbors. Everybody, all the abutters, everybody within 300 feet and no opposition.

CONSTANTINE ALEXANDER: Zoning issues would be the same if you went out rather than up.

ATTORNEY MICHAEL WIGGINS: I understand.

CONSTANTINE ALEXANDER: Assuming you had the same amount of square feet.

ATTORNEY MICHAEL HIGGINS: I understand. But in terms of impact of how the neighbors seem to be affected, they all seem to be --

CONSTANTINE ALEXANDER: They prefer you to go up. You're just using the same footprint. You're just going up.

ATTORNEY MICHAEL WIGGINS: Exactly.

CONSTANTINE ALEXANDER: For me

that's a significant issue the facet of this project. The fact that you're not going to be intruding into setbacks unlike Montgomery Street.

ATTORNEY MICHAEL WIGGINS: That's right.

TAD HEUER: Are you not -- you are intruding into setbacks, aren't you?

ATTORNEY MICHAEL WIGGINS: Excuse me?

TAD HEUER: You're already non-conforming to existing setbacks now?

ATTORNEY MICHAEL WIGGINS: Yeah.

CONSTANTINE ALEXANDER: You're not going --

ATTORNEY MICHAEL WIGGINS: We're not going out. We're not going back and forward.

MARGARET BOND: I just wanted to reassure you that we went through many different plans. We tried dormers here and

there. And anyway, we went through multiple plans and tried to be very, very sensitive to the kind of restrictions around what the house would look like. And wanted to come up with a plan that was real compatible with the neighborhood. We've then had a lot of conversations with neighbors.

CONSTANTINE ALEXANDER:

Understood.

WILLIAM MADSEN: And I think one of the things that's been important to the neighbors is keeping the green space in the backyard going up by not going out.

TAD HEUER: Given the fact that you have the largest lot on the street on that side --

MARGARET BOND: We do?

TAD HEUER: Yes, you do.

ATTORNEY MICHAEL WIGGINS: Well, because it goes back.

TAD HEUER: Because it goes back.

MARGARET BOND: Even our next door -- I thought our neighbor --

TAD HEUER: You come to a point, and you're the furthest point in your rear yard. So you have a parallelogram shape-ish in the back. And they come in off that cut, so they have a smaller lot even though they have the same (inaudible).

Doesn't that kind of suggest that you should be thinking more about pushing into that space seeing as you have the most of it? Where a neighbor can say well, I can't really go back, I have to go up and I'm, I have to say that I'm not convinced at all that up is appropriate here, but wouldn't back, seeing as you have back, be at least a better starting point than up?

ATTORNEY MICHAEL WIGGINS: Well, I think there's a couple of things. First of all, in what yard space the neighbors have in the back, they're looking across green space.

In other words, they would be looking at building. And also the way to the back is another street with houses in that direction, and they've indicated that they like the fact that Bill and Meg have a large backyard. So I think it would, I -- I'm not sure we'd have 100 percent approval if we did this going backwards as opposed to going up.

TAD HEUER: Okay.

ATTORNEY MICHAEL WIGGINS: But just to go back to the dormer issue. We had with the engineer, experimented with a bunch of dormers and they just don't work. I mean, we could have gone up maybe five feet instead of six or four feet and put dormers along the side. Because of where the stairs are, they're toward the front of the house. You'd have to have a lopsided dormer that would be within three feet of the front edge of the house or you'd have to have a large shed dormer. And it doesn't really fit with the

street scape in terms of, you know, the neighbors that on either side don't have -- there's a very tiny dormer here. But basically Bill and Meg decided to try to keep it with the outline of the basic neighborhood, their immediate neighborhood. Of course, you know, up and down the street there's a lot of larger houses. There's the three deckers on the other side of the street. Right across from them is a -- and by -- these are all non-conforming and some of them are -- I think one of them is 0.7 or 0.68. I did use some analysis of other places. I think 0.68. Or 0.78 is one. The one on the corner that the three decker on the conner.

And then on this side, on Cedar is a pretty large building right across from them diagonally to the left. And I'd also point out that on the other side of Cedar, at the beginning of Dudley is a pretty large three decker that sort of looms over the

neighborhood itself.

TAD HEUER: The implication isn't surely that we want to increase those types of buildings on the street, is it?

ATTORNEY MICHAEL WIGGINS: No, no, no. I'm not trying to Jones this by any means. I'm just pointing out that it's not like there is no precedent for this at all.

TAD HEUER: Aren't those cautionary tails more than anything else?

ATTORNEY MICHAEL WIGGINS: From the aesthetics of those buildings I would agree with you, definitely. They weren't done sensitively. They were done, they were thrown up, but I don't -- I mean, frankly I like -- this is my own, the three decker look is pretty nice. And that's, you know, traditional. Albeit, well over the Zoning Code. So I did submit a letter in support from the immediate abutter. The other abutter wanted to be here tonight, couldn't.

She's out of town. And as I said, I talked to the -- or I think I said I talked to the North Cambridge Stabilization Committee, and they don't seem to have any problem with it. They said that we won't -- we do not plan to appear on this. And I think you also have a letter from City Councillor Kelley who I thought was pretty thoughtful use of this property and he thought it was a reasonable use and that it conformed to the neighborhood scheme pretty well. So, that's basically what we're presenting.

And the other thing I'd like, you know, on the dormer on the third floor, instead of projecting dormers, we have skylights. So it's not going to be the greatest space ever invented, but it will be adequate for Bill and Meg so they have light up there and be able to do their work.

And I should mention that they're not the only occupants of the building, they have

two children.

So, and the other thing, in terms of, you know, not being a detriment to the community. The intensity of the use isn't changing. These people are lifelong residents of Cambridge, and they plan to be there. They've got a lot of work to do to pay for college education coming up. So they're not going to retire any time soon and move to Florida. This is really a functional addition that's for -- gonna directly benefit them.

WILLIAM MADSEN: I think for us adding this, it's really our commitment to basically dying in this house.

MARGARET BOND: Really.

WILLIAM MADSEN: We're going to be there until someone takes us out.

CONSTANTINE ALEXANDER: We can make that a condition.

MARGARET BOND: It was a serious

conversation. You know, what do we need to live in this house to, you know, until we physically can't do it?

TAD HEUER: But here's my question, and it's a question that I raise frequently as this Board is aware: Are these houses designed for people to start and die in them? I mean, these houses are a thousand square feet. The lower thousand down some of the street, maybe pushing 1100, but I don't think many. Every time we allow someone to expand one of these houses that were designed for, you know, could be termed starter homes now, we eliminate permanently another starter home because it comes out of that pool of houses that are that size that people can use as transitions from getting on the ladder and out into buying a larger home when they have two kids who need more headroom and things like that. Certainly, I appreciate the desire to stay in the house and stay in the

neighborhood. At a certain point, I guess my question is, doesn't that conflict with the notion that these houses aren't intended to be purchased, you know, by a young couple and stay and expanded out because they're not designed to. The lots are tiny. They're on lots that are cramped. You know, the function and that's kind of what the FAR gives you a rough sense of. The City has said for better or for worse. We think you should take up half your space in these lots. Once you say we should go 50 percent above that, that starts to push against the notion that there was a reason, arbitrary or not, that it was said 50 percent on this lot is the number you want to go to. And particularly when you're looking at a hardship that is, at least in some sense we're talking about kids, transitory. You know exactly when they're going to be teenagers. You know exactly when they're going to college and when they're not

going to be there anymore. So we would have granted something in the event on the basis of a hardship that then goes away in five, ten years but the house remains oversized even as it is now, but supersized given the relief that we've granted and the house stays that way for the next 150 years.

So I mean one of the things I guess I have difficulty with in looking at this kind of application is the somewhat transitory nature of the hardship as well as the fact that it's a very large ask in terms of quantity of space and massing. As you probably heard during the session of the house on Montgomery Street, for a neighborhood like this, particularly where one of the things that we look at and we have to look at by statute, is this hardship owing to a hardship suffered by this lot and no other lot in the neighborhood? And when you look at that side of Dudley Street, all

the -- they're all the same house essentially. At least in that row, you know, six or seven houses in a row. That are all the same size, about the same kind of undersized lot. They're all two and a half, you know, gable roofed houses. Finding a hardship means finding something that's different about this lot and this property that isn't suffered by the neighborhood in general. But it seems to me that the entire neighborhood in general suffers this problem for better or for worse, and, you know, I'm not sure that the hardship here is necessarily one that means making the house bigger. And I think I look over, you know, just going across Mass. Ave. You know, there are neighbors that are there that have gone full height up. Personally I think it's detrimental to the neighborhood. I think it looks like it's bulking out on large lots. You know, at a certain level you say it's

already gone that way, why bother? Here on Dudley you don't have any of those yet. It's still preserved as around the size that the city said it should be. I can certainly envision a neighbor coming in and saying that they're two and a half stories, no reason why me in exactly the same situation also is going to be two and a half stories. And then we've gone from a neighborhood that's about the size that the city has said to an entire street full of houses that become essentially two and half story triple deckers, and people look at it and say is that really what the city intended, a whole street of 0.75's instead of a whole street of 0.5's. So those are the kinds of things that I'm struggling with. Not necessarily that -- and I'm totally sympathetic as to why you're asking. But looking at the positioning of the house, the size of the house in the neighborhood on the lot, I'm having somewhat of a difficulty

reconciling your really legitimate needs with what we're tasked with doing under the ordinance.

BRENDAN SULLIVAN: The other thing, too, is that the third floor is going to be used as office space. You know, you work from home. I understand that. But in lieu of having off-site office space, you're, you know, you're expanding the house up to accommodate office space. But set that aside for a minute. I have a set of drawings in front of us. And I have the existing first floor plan. Then I have the existing second floor plan. And the proposed second floor plan is really a demolition plan. I don't see what the proposed second floor layout is going to be.

WILLIAM MADSEN: It's the same. Same layout.

MARGARET BOND: The issue now --

TAD HEUER: (Inaudible).

BRENDAN SULLIVAN: Well, those are demo.

TAD HEUER: That was my --

THOMAS SCOTT: I thought it was demo, too.

ATTORNEY MICHAEL WIGGINS: I'm sorry, that may be a misunderstanding with the engineer. No, his version of dotted lines means that's the way it is.

THOMAS SCOTT: It's existing to remain.

ATTORNEY MICHAEL WIGGINS: And this is what's going to be. So the only thing changing is the upstairs.

MARGARET BOND: He's not an architect. He's a structural engineer.

ATTORNEY MICHAEL WIGGINS: That's the way -- when he differentiated between existing and proposed, he put existing and dotted lines.

BRENDAN SULLIVAN: Okay. And then

the proposed attic which is -- what is used up there now? Anything at all?

WILLIAM MADSEN: Storage space.

ATTORNEY MICHAEL WIGGINS: You can get up there on a ladder.

BRENDAN SULLIVAN: That's going to become office space. Now, the existing front elevation view and the proposed.

ATTORNEY MICHAEL WIGGINS: Right.

BRENDAN SULLIVAN: Again, what is this going to look like?

ATTORNEY MICHAEL WIGGINS: Okay.

In other words, what he means is these are not changing. This is what is existing on the lower floor, the upper floor. What's in heavy black line are the new windows on the third. And a changed window on the second floor.

BRENDAN SULLIVAN: You're using a totally new vernacular to --

CONSTANTINE ALEXANDER: I was

confused with those plans in the file.

MARGARET BOND: I'm sorry about that.

ATTORNEY MICHAEL WIGGINS: It's not a classic architect approach.

TAD HEUER: It's not even in the realm of classic approach.

CONSTANTINE ALEXANDER: I know. I got a sense of what was going on, but I gotta tell you --

TAD HEUER: The first time I saw it I thought you were tearing down the front of the house.

MARGARET BOND: Oh, did you?

THOMAS SCOTT: Just from an architectural standpoint and just the street scape, you know, you're willing to create this sore thumb almost of a building among all these other buildings that have a very particular height. You're gonna change that. And I think that's really gonna be

very offensive, I think, to the street scape. And I would be more inclined to go for an addition in the rear of the house where it doesn't interrupt the vernacular of the street. I think that the character of the architecture is really specific. And if every house seems to look like a copy of the next. And it's just hard to kind of get passed this being, you know, kind of a bigger element among, among all the other houses.

WILLIAM MADSEN: I think that's a concern that we've had just in terms of what we -- we are very -- our street is a very strange street. This thing about Halloween is not a light thing. We have for the past 10, 15 years closed the street down every Halloween and have about.

MARGARET BOND: 800 or 900 kids.

WILLIAM MADSEN: Close to a thousand kids. And we've asked everybody on the street how does this look to you? How does

this seem? Because to us we feel like the closeness of the neighborhood is real important. And, you know, our neighbors are all saying this would be fine with us.

CONSTANTINE ALEXANDER: I share, I have to tell you I share Tom's comment about the street scape, but it strikes me as a case of choose your poison. I mean, if you want more space, you either go up or you go back. And neighbors seem to prefer you to go up rather than go back. I'm not sure they're going to feel the same way after the project is done.

THOMAS SCOTT: It's not going to be those neighbors forever. But I mean, the street scape is always going to be that. And you're going to change that with this design.

ATTORNEY MICHAEL WIGGINS: The street scape also includes, you know again, I'm not saying we can do it because they put up an ugly building, but the street scape is

not all uniform when you look on both sides.

CONSTANTINE ALEXANDER: And the immediate abutter, there is a row of identical houses of three, four or five.

ATTORNEY MICHAEL WIGGINS: I agree. No, no, and we talked about that -- I was saying earlier when we first talked to Meg and Bill, I said do you really -- will your neighbors agree with this? Because it is a little different. And that's part of reason that we put aside the shed dormer approach because I think then it would be --

CONSTANTINE ALEXANDER: That's terrible.

ATTORNEY MICHAEL WIGGINS: What asteroid did this come off of on to Dudley Street. So that's why it was important to try to keep the shape of it as much as we could.

BRENDAN SULLIVAN: Again, what I find troubling is what's really driving this

is the need for office space. You're not increasing living space, you're not increasing bedrooms, you're making two bedrooms.

ATTORNEY MICHAEL WIGGINS: It does, I mean parenthetically it does make the second floor more usable.

CONSTANTINE ALEXANDER: You're not adding living space. You're swapping living space is what you're doing. You're taking --

BRENDAN SULLIVAN: But the bulk that's going up.

CONSTANTINE ALEXANDER: Yeah, but it's not a matter of -- it's not just the matter of office space, in my judgment, a fair characterization. They're looking for more living space. People work at home these days. And that includes some office space. And an interior -- so I can see the need for additional space. I would like to consider

office space and living space almost synonymously. That's just me speaking.

MARGARET BOND: Indeed we are working. I mean, we also -- it's working at home in addition to working elsewhere in my case. But anyway, yes, because we've been now swapping working at the dining room table for someplace to really work.

WILLIAM MADSEN: The other thing I think for me, there are so many ways in which my work is shifting. I've been working as family therapist. I'm doing more organizational and consulting work. That's putting me more at home less off somewhere else. And I think for us one of our hopes as our kids get older, is that they're not gonna go off and replace their bedrooms with offices, but you know, their bedrooms will be places that they return to. And hopefully they return to with children.

Also, I just wanted to respond to the

starter home piece, because I'm not sure within the broader neighborhood, the history of this house, the woman who lived in this house previous to us moved in at three and died in that house at 93.

MARGARET BOND: We're the second owners of this house.

WILLIAM MADSEN: So, there is a history of people being there for a very long time.

CONSTANTINE ALEXANDER: There are two kinds of issues in this case and why we're a little bit disjointed in our questioning of you. One is can we live with the amount of liveable space you want to build? And two, if we can, do we like the fact that you're gonna put that additional space going up rather than going back? I mean, rather than tossing around the street scape impact, I think we better focus our thoughts as to whether this relief in terms of the amount of

space is too much? Because if it is, then whether they want to go up or go back and whatever is not relevant. And whether there's office space or other kinds of space.

ATTORNEY MICHAEL WIGGINS: If I could just speak to that for a second. I mean, it is -- in gross terms it's a lot but it's a small house to start with.

CONSTANTINE ALEXANDER: I agree with that.

ATTORNEY MICHAEL WIGGINS: This is by no means a luxury home when it adds up. I think it's still a basic house after the work is done.

CONSTANTINE ALEXANDER: I think it's a starter house. I think Tad made his point before and I absolutely agree with it. But I don't think we're taking this out of the realm of a starter house if we grant you the relief you want. 1600 square feet, it's still a relatively small house. It's not as

small as what you have now, but it's a still a small house. But I think it's still in the realm of a starter house. So I for one am not troubled by the fact that you're gonna go into another category of housing. I think you still have a relatively small house. But again, I think what the Board members need to hear is it's still too much house for the Board's appetite. It's still going as much as you are from the FAR or is it just too much? I guess I'll speak for myself.

I am troubled by it very much particularly after Montgomery Street. But I think I could live with the fact that going to -- I think you do meet the requirements for the Variance, and I would be supportive of adding the additional 500 or so square feet. But I think you meet the requirements for the hardship because of the shape of the lot. And the state law and the zoning law says the shape has got to be accepting, especially

affecting the land, but not affecting generally the zoning district in which it is located. You're in a Residential B District. So this lot may be typical of a lot in the immediate neighborhood, but it's not typical to the zoning district. Residential B are not large lots. So I think you can meet the requirements. It's not easy, but I'm prepared to support a Variance for the amount of square feet that you want to add, but I do want to hear a little bit more. I reserve my thoughts as to whether I'm going to support these plans as to whether you should be going up or going back. That's where I am.

BRENDAN SULLIVAN: What's the difference between your house and the house on the left?

ATTORNEY MICHAEL WIGGINS: It's either two or three feet. Because I know we have two on one side and three on --

BRENDAN SULLIVAN: No, not to the

lot line. But I mean it shows that their house is right on the lot line. Is that correct? On the left side.

MARGARET BOND: Well, we're pretty close.

WILLIAM MADSEN: The left side being this side or --

BRENDAN SULLIVAN: So there's three feet --

ATTORNEY MICHAEL WIGGINS: No. There's three feet between our lot, our house and our lot line. And then they're about two feet back I think.

BRENDAN SULLIVAN: So there's five feet between houses?

ATTORNEY MICHAEL WIGGINS: I think so.

BRENDAN SULLIVAN: And probably on the right side may be similar.

ATTORNEY MICHAEL WIGGINS: I think so, yeah.

WILLIAM MADSEN: Maybe six.

BRENDAN SULLIVAN: That's close.

MARGARET BOND: That's part of why we sort of skipped the dormer issues, too.

TAD HEUER: I guess I'm not sure why skipping the dormers --

ATTORNEY MICHAEL WIGGINS: Well, the dormer would have to come right out to the wall.

TAD HEUER: So it's this building off your existing walls, though.

ATTORNEY MICHAEL WIGGINS: I know that, but as far as the privacy thing, if you're looking at a window right up against you as opposed to a roof angling away from you with skylights that don't have people looking at you, it's a recessed -- recessing it I think is a better -- is a softer impact on the neighbors. And I think they appreciate it. And if you look -- we don't have pictures of it up and down, but some people do, along that

line, have put skylights in the upper because of that. So the windows aren't right up against each other on the lot line.

MAHMOOD FIROUZBAKHT: Where you are proposing windows on the second floor level as well, right?

ATTORNEY MICHAEL WIGGINS: That's correct.

MARGARET BOND: High, just high.

MAHMOOD FIROUZBAKHT: And those don't propose privacy concerns for abutting neighbors?

MARGARET BOND: No.

ATTORNEY MICHAEL WIGGINS: They've looked at them and they've said --

CONSTANTINE ALEXANDER: I think we're concerned about street scape. I think dormers are even worse for what you are proposing. I would not be in favor of any project that had dormers.

TAD HEUER: Really? I guess I

don't -- it just happens to be me.

Particularly on lots that I mean, you've got a tough road ahead because you're so close to everyone else. I mean, there's no -- I mean, we're talking about things that in other projects are taller. And for instance here, it's the distance between buildings. I mean, I guess I'm not quite convinced that dormers are worse than raising the roof height. I do think that, you know, this does -- granting this here there is no -- I personally could not see any grounds of granting this one not to grant it to every other of the houses in that row. And would see that that would be detrimental to the neighborhood. I just can't see that. And particularly if you're looking to go up, I'm not sure why that's any less or more privacy to go up another six feet and raising that and add another floor then it is to put a dormer in. You're looking down on the people next

to you on either side.

CONSTANTINE ALEXANDER: I'm not in favor of going up. Let me be very clear. I'm in favor of granting extra space, but it strikes me you want to go up because you want to save your yard space. You got to pay a price. If you want more living space, you have to sacrifice some of your yard in my judgment. Therefore, I would go back and allow you the space but only with different plans that I'm seeing here tonight. It keeps the height and the street scape from thinning.

MARGARET BOND: I'm curious how would you go back and create two new rooms.

TAD HEUER: You might not be able to.

MARGARET BOND: I think that's another reason of going up if we want to create some two spaces. Going back, I mean, those rooms are tiny to begin with. And our bedrooms have enough room to fit a bed, a

double bed. So going back might give us expanded current rooms, but that's not what we're needing or wanting. We're fine living in little, tight rooms.

BRENDAN SULLIVAN: I think what you're proposing is, to me, it's out of scale. And the closeness that you are to each other magnifies the out of scale that you are.

MAHMOOD FIROUZBAKHT: With the other houses, what are the attic spaces used for? Are they similarly used for storage or are they --

MARGARET BOND: It really varies.

WILLIAM MADSEN: I think by in large it's storage.

MARGARET BOND: No. Well, there's one just two houses from us, where they completely renovated their attic. And it's not -- and it's like office space storage. I mean office space.

ATTORNEY MICHAEL WIGGINS: A couple

of them have little dormers that you can see.

MARGARET BOND: Yeah, and one neighbor has a little dormer. And a couple of ones down they have a room that kind of goes a second floor room that then goes up, and they've kind of got it lofted into the attic. So there are a couple that have used it for living space. Two, at least two. Have used it for a living. Figured out how to configure it.

MAHMOOD FIROUZBAKHT: Without changing the roof height or kind of expanding through major dormer additions they've figured out how to use it in a different way?

MARGARET BOND: You had it.
(Inaudible.)

WILLIAM MADSEN: It's more like kid's play spaces because the roof line is here.

MARGARET BOND: In the center.

WILLIAM MADSEN: In the center.

And then it goes down.

ATTORNEY MICHAEL WIGGINS: And then you have three feet on either side.

WILLIAM MADSEN: So it's put in like skylights that stick up so it opens up a bit more space, but it's --

MARGARET BOND: Yeah, but it's still --

WILLIAM MADSEN: It would be good office space for children.

MARGARET BOND: For very small people.

BRENDAN SULLIVAN: I guess in a sense that the plan is before us is probably meeting some resistance. And is it the sense of the Board that maybe they should go back to look at our comments?

CONSTANTINE ALEXANDER: I if the sense of the Board is 500 square feet or thereabouts is too much and not waste time and money.

TAD HEUER: I'll speak just for myself, and looking at the largest the lots on this street, if you were 63, your next-door neighbor on your left, we would probably be in more of a discussion like we were on Montgomery Street. You're a tiny house on an even smaller lot. At that point there may not be anything you can do with a small house on a small lot. Here you do have a bit of a benefit of having a deeper lot which gives you more area to play with in your floor to area ratio. Because you have that availability, I think my, I think my inclination I would be supportive of a moderate amount of additional space. I could see granting relief for an addition for this property. I don't think I would be supportive of going up because I do think it interrupts the street scape. I think it, you know, would create a precedent for the other identical and others why smaller houses on this side. I think it also

would start shadowing those houses, too, even though you're not that far -- indicating three feet -- from the other building much less the lot line. So I could see perhaps a smaller amount of square footage, 80 percent amount of square footage going toward the rear, into the rear yard. And I think part of the other thing to mention here, is that as the Zoning Board certainly would take into account, you're asking for it and what the neighbors want, but there's also this sense that we're supposed to be as, I think you heard Mahmood indicate for the previous case, we represent the people who aren't here for the rest of the City of Cambridge. One of the things that we're charged with is looking at how our decisions impact the City of Cambridge as a whole, the intent of the Zoning Ordinance as set forth by the City Council as a whole. As well as hearing about neighborhood support is valuable and it's not

dispositive because there are other things that cannot, by definition, get into the file unless we're here to think about in their stay.

So I could see an additional amount of space. I don't think it's a per se prohibition. I don't think I'm in support of going up, certainly not to this level of another six feet. And I would encourage looking into what amount of space could be taken from the back.

Now you mentioned there is no habitable basement; is that right?

ATTORNEY MICHAEL WIGGINS: It's under six feet. Less than six feet.

MARGARET BOND: I don't know what it is, right.

TAD HEUER: It's a quasi crawl.

MARGARET BOND: Well, yeah. Six feet is not quite a crawl.

TAD HEUER: It's for short people.

MARGARET BOND: It's a great space.

WILLIAM MADSEN: We can just shrink ourselves.

CONSTANTINE ALEXANDER: Put your kids' office in the basement.

BRENDAN SULLIVAN: Just something to think about, too, walking down Dudley Street is that the gentleman that owns the property directly across the street, wants to put in units in that there. So if he were to come down before us at a 0.79 on that lot, how would you feel about that? And -- you don't have to answer. I'm just saying, how would you feel about that, okay? Because you, maybe, and the rest of the neighbors, would come down and say this is a 0.5 area. And so if he were to come down to us and said, no, give me a 0.79 because you gave the guy and gal across the street a 0.79. That's where we sit.

MARGARET BOND: Well, that's

interesting. We know there's something brewing on this parking lot, and my personal feeling is the cars come out of that parking lot and smash our cars everyday. And if there was a house there instead of a parking lot --

BRENDAN SULLIVAN: He's talking a lot of houses and he's talking a lot of cars, and he might want to go 0.79. And, you know, I think and again you may have an opinion on that. So...

MARGARET BOND: Can I ask just some questions because you're sending us back to the drawing Board it sounds like. And this is really -- what would be the problem if every house on the block went up a story? Really. I mean, I don't think they're going to. But then they'd all still be -- I mean, what's the problem?

CONSTANTINE ALEXANDER: If everybody did it uniformly, it may be not a

problem. But we're not having that. That's not before us tonight. You're going up and nobody else is.

MARGARET BOND: Yeah, but -- I know that one of the concerns is that if we go up they might, right? I'm just curious. I mean, this is just truly a question of curiosity.

TAD HEUER: That is nominally part of -- certainly when you hear the architectural aesthetics, and the extent that factors into how Cambridge is designed, I think plays a small part. I think the real issue is that the City Council has said for better for worse, again, arbitrarily or not. That in this area we think that for purposes of health and safety and everything else for the city, these houses couldn't be built today. They're illegal six ways to Sunday. We're not gonna tell people to tear them down. We'll tell people you can have them, you can

maintain them, but when it comes to asking them to expand them, we say no as a matter of the ordinance. We let people go to the Zoning Board and make a case, like you've done. But, when we look at that, we say the City Council has said 0.5, and the reason they said 0.5 is because they've made a rough calculation as to the amount of space as to the amount of lot is what we expected in that neighborhood. When you start going to 0.79 it means you're either covering your lot more, to the indication that they don't want green space to be taken up, or you're covering your lot up, you're adding more area. You're adding more floor to your area. And that -- the indication is that they don't want it bulked. So these are kind of proxies for green space in terms of horizontal construction and bulking and massing in terms of vertical construction. They're not perfect. And that's where you get into these

strange situations like basements, where people say well, the basements are already there and no one can see it. And in those situations we tend to be a bit more lenient because we agree that floor to area ratio doesn't mean as much when you're saying something no one can see. Here we've got situation where it is going to that primary issue of massing which is what FAR is imperfectly trying to get to on the height side and I think that's what's creating some of the concerns. And speaking for myself right now. And I think that's --

CONSTANTINE ALEXANDER: Yes, I endorse what Tad said. I think he basically stresses my point of view as well.

ATTORNEY MICHAEL WIGGINS: Do I get the -- is there a sense that my clients should come back? And I don't know if we can continue it because we'd have to come back with a pretty radically different set of

plans at this point? But if it was going to be or it's not going up, it's --

BRENDAN SULLIVAN: You can leave this one active.

ATTORNEY MICHAEL WIGGINS: I don't want them to --

BRENDAN SULLIVAN: If it is substantially different, it would appear that -- well, maybe a reduction thereof. And I think we'd let Inspectional Services determine whether it requires totally new re-advertisement which would be a new case. But we would want to leave this one open and active.

TAD HEUER: And that being said, you're only advertised for a one-story addition to an existing single-family residence. But arguably that one-story addition on the rear.

ATTORNEY MICHAEL WIGGINS: I see.

TAD HEUER: I think if you're

looking about adding amounts of space that are somewhat similar or less than this, you certainly, again, it's up to inspectional to say is this fundamentally different that the abutting neighbors and everyone else would care and they'd say that wasn't the project I thought I was getting. I didn't show up because I thought it was X and now it turns out to be Y? Then, yes, it's a neighborly thing you want people to know what's on the table. But, you know, if you're talking about something that will be a smaller addition if you're looking at the rear, same or less space, it's not out of the question, at least in my mind, that you use this case as that vehicle. But I think the Chairman's right, keep this open regardless so you don't have a repetitive petition and everything else. I would be amenable to that.

BRENDAN SULLIVAN: Whatever you come back to that, you run by neighbors who

have expressed a concern.

ATTORNEY MICHAEL WIGGINS: What they wouldn't dream of doing something else without going back.

MARGARET BOND: No, I assume you saw the whole petition. We went and sat down with the plans and went over them with detail with every single neighbor. And, you know, I met some new neighbors. It was quite lovely.

ATTORNEY MICHAEL WIGGINS: We thought there would be a tidal wave that would sweep over you.

TAD HEUER: Well, quite frankly, again, in general that's what we like to see. As you saw in the last case, at least I personally wasn't that pleased that we saw things being done in a somewhat slap shot manner. You've approached this in exactly the way we would hope that this would be approached. So procedurally you've done

everything right and it makes our job a lot easier. It would make our job a lot easier if you didn't do any of this and said oh, this is what I want because I think it's important. And I think you're hearing from everyone we would easily of -- I think, if you were to come without any of the preparation, we would have voted this down and not let you come back and said that's it. Having gone through the explanation, the work you've done with your neighbors and looking into different options makes it a much closer case for us. You know, I think you're still hearing us say no on this design, but it is, you've brought yourself much further than you would have had you just come in thrown this out on the table. It may not be much of a consolation but....

MAHMOOD FIROUZBAKHT: One comment I would make in terms of coming back with a redesign, and to the extent that you determine given what you want to accomplish,

you really need the height, and that's what you come back with. And that may be the case. If it is, for me it would be helpful to see a visual of what you're proposing would look like, you know, with respect to the rest of the street scape to get some perspective, because I'm actually --

MARGARET BOND: Photoshopping?

MAHMOOD FIROUZBAKHT: Yes, exactly. And it would be helpful to me to see a visual. I'm not actually not as convinced it seems like that some other members of the Board that having that variety on the street scape is always a bad thing. Because we're in the city, and we're in an urban area, and you have a diversity of architectural sizes and shapes and sometimes that works. And maybe in this case, I don't know, it seems like in this case there's a tendency for it not to work, but maybe if we see a visual, we can sort of see that that could work to the extent that that's

where you have to be with, you know, with your project and it's really height as opposed to adding to the back.

BRENDAN SULLIVAN: Okay.

THOMAS SCOTT: I think there's some other -- there could be some other options, too. You know, maybe you could keep the front of the house so that you're not interrupting that street scape and that line. Maybe further back in the house there could be some elevated element. That's one of the offices. And maybe the other office is something that just creeps in the backyard. You know, it doesn't all have to be on top I guess is all I'm saying and maybe there's a way to --

MARGARET BOND: I know you can't say how you would vote on that. But you would entertain something that was kept that front?

THOMAS SCOTT: I think I'd be more inclined to.

CONSTANTINE ALEXANDER:

Particularly if you find what Mahmood has suggested about the streetscape showing us an elevation not just of yours, but all the buildings, two to three on each side, we can get a sense of that.

TAD HEUER: I think my issue is looking at where this has already happened up on Newman and Foch Street and that neighborhood is pretty far well toward max 35 foot heights for some but not all of the buildings. And that unevenness -- I just say if you have haven't been over there recently, take a --

WILLIAM MADSEN: What streets?

TAD HEUER: On the other side of Mass. Avenue. Newman Ave. Foch F-o-c-h. That area has a lot of houses that have done all the way up to 35 feet either with just a raise the roof with dormers that we wouldn't ever allow now, but were allowed in the past

and they packed it in so it's a gabled front. So they essentially boxed it to the outline. You know, they've, there's an menagerie of this type of approach out there.

MARGARET BOND: We did a lot of touring in looking at this.

ATTORNEY MICHAEL WIGGINS: We saw a lot of --

MARGARET BOND: We did.

ATTORNEY MICHAEL WIGGINS: -- one or two blocks down. The side has a dormer that -- from hell. And it's way overbuilt.

TAD HEUER: Right. So I guess, you know, when Mahmood says I'd like to see it, what I'm envisioning in my mind with these types of height, what you have up in that area in which I'm not that thrilled with, because you do have these variations of houses that are towering over other houses. And you can tell if they all started out the same way and gotten in a wildly different direction. And

it's not necessarily my favorite collection in the city of how they've dealt responsibly with space.

BRENDAN SULLIVAN: Okay. Well hearing a motion to continue, or a request to continue, let me make a motion to continue the matter to allow the petitioner adequate time to revise the drawings on the condition that the posting sign be changed to reflect the new date of --

SEAN O'GRADY: September 22nd.

CONSTANTINE ALEXANDER: This is a case heard. I won't be here. If they actually come back, you'll have a problem.

SEAN O'GRADY: October 13th.

ATTORNEY MICHAEL WIGGINS:

Mr. Chairman, is it possible to request a later? We certainly waive the deciding this.

MARGARET BOND: We're going to need more time than that.

BRENDAN SULLIVAN: Sure.

TAD HEUER: Do you want October or do you want like next July?

MARGARET BOND: I wanted a yes vote tonight.

CONSTANTINE ALEXANDER: I think you're going to need a bit of time.

ATTORNEY MICHAEL WIGGINS: We need November. We're going to have to take the engineer to the wood shed about his plans and all that.

SEAN O'GRADY: November 10th?

ATTORNEY MICHAEL WIGGINS: Yeah, that would be great.

TAD HEUER: Is that the only one in November?

MARGARET BOND: We'll keep that.

SEAN O'GRADY: I'm sorry.

BRENDAN SULLIVAN: The second date in October is what?

SEAN O'GRADY: October 27th.

TAD HEUER: Is that too close to Halloween.

CONSTANTINE ALEXANDER: I don't think they're going to be ready.

MARGARET BOND: It probably is. We'll still do it. Come by our house. I think we should.

CONSTANTINE ALEXANDER: If you need more time at that point, we can continue it.

MARGARET BOND: Let's say the 10th. Did that not work for you?

ATTORNEY MICHAEL WIGGINS: The 27th.

BRENDAN SULLIVAN: October 27th. Continue this matter to October 27, 2011 at seven p.m. on the condition that the petitioner change the posting date on the sign to reflect the new time and date. And also that the petitioner sign a waiver for statutory requirement for a hearing and a decision to be rendered.

CONSTANTINE ALEXANDER: Let me just suggest to you that you don't necessarily keep the sign up between now and October 27th.

MARGARET BOND: People think somebody's foreclosed the house. They keep saying what's the problem?

CONSTANTINE ALEXANDER: If you want to take it down, fine. But make sure it goes back up 14 days before the hearing date.

MARGARET BOND: It is pretty funny.

BRENDAN SULLIVAN: And also any submittals be in the file by five p.m. on the Monday prior to the October 27th hearing.

CONSTANTINE ALEXANDER: That's very important. We won't hear your case unless you comply with that. Don't walk in with new plans, file them before.

BRENDAN SULLIVAN: Have them in the file Monday before.

MARGARET BOND: We're good with this.

ATTORNEY MICHAEL WIGGINS: I won't forget that.

BRENDAN SULLIVAN: And your new drawings, and you should have a new dimensional form, too. So that the dimensional form should be consistent with whichever drawings you're going to submit.

On the motion, then, to continue this matter.

(Show of hands).

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer, Scott, Firouzbakht.)

(10:25 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case No. 10127, 175 Brattle Street.

CONSTANTINE ALEXANDER: Very patient.

JOSEPH CONSALVO: I appreciate you guys staying.

BRENDAN SULLIVAN: Have you lost your attorney?

JOSEPH CONSALVO: This is 175 Brattle Street.

BRENDAN SULLIVAN: Introduce yourself for the record.

JOSEPH CONSALVO: I'm Joe Consalvo C-o-n-s-a-l-v-o.

We're currently renovating the home.

It's quite an old house from the 1760s, and all is that construction is as of right, but the homeowner would like to add a small mud room on the rear. 8.5 by 16.5. The current rear setback is 28.4 feet in a 35-foot requirement. This small mud room addition would be 28.0. So it is four-tenths of a foot closer than the existing non-conforming lot.

And that's pretty much it. And we are doing major work to the -- we're currently redoing four -- there's some old beams in there. I mean, the house just needs a ton of work. And everything we discover everyday. They did find a -- what do you call it when people hide something -- from the 1970s the other day in the chimney.

TAD HEUER: What was it?

MAHMOOD FIROUZBAKHT: A time capsule?

JOSEPH CONSALVO: A time capsule, yes. Old coins. An impeached Nixon

sticker. I guess the kids did it in their bedroom. Old coins, old stamps, old newspapers. And my foreman turned it over to the owner. He was quite happy.

TAD HEUER: This was a house that was used as a hospital during the Revolution?

JOSEPH CONSALVO: Yes, from Bunker Hill. They said they brought them in.

TAD HEUER: No time capsules from back then yet?

JOSEPH CONSALVO: Haven't found it yet. It's only 180 square foot addition. And it's just right now the door opens directly into a mud room and a stairway and it's just architecturally it just doesn't work.

TAD HEUER: And you're keeping the railing back across the top; is that right?

JOSEPH CONSALVO: Right.

BRENDAN SULLIVAN: Where is the --

CONSTANTINE ALEXANDER: I saw it in

the file.

BRENDAN SULLIVAN: -- yes. I was looking at this correspondence from --

TAD HEUER: That's the Brigham and Women's.

BRENDAN SULLIVAN: Judge Skelton Smith is the firm and they were -- all right. It was just a zoning analysis.

JOSEPH CONSALVO: Yes.

TAD HEUER: Edward Gorney typed plan.

JOSEPH CONSALVO: They still draw by hand.

TAD HEUER: Are those easy for you guys to read.

JOSEPH CONSALVO: No comment.

TAD HEUER: They're nice for framing I suppose.

BRENDAN SULLIVAN: So the purpose is basically to have an enclosure rear entry and protection from the weather.

JOSEPH CONSALVO: Yes.

BRENDAN SULLIVAN: Are there any other comments by the Board?

CONSTANTINE ALEXANDER: No.

BRENDAN SULLIVAN: I'll open it to public comment. Is there anybody here wishes to speak on the matter?

(No Response.)

BRENDAN SULLIVAN: I see none. There is no correspondence in the file. No problems with anybody?

Let me make a motion, then, to grant relief requested to construct a mud room addition at the rear of the property at 175 Brattle Street as per the plans submitted.

The Board finds that a literal enforcement of the provisions of the ordinance would involve a substantial hardship to the petitioner as it would preclude them from having an enclosed energy-efficient rear entry protection from

the weather enclosure.

And the Board finds that the hardship is owing to the size of the lot and the size of the house and the siting of the house on the lot which is existing non-conforming which predates the existing ordinance.

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

The Board notes that the only violation is in the rear setback. All other facets of the ordinance is complied with.

The Board finds that the relief being requested is fair and reasonable and minimal in nature.

All those in favor of granting the relief.

(Show of hands.)

(Sullivan, Alexander, Heuer, Scott,
Firouzbakht.)

(Whereupon, at 10:30 p.m., the
Zoning Board of Appeals meeting
adjourned.)

C E R T I F I C A T E**COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.**

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

I am not related to any of the parties
in this matter by blood or marriage and that
I am in no way interested in the outcome of
this matter.

I further certify that the testimony
hereinbefore set forth is a true and accurate
transcription of my stenographic notes to the
best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set
my hand this 27th day of July 2011.

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

My Commission Expires:
April 23, 2015

**THE FOREGOING CERTIFICATION OF THIS
TRANSCRIPT DOES NOT APPLY TO ANY REPRODUCTION
OF THE SAME BY ANY MEANS UNLESS UNDER THE
DIRECT CONTROL AND/OR DIRECTION OF THE**

CERTIFYING REPORTER.