

BOARD OF ZONING APPEAL  
FOR THE  
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, OCTOBER 27, 2011

7:00 p.m.

in

Senior Center  
806 Massachusetts Avenue  
Cambridge, Massachusetts 02139

Brendan Sullivan, Chair  
Constantine Alexander, Vice Chair  
Timothy Hughes, Member  
Tad Heuer, Member  
Thomas Scott, Member  
Douglas Myers, Member  
Mahmood Firouzbakht, Member

Sean O'Grady, Zoning Specialist

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## PROCEEDINGS

(7:00 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Timothy Hughes, Tad Heuer, Thomas Scott.)

BRENDAN SULLIVAN: I'll call the meeting of the Board of Zoning Appeal for October 27, 2011, in session.

First order of business is open up case No. 10108, 18 Beech Street. Is there anybody here interested in that matter?

(No Response.)

BRENDAN SULLIVAN: I see none. There is correspondence dated September 13th, at the letterhead of K&L/Gates. (Reading) Dear Sirs: Hope Fellowship Church, the Petitioner in case No. 10108 regarding 18 Beech Street respectfully withdraws its petition for a Variance. Respectfully, Katie Thompson, for the petitioner.

All those in favor of accepting the

withdrawal?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor and  
the matter is withdrawn.

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

(7:00 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Timothy Hughes, Tad Heuer, Thomas Scott.)

BRENDAN SULLIVAN: Case No. 10134, 4 Kimball Lane.

Is there anyone here interested in that matter?

(No Response.)

BRENDAN SULLIVAN: There is correspondence in the file dated October 25th. (Reading) Mr. Sullivan, my husband Nick Ross and I were going to appear before the Board of Zoning Appeal on Thursday, October 27th, to continue our application for Variance to renovate 4 Kimball Lane. However, we have decided not to go ahead with our project and we, therefore, withdraw from the schedule. Thank you for your time. Heather J. Kelly.

All those in favor of accepting the

request for withdrawal.

(Show of hands).

BRENDAN SULLIVAN: Five in favor.

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

(7:00 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Timothy Hughes, Tad Heuer, Thomas Scott.)

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

Is there anyone here interested in that matter?

MARGARET BOND: Yes.

BRENDAN SULLIVAN: If you would introduce yourself for the record and please spell your last name.

MARGARET BOND: Meg Bond, B-o-n-d.

BRENDAN SULLIVAN: You just want to add to the letter?

MARGARET BOND: Well, mainly I want to say we're working hard to address the concerns you raised about the streetscape, about the FAR. We've been playing with designs to go out which was the recommendation that a few of you made. And

it took us a while, but we've hired an architect. Arch Horst is working with us from Black River Architects. I think we're just about at the design. We're trying to be very responsive. We need to finalize it. We need to run it by neighbors. We need the --

TAD HEUER: You need to plan for Halloween.

MARGARET BOND: Well, yeah, we need to do that, too. But really, we're trying to work with the comments that you made last time, and we just would like a continuance if that's at all possible.

BRENDAN SULLIVAN: Okay. We'll continue this matter depending on what the bottom line is that you settle on may require a new petition, but at least we'll keep this one alive.

MARGARET BOND: Okay. What would require a new, just for clarification?

BRENDAN SULLIVAN: Well, if it's substantially different than what the initial proposal was, obviously a new application form is going to have to be filed to reflect the changes.

MARGARET BOND: If we plan on that and we realize we need a survey if we're going to go out the back.

CONSTANTINE ALEXANDER: Actually, Brandon, I think the relief, the nature of the Zoning relief changes.

BRENDAN SULLIVAN: Well, if it changes, yes. The difference --

CONSTANTINE ALEXANDER: If you're seeking the same Zoning relief, I forget what it is, but you have a dramatically different design that's okay.

MARGARET BOND: Good, because it is a dramatically different design. Because that's --

CONSTANTINE ALEXANDER: Well, you

have to make sure that design doesn't in turn cause you the need to seek additional relief. Check with your architect.

BRENDAN SULLIVAN: If you fall within all those sections that you initially asked for relief, even though the number's being changed, that's okay. If there's some additional relief which bumps up against another section of the Ordinance --

MARGARET BOND: Okay, I'll rely on the experts on that one.

BRENDAN SULLIVAN: You can talk to Sean. Sean will review it anyhow, and he can make that determination.

MARGARET BOND: Oh, okay.

BRENDAN SULLIVAN: But for this, we'll continue. What time frame do you --

MARGARET BOND: Well, we were hoping for December, but my husband's going to be out of town. I think you have meetings on will 8th and the 15th? I don't know if you have

any --

BRENDAN SULLIVAN: 1st and 15th.

MARGARET BOND: Oh, 1st and 15th.

SEAN O'GRADY: Both of those have three already. You have an opening on the 12th of January if you want that or whatever you please.

BRENDAN SULLIVAN: Okay.

TAD HEUER: When is he away?

MARGARET BOND: He's doing so much travel for work. I thought it was the 8th and 15th to check. He's here on the 15th and that would work for us.

BRENDAN SULLIVAN: I may not be here on the 15th that's the problem.

MARGARET BOND: Oh, okay.

BRENDAN SULLIVAN: So December 1st before we kick it over into January.

MARGARET BOND: I think it's going to have to be in January. I don't think he's in town on the 1st.

BRENDAN SULLIVAN: Okay. Your project is not going to --

MARGARET BOND: No, but we'd like to go forward.

BRENDAN SULLIVAN: So January?

MARGARET BOND: January?

SEAN O'GRADY: 12th.

BRENDAN SULLIVAN: January 12th.

MARGARET BOND: If it turns out that's not going to be able to work with him being out of town.

BRENDAN SULLIVAN: Sure, we can continue it again.

MARGARET BOND: Thank you very much.

BRENDAN SULLIVAN: Okay. On the motion to continue this matter until January -- just before you leave for a second.

CONSTANTINE ALEXANDER: Yes, don't leave.

BRENDAN SULLIVAN: On the motion to continue this matter for January 12, 2012, on

the condition that the Petitioner change the posting sign to reflect the new date of January 12th and the new time of seven p.m. And that it be maintained as per the statute, which is for the prior 14 days prior to the January 12th hearing.

CONSTANTINE ALEXANDER: Any revised plans have to be into the file no later than five p.m. on the Monday before.

MARGARET BOND: Okay, no problem. I think with a January --

CONSTANTINE ALEXANDER: The dimensional form revised, too.

MARGARET BOND: I think with the January date. But thank you for the reminder.

BRENDAN SULLIVAN: Is Michael still your counsel?

MARGARET BOND: Yes.

BRENDAN SULLIVAN: Yes. Be in contact with Sean anyhow.

MARGARET BOND: Thank you very much.

CONSTANTINE ALEXANDER: We didn't  
take the vote.

BRENDAN SULLIVAN: All those in  
favor of continuing the matter.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

(7:05 p.m.)

(Sitting Members: Sullivan, Alexander, Hughes, Heuer, Scott.)

BRENDAN SULLIVAN: The Board will hear case 10118, 459 Broadway. All those interested in this matter, please come forward.

Whoever is going to speak.

RICHARD ROSSI: Let me begin, Mr. Chairman. Richard Rossi for the City of Cambridge. In a moment Mr. Metzker to my left and Michael Black who has been our construction project manager, will explain the details of the relief we're seeking.

I think that this is a really important aspect of the high school project as it relates to the experience that the students will go through. You know, as we think about this, I think we've done a good job in treating this in a very tasteful way. I

think it's a moderate sign. I don't think it's anything -- that it's not like a commercial sign in any way where people would feel that every night when they looked out of their window if it's midnight or one in the morning, they're going to see this lit sign and it's going to draw attention. I think this is, you know, very limited. The hours are limited. The uses are limited. And it's really part of the students's educational experience. I would say, you know, the way I would describe it would be like building a beautiful football field like we did at Russell Field and not being able to have a scoreboard. I mean, for the students in the arts I think this is really important to them, you know, to be able to see that marquis, to see what's displayed, and get a feeling of the true experience. So I think in that sense I ask you to think about this, this way and not think about it as a sort of

a commercial kind of sign. I think, Mr. Metzker will also point to some studies that we've done to try to show you on what the affect will be on the abutters. And we reached out to the Cambridge Neighborhood Association and all, and I don't think we have many objections at all, if any. With that I would ask George and Michael to talk a little bit about the details.

GEORGE METZKER: I'm George Metzker, M-e-t-z-k-e-r, 130 Bishop Allen Drive. We've provided some additional information from last time describing the sign and the issue of hardship that Mr. Rossi has just talked about.

The high school, as you all know, is home to a very rigorous arts program that consists of all kinds of performances and symposia in addition to just being an arts venue. As part of the renovation of the high school, which has just been reoccupied, not

quite complete, but almost. What was a former entrance to the arts building is now a ticket concession, and also is the location where the sign is located. The logic, as we have put it forth to you is, that this is the high school, of course, is an accepted use in the district. A light, an internally lighted sign and a moving sign are not in any residential district, but because these are accessory to a conventional use, a conventional kind of program for the high school, we believe that it would be unreasonable to deny it on the grounds that it is as Mr. Rossi said likened it to a commercial sign. I will describe it in some detail, but let me also say that the sign -- all the other signage conforms. It is those two issues that do not conform.

The sign is computer controlled, so therefore, it is controllable in terms of when it is on and when it is off. Whether it

is moving and whether it is not moving. How bright it is. It has controls that allow it to dim at night so that its brightness can go down appropriately at night so it is not a glaring sign. In our discussions with the steering committee of the Mid Cambridge Neighborhood Association, which I believe you have a letter from a representative of that, we discussed the fact that the high school is very amenable to having a dialogue as they now already do with the neighborhood association to address any issues of the operation as it comes up. But they were satisfied that the ability to manage it would mitigate any potential issues. And the high school is committed to doing that.

The sign, and I have smaller copies for you here, which -- there are also some enlargements of the photographs.

MICHAEL BLACK: So the sign is, as you all probably know, the high school as

you're facing on Cambridge Street, and what we call the Cambridge Street triangle, which has all been reconstructed. This is the canopy of one of the high school entrances in the arts building. That will have, it does not now have, this sign which consists of about a 13 feet wide sign; one foot, ten high box of the electronic sign; and another foot of the letters. The letters are backlit. They are conforming. It is merely the sign here which is internally lighted. It's LED sign, and it is controllable so it also has motion.

You can see that on another --

TAD HEUER: Sorry, Mr. Metzker, do you also have a height issue as well? Or you don't have a height issue?

GEORGE METZKER: We do not have a height issue.

TAD HEUER: You're under 20 feet on this sign?

GEORGE METZKER: Correct.

This happens to be the music hall at Smith College. It happens to be adjacent to a residential area. And we're really talking about something like this. It's about the same height, but less than half as long as this one is.

And you've all seen this sign everyday on our street. It is very similar in size to that as a matter of fact. So, this is a photo montage on an existing photograph to show exactly how it would appear in its size in that particular location.

This is the detail of it. These are letters that are illuminous plastic which are backlit. They're two inches thick, and they glow from the light that is behind shining up onto them. And then the box, this is a box that's one foot, ten inches high and about eight inches deep and in which the LED lighting is contained.

So this can be up to two bands of letters going across as big as many as this, as few as that, and it's that kind of a sign that you actually see quite a few places.

I think the fact that it is very controllable, and part of its control is that it can be managed by the art students themselves, so it's part of the whole experience of arts and performance and production that the high school is so well known for over the years. That is really a curricular element of the school as well. So, we believe, and in our discussion with the neighborhood -- well, with those of the neighborhood we did discuss, we didn't speak to everybody, although it's my neighborhood, too, that there's general support that this is an important element of the high school. And it would be a hardship to not be able to present and promote the kinds of performances that occur at the high school as represented

by this sign.

CONSTANTINE ALEXANDER:

Mr. Metzker.

GEORGE METZKER: Yes.

CONSTANTINE ALEXANDER: As I recall, the letter of support from the Mid Cambridge --

GEORGE METZKER: Steering Committee.

CONSTANTINE ALEXANDER: -- Conservation District recommended that we impose some hours on when the sign would be on, the illumination.

GEORGE METZKER: Okay.

CONSTANTINE ALEXANDER: Mr. Rossi alluded to that, too. Or do you have a proposal to make or do you not --

GEORGE METZKER: No, I would only say that the high school, in the discussions involving them, are very open to coming to guidelines about how the sign should operate.

There's no intent to leave it on all night.  
There's no reason to actually.

CONSTANTINE ALEXANDER: That was  
the point.

RICHARD ROSSI: Yeah.

GEORGE METZKER: There are daytime  
events here and there are evening events and  
there might be some public service kinds of  
things that would be announced here that  
would be appropriate.

CONSTANTINE ALEXANDER: What do you  
think the high school would need?

GEORGE METZKER: Go ahead.

RICHARD ROSSI: I was going to say I  
would probably want to talk to them more or  
you know, maybe see what they propose for  
that. I would think that certainly it should  
be done by 11:30 at night at least. I would  
think there would be times it would go longer  
than that. Plus remember pretty much all  
summer long they won't be using it. You

know, unless maybe there's a Board of Zoning Appeal, they might want to put the Board of Zoning Appeal meeting at the high school. But I think, you know, in times when the school is closed, the sign won't be in use. So, you know, you might pose some general guidelines, that, you know, if there were any objections --

GEORGE METZKER: Let me describe a little bit about the impacts and Michael and I could also respond to.

This is the plan of the high school on Cambridge Street. This is the arts building. This is the Rindge building. This is the media caf, and this is the old Rindge building here. This is Felton Street.

This is the canopy in which the lighting occurs. And these are four different points along the street, which you have blowups of on your paper that show the views.

This sign is how far from the street?

UNIDENTIFIED FEMALE: Straight up to the street 70 feet.

GEORGE METZKER: 70 feet from here just to the property right along across the street it's 15 feet to the property line directly. And you can see from these various different points, this is 275 feet. It's right here. You can barely see it. And we've imposed the light on it although, you know, it would be relatively low lit in the daytime. You could see along various points along the street until you get over here, in which you're eclipsed from the angle of the canopy and you can't see it at all.

So there are five residences here that are in either direct line or somewhat acute line from the thing, but in distances from anywhere from 130 to 275 feet away. So I think that certainly reduces the impact in contrast to if something that were right on

the street across the street from the residences.

In terms of -- I mean, we have dealt with the neighborhood on any number of issues. The whole design of the plaza out here, the trees. All sorts of issues, and I think the high school and the neighborhood have a very constructive working relationship. The high school is certainly willing to continue that so that whatever is appropriate for this and any of the other high school issues, that these are issues that get discussed and would be agreed upon between the neighborhood and the high school. So, I can't give you times because I don't know what would be appropriate, but I think what would be appropriate --

BRENDAN SULLIVAN: I suspect that they --

GEORGE METZKER: -- would be what everybody agrees to.

BRENDAN SULLIVAN: You know, I suspect they don't have very far to go should there be a complaint or a problem with the sign.

GEORGE METZKER: Right.

BRENDAN SULLIVAN: It would be immediately dealt with I would suspect.

RICHARD ROSSI: This is about trying to create a good feeling between the community and the school. It's not a --

BRENDAN SULLIVAN: And aside from having the --

GEORGE METZKER: The Mid Cambridge Neighborhood Board member lives right here.

BRENDAN SULLIVAN: Besides having a school-oriented purpose, there's also a message board maybe to the citizens as far as snow emergency in effect or no school tomorrow to the students. And so that it goes beyond just what's happening in Fitzgerald Auditorium. Or the possibility

is there.

RICHARD ROSSI: Yes, community notices.

BRENDAN SULLIVAN: Okay.

MICHAEL BLACK: If I could just add as far as what we learned -- Michael Black, for the City of Cambridge -- as far as the hours of operation, as I was working with George and his team and the school, I did learn through this process that the high school, during the school year, is probably one of the most used buildings in the City of Cambridge. Pretty much at -- the custodial staff shows up at five. A lot of the cafeteria staff shows up around six, and the building is active until about eleven o'clock every night. And so, for those hours of operation, it's amazing. We're in the building right now and when I left just know, you'd swear to God that the school was in session there were so many people in the

building.

The other thing is that right now this building is the public can go in there in case of a disaster. So in that particular case, again, from a public safety standpoint, you can use some of the signage there to draw people in. We have --

RICHARD ROSSI: It's an emergency shelter.

MICHAEL BLACK: It's an emergency shelter.

RICHARD ROSSI: For hurricanes and stuff.

MICHAEL BLACK: So we have a very good building now to contain that. We have, you know, we even have air conditioning in certain areas. We have a kitchen. So, again, this could help draw people in in a disaster. And just to repeat what George has said, we do have a lot of signs on this property. I forget how many, but there's

many. And all of them conform. This is the only one we're having an issue with.

BRENDAN SULLIVAN: The letter in the file from the Mid Cambridge Neighborhood is dated August 18th and the review was on April 4th. So many months away. And I'm just wondering, George, if the sign that was proposed to them is the exact same that's being proposed to us?

GEORGE METZKER: That's correct.

BRENDAN SULLIVAN: Because there were some, obviously conditions that would be part of our decision in here. And no problem complying with this?

GEORGE METZKER: Correct.

BRENDAN SULLIVAN: Okay.

Is there anything else to add on this?

GEORGE METZKER: The only thing I'd note is that the sign as proposed is allowed in districts with which theatres are allowed, and so therefore it does conform to other

aspects of the code. But because of the circumstance of this being a theatre in a high school, which is an allowed use in a district where theatres are not an allowed use, that's the hardship basis that we contend.

TAD HEUER: Isn't that just the way the City Council wrote the Ordinance?

GEORGE METZKER: I'm sure it is.

BRENDAN SULLIVAN: Okay, let me -- any questions by the Board at this point?

CONSTANTINE ALEXANDER: No, I raised mine.

THOMAS SCOTT: Where is it controlled from? Where is the computer?

GEORGE METZKER: It actually can -- I'm not sure we've decided, but it can be controlled from any computer within the high school's network that has the sign access to --

THOMAS SCOTT: It could be changed

quickly if need be?

GEORGE METZKER: Yes.

THOMAS SCOTT: Or shut off?

RICHARD ROSSI: Shut off, yes.

BRENDAN SULLIVAN: Tim, any questions?

TIMOTHY HUGHES: No.

BRENDAN SULLIVAN: Tad?

TAD HEUER: I have many but I'll wait.

BRENDAN SULLIVAN: Let me open it to public comments. Is there anybody here wishing to comment on 459 Broadway?

(No Response.)

BRENDAN SULLIVAN: I see nobody in attendance.

There is a correspondence from the Mid Cambridge Neighborhood Association dated October 15th. (Reading) I'm writing about the above-referenced case on behalf of the coordinating committee of the Mid Cambridge

Neighborhood Association. We would like to publicly thank George Metzker for meeting with us about the CRLS signage on the Cambridge side of the (inaudible). We greatly appreciate the awareness that this might cause some concern for some Cambridge Street residents, but because of the angled placement of the sign, we have concluded that only a few would be potentially affected. While the MCNA did attempt to reach out to potential affected neighbors, we did not hear back from the vast majority. One person wrote back to say she thought it was a nice idea. The coordinating committee members concur and do not think it will propose a hardship to the limited number of potentially affected Cambridge Street residents. Further we have been assured that the sign can be turned off after performances which might, should mitigate any light impact on our neighbors. So while the full MCNA is not

endorsed or approved the sign, the coordinating committee would like to add its support for the proposed sign. Signed Joan Pickett, MCNA President.

On the letterhead of the Cambridge Public Schools from Elaine T. Koury, K-o-u-r-y, coordinator Visual and Performing Arts Department. (Reading) I'm writing to support the request for Cambridge Rindge and Latin to install a sign identifying the Fitzgerald Theatre on CRLS arts building as well as a programmable LED panel to announce upcoming student events. The sign will allow us to announce upcoming student performances to those members of the Cambridge community who might want to attend. Once again, we are honored to be finalists in the Massachusetts High School Drama Competition, and were recognized by Boston Magazine as being one of the best art departments for public or private in the

state. The sign will give us a way to let the whole city know of achievements like this.

On the letterhead from the Cambridge Public Schools from Jeffrey M. Young, Superintendent. (Reading) I am writing to support the request of Cambridge Rindge and Latin School to install the sign identifying the theatre on the arts building located on the Cambridge Street side. As you may be aware, the student, parents, and staff at CRLS are extremely proud of any of the aspects of the award-winning arts program. Installation of the sign will allow greater identity to the school and the arts program. I respectfully request your approval.

On the letterhead of the Cambridge Public Schools from Susan Holm, H-o-l-m, teacher in charge. (Reading) Enclosed are petitions signed by a number of individuals which total over 105. It is our hope these would be useful in our request for the

approval of the sign.

And from the Mid Cambridge Neighborhood Conservation District dated August 18th, the project proposal for 459 Broadway that includes an illuminated sign facing Cambridge Street was reviewed by the Commission on April 4th. At that meeting the Commission voted to grant the project of the Certificate of Appropriateness and did not take issue with the design or location of the illuminated sign. The only condition of the approval was that the school administration should limit the hours of operation for the sign taking into consideration the residential properties on the opposite side of Cambridge Street to ensure that it would not be illuminated at all times.

And there is a number of conditions attached to the Certificate of Appropriateness.

And I will end public comment at this

time.

Okay, anything else to add? Anything further?

GEORGE METZKER: No, thank you.

BRENDAN SULLIVAN: Any other questions at this time?

TAD HEUER: I have several.

BRENDAN SULLIVAN: Okay.

TAD HEUER: The letter from the Mid Cambridge folks suggests that the sign will be turned on, or it's their understanding -- (reading) suggest that we have been assured that the sign can be turned off after performances which will mitigate any potential light impact on our neighbors.

Is it your understanding that they, their understanding, is that the sign will be used for more than performances or do they believe that it's only going to be used only for performances?

GEORGE METZKER: I think when we

talked about it, we talked about many of them are parents, so they know that the theatre is the site of many different things. The evening ones are primarily performances, but they do have symposia and mastery classes.

RICHARD ROSSI: They have awards nights for the students.

TAD HEUER: But we've also been discussing things like public safety announcements and no school and what else is happening in the community. I'm trying to get a sense of is this a community notice board or is this an announcement for events in the theatre?

GEORGE METZKER: Its purpose is to announce events in the theatre.

TAD HEUER: But it would also -- would you -- would the city oppose a condition that it be used only for advertising events in the theatre?

RICHARD ROSSI: Well, I mean that

would limit how -- it may be that the community wants to see it for more notices. I would -- yeah, I would say I propose that.

TAD HEUER: All right.

RICHARD ROSSI: I mean, I agree, absolutely, wholeheartedly that it would be a limited use; meaning it's not going to be on every day of the week, every week of the year. It will be limited. But why would we not want to say something like school canceled with the date. Or, you know, awards night or something like that, that wasn't a play.

TAD HEUER: What about farmer's market in Harvard Square this weekend?

RICHARD ROSSI: I don't think it will be used for that.

GEORGE METZKER: If I could add, I don't think the high school certainly has an interest in those kinds of announcements.

RICHARD ROSSI: Right.

GEORGE METZKER: So there would be no intent in that, but the high school controls it.

TAD HEUER: Street closure on Broadway.

RICHARD ROSSI: No.

GEORGE METZKER: Well, I would think that --

RICHARD ROSSI: That sign would never be used for that.

GEORGE METZKER: Well, there was no intent to do that.

CONSTANTINE ALEXANDER: I think what Mr. Heuer is getting at --

GEORGE METZKER: If the neighborhood wanted that, it might be left to them.

RICHARD ROSSI: That's the question I would say, that the neighborhood at some point in time sees more value with the sign and might ask us to do something that we would

be limited to do. I think George's point this is not an operation that the high school is going to have 24 hours a day and have somebody sitting in the computer, putting up all kinds of signs and setting up a whole protocol. I think it has a limited use.

TAD HEUER: I think that's kind of my question. That, you know, what we've heard is that it's going to be a limited use sign, and I have no reason to doubt anyone here saying that is true. You've also said it could be controlled by anyone who has access to this computer. The distinction between your conception of what it will be used for and what someone who is able to run a sign would use it for, I submit it has the potential to vary widely. And that's something I think I would want to see strictly limited expressly by any Variance that we were to grant, because I would be opposed to this becoming a general purpose on frequently

used sign. I mean, their condition, if you look at 7.15 C, that limits signs in a residential area that are illuminated, that are shut off by eleven. I mean, I would, you know, certainly there are other restrictions that it would govern, very strict, but one of the things I would like to see if we do grant this, is that there be very strict restrictions on when it can be used, when it can be turned on, when it can be turned off. For instance, I would submit that if there's a performance that starts at seven at night, the sign doesn't need to be on at eleven. Everyone who wants to go to it is already in. You know, it probably could be turned off, you know, half an hour after curtain. And you've got, you know, I mean, I'm balancing the need to have a changing marquis that it's an illuminated sign that can be moving, not of which would be allowed by the Ordinance in the City of Cambridge.

GEORGE METZKER: Well, I would only add that the high school always works very hard that the relationships with the neighborhood are good and respectful. And there is a dialogue that constantly goes on there to the things that you're talking about are on their side. I don't think any of the things that you're talking about are unreasonable. I think it's just a question of whether you believe that that's something that could be left to the neighborhood and the high school or whether you wish to put reasonable restrictions on it.

CONSTANTINE ALEXANDER: If I can just pick up what Mr. Heuer's point that he was getting at which I was, too. I think one condition would be the sign would be used for school purposes and any other public -- any other purpose in the public interest. Not for just, you know -- like street closings, like, whatever. It's tied to something

specific. It's not, you know, carte blanche to use the sign for whatever you want. Recognizing that you probably wouldn't do that. But our job is to make sure that when people less reasonable than you are sitting in high school or City Hall, they use the sign for purposes of what it was intended. I think Tad agrees with me. I think one purpose is let's say what you can use the signs for and give you carte blanche, I would anyway, for any high school purposes. And then beyond that, compel -- some words, compelling public interest or a necessary public interest, and that would be the purpose.

The other question is we still haven't -- we've been dancing around, are the hours of operation there.

TAD HEUER: I'll get there.

CONSTANTINE ALEXANDER: I'm sorry?

TAD HEUER: No, go ahead.

CONSTANTINE ALEXANDER: Okay, the hours of operation. I keep hearing Mid Cambridge Historical said there should be hours limited. But I haven't heard any hours being proposed. I asked you for that, and you haven't given us anything. We're not trying to be difficult, but we think there need to be some guidelines. And we have to look to you, I think, in the first instance to tell us what works for you so we can react to that.

RICHARD ROSSI: I wouldn't want to see you say a half hour after the performance begins. I'll give you my same example.

If this were a baseball game, a high school baseball game, and if this were a high school campus where it was big enough to have a baseball field, you wouldn't shut the scoreboard off after the first half of the first inning.

TAD HEUER: But you'd still be using

it because there's a game; right?

CONSTANTINE ALEXANDER: You can shut the scoreboard off after the game over.

RICHARD ROSSI: There's no intent here to cause any aggravation to the neighborhood. This is about an educational program and just sort of creating a good experience for these kids. And I think that, you know, if you came up with something reasonable, like eleven p.m. is, you know, the latest time it could be on, I think they would do whatever they can to make that happen and not try and --

BRENDAN SULLIVAN: I don't see any -- to me I think it's going to self-police itself, if you will, that it's not going to get out of control, because I think that the neighbors will just pick up a phone and call. And I think that the matter will be taken care of. I don't think it's going to become a texting thing, if you will, where all of a

sudden somebody sits down and just spews out all this --

RICHARD ROSSI: We're not going to show the stock market.

BRENDAN SULLIVAN: Right.

And I think it's going to be -- I think, I don't have any concerns that it's going to step over the line or get out of bounds or become a nuisance. I don't. And I think that should it put its toe over the line, that a call to City Hall will correct it.

RICHARD ROSSI: I can assure you I've dealt with the neighborhood now around there for 20 years, from the library project and the war memorial project and the high school project. And they would be on our doorstep in one second if we were causing them any pain, believe me.

BRENDAN SULLIVAN: However, it's whatever you --

CONSTANTINE ALEXANDER: Well, I

mean I've said my piece. I don't know how other people feel. I don't see what the problem is. Mr. Rossi even agreed we can have certain hours that the lights can't be on. It should be off between eleven p.m. and six a.m., seven a.m. in the morning.

RICHARD ROSSI: I think that's reasonable.

BRENDAN SULLIVAN: So eleven to six?

TAD HEUER: Can I keep going?

BRENDAN SULLIVAN: I'm sorry, yes.

TAD HEUER: When you brought the sign up the first time, you said the sign was going to be -- or is capable and you've alluded to that this evening, capable of being in motion.

GEORGE METZKER: Correct. I said that tonight.

TAD HEUER: Right. Would you accept a condition that it not be a sign that moves, that it's a static sign that can be

obviously changed but that it doesn't scroll?

RICHARD ROSSI: We're hoping you don't vote that.

GEORGE METZKER: Well, then we did specifically talk about that with the neighbors and they did not have an issue with it in terms of what sort of impact that has on the neighbors. I guess in terms of both of these issues, if you wish to impose timelines and others or -- and say or as agreed upon between the high school and the neighborhood, to allow a little bit of flexibility for special circumstances.

TAD HEUER: What about flashing signs?

GEORGE METZKER: I can't speak for the users.

TAD HEUER: What about flashing? Tonight, tonight, tonight flashing sign.

GEORGE METZKER: It can do any of that. It can do any of that. It can scroll.

It can be very dim. It can be bright. So it is a computer controlled LED display.

TAD HEUER: All right. Here's if I'm being -- so the Ordinance has a couple of things that it doesn't allow. One thing it doesn't allow in 7.15 is moving signs, period. They're not allowed in the City of Cambridge at all except by Variance.

That the sections that you've cited, you've cited a section for, in terms of analogies, which certainly appreciated. You cited the section for cinemas. Cinemas obviously are not allowed in residential district.

GEORGE METZKER: Right.

TAD HEUER: Which in my mind to me you note that all the limitations are met by the proposal. First, I don't think that's true because you could move and that's not allowed.

And second, it's a residential district

so that's -- the raison d'etre of Zoning and they have different districts and they allow different things.

We note that it's a school, and I understand that and I certainly agree that the school should have some ability to advertise what it's doing, but in citing the provision about other non-profits get signs, there's also a clear condition that those signs have to be cloth or canvas. That section really doesn't apply to us either.

What I'm trying get at and get my mind around, let's say we grant the City of Cambridge an internally illuminated sign, neither of which is allowed in this district, and someone who doesn't have perhaps the compelling purpose, and I'm still kind of wavering on hardship here, but certainly I can see that the argument for one, theoretically. I'm not sure I see one practically here.

Someone comes up and says, you know, I've got something else, I'd like to have an internally illuminated sign in a residential district? I'm trying to see how I say yes to you and say no to them. Because I can certainly see the ERT would love to have a big moving sign and, you know, so would the AMC on Church Street and so would the Kendall Square Cinema. Everyone would love big moving signs, that's what draws people in.

I guess I'm trying to figure out in future cases that we see, not necessarily here tonight, but when I make a vote on this, how do I distinguish this case from a case that many people would say we don't want that because that's why we wrote these prohibitions in the Ordinance to begin with.

GEORGE METZKER: Well, I don't know that I can articulate that for you, but I would say that in this case, in the other sign, in the examples that you mentioned,

there is a commercial motive behind them whether they are non-profits or not. There is no commercial motive behind this sign. And this sign is there for the benefit of the children and students of Cambridge specifically. So there is a compelling public interest in granting this sign that is not in those other examples.

RICHARD ROSSI: And this isn't a particularly large sign. And I think in this case the homework was done with the neighborhood and the abutters to make sure that this isn't something the people are all upset about. I mean, in those other instances you cited, I mean, I have no idea what the neighborhood will be saying to you, what the abutters would be saying to you.

CONSTANTINE ALEXANDER: Mr. Rossi, the dilemma that Tad is trying to get at is you've talked to the neighborhood as it exists today and the abutters as they exist

today, the relief that you're seeking from us is perpetual. It's a variance in a future. Neighborhoods change. People may move in who have a completely different view about the impact of the sign. What we're trying to do, we're trying to do what's best for the neighborhood as it is today and future neighbors whatever they may be.

RICHARD ROSSI: Well, what I would say to that is that I worked for the city for 40 years and I have experienced firsthand on thousands of occasions what it's like for you who have lived there for ten years moves away or 20 years or 30 years or 40 years or 50 years and somebody moves in there tomorrow wants to move the basketball court, shut the lights off at eight o'clock. You know, have a city the take the tree out, all that stuff, we can't predict for that. I think we've done our due diligence with what we have. I can't predict for the future, but you can argue that

every time you vote a variance.

TAD HEUER: And we do.

RICHARD ROSSI: That  
people -- well --

TIMOTHY HUGHES: I don't. I don't  
make that argument because I think the  
difference is that these people are -- this  
sign is being imposed on the people that  
already live there. People that live into  
the neighborhood later, are coming in with  
their eyes open. They're buying their  
property with their eyes open as to what  
exists in the neighborhood. It doesn't mean  
that they won't want a change, but it's not  
like they don't know it's there, and, you  
know, so, they make their decisions.

BRENDAN SULLIVAN: We're not going  
to cater to or satisfy every whim that out  
there.

RICHARD ROSSI: I think what we've  
tried to point out here is that visually there

are very few properties that really will get to see this. I mean, you're going to have to really, really look hard and long to see it.

THOMAS SCOTT: I think he's right. I think the sign is on the property of the school, visible by the school community, and anyone who ventures onto the property to seek the sign. My, the only thing I would impose on the sign is the time limits. You know, during the school year, from seven a.m. to eleven p.m., but that's it. I don't see any need to impose any other limits on the sign.

TIMOTHY HUGHES: I think it not being scrolling would limit the amount of messaging you can do on a given event. I mean you're limited to a number of characters and then you'd have to change it, you know. What's the difference between scrolling and flipping it every few seconds?

RICHARD ROSSI: One of the things that I think the program is trying to achieve

is to give those kids in the arts program the real feeling of what it's like to be in a real theatre with this kind of experience. And, you know, walking up there and your parents seeing the, you know, might have who the actors and actresses are or whatever. You know, it's part of what they're trying to achieve in terms of the arts program.

TAD HEUER: Of course, if they were at any other theatre in Cambridge, they wouldn't have that opportunity because there are no places like that in Cambridge.

BRENDAN SULLIVAN: I think what's tainted and poisoned the waters is probably the GBH sign, and I don't see this anywhere near it. I don't think there's any correlation between it, that's all.

TAD HEUER: Well, the GBH sign I don't think, clearly looking at the photo sims which we didn't have last time.

BRENDAN SULLIVAN: Right. But I

think it's not shouting at you.

TAD HEUER: Sure.

Recently Section 7 of the Zoning Ordinance was taken a close look at by others, correct? City Council? Some substantial revisions were made and then were undone. Purely from our perspective where we take the Ordinance as written, the fact the City Council has looked at making changes to this Ordinance and then elected not to make those changes to the Ordinance, and we're back where we were status quo ante, doesn't that suggest to us that if the City Council had wished to, for instance, say public properties like, you know, the schools, the police stations, fire stations, are exempt from certain of these. You write in a new Section 7.30 that says signs on those entities are deemed for public purpose and they're exempt from Zoning. That didn't happen. The City Council's very recently

looked at the Sign Ordinance and elected to leave it the way it is for whatever reason. Why shouldn't that play into, why shouldn't that be even a stronger element than it would be otherwise that in the last year we've had the City Council looked at the Ordinance.

RICHARD ROSSI: I don't think this particular question with these unique circumstances was posed to the City Council. And just purely on conjecture, I would guess you get eight or nine votes from the City Council if that question were posed to them at that time. Would you approve of a sign like this at the Cambridge Rindge and Latin High School? I think that that would have been something they would have made a change to. But that question was not put to them. I don't think it was thought about.

TIMOTHY HUGHES: I think what I remember about it is that the City Council did make the changes and it had to rescind them

because they caved to public opinion, not because they weren't willing to do it. They revisited this Ordinance. They tried to rewrite it. And I'm not sure that what they rewrote was specific about this kind of signage anyway. It was more specific about commercial recognition on buildings.

TAD HEUER: And if they didn't, I think the concern is that they had the opportunity to do it and they didn't. From a legal perspective --

TIMOTHY HUGHES: Everything in the Ordinance --

CONSTANTINE ALEXANDER: I would agree with Mr. Rossi's point of view. I mean, I don't think we can draw any conclusions --

TIMOTHY HUGHES: Right. I don't think so either.

CONSTANTINE ALEXANDER: -- on the fact that the City Council didn't do

anything. It could be a whole host of reasons. The question was never put before them.

RICHARD ROSSI: They love the high school and they love the high school program and they're very supportive.

TAD HEUER: Well, I think my question is, is not the City Council the correct venue for getting it changed that would allow this rather than going through a variance process?

GEORGE METZKER: But we're not here under the -- we're not here trying to change the Ordinance.

TAD HEUER: No, I know.

GEORGE METZKER: We're here under what I think is a very clear example of where a hardship is warranted because of the particular intended use and the circumstances don't allow it in this particular neighborhood. That this is a

unique one time application of the high school. It's the only high school in the city. It's the only theatre like this in the city, and I believe it is exactly what variances are intended for if you should grant it.

BRENDAN SULLIVAN: I'm not sure that City Council would be able to draft anything that would be a one size fits all.

TIMOTHY HUGHES: Right. And I think the fact that we're here adjudicating the Variances is an indication that the Ordinance is not a one size fits all package. You know, we wouldn't be here if we could just cite, you know, chapter and verse in the Ordinance and say you can't do it, you can't do it. What would we be doing?

TAD HEUER: Right, and you need a hardship.

CONSTANTINE ALEXANDER:  
Mr. Chairman, I think the key for me, and I

agree with Tom, and I raise the point, too, I think we put in a condition regarding the hours of operation makes sense. Beyond that, maybe restricted the kinds of --

BRENDAN SULLIVAN: I heard 11:30 to 6:00 they should be dark.

CONSTANTINE ALEXANDER: I don't know why you need the sign on during those hours. I think beyond that I'm in favor of the petition.

THOMAS SCOTT: I think we just heard that the school hours are really from, certainly by seven a.m. the school is populated. I'm driving by there in the morning and I see it. And I know before that there are a lot of kids that are there.

TAD HEUER: So you would grant out of (inaudible).

BRENDAN SULLIVAN: Yes, right. So eleven o'clock.

TAD HEUER: Well, they've

advertised for 7.1. We can grant to 11:30 if we want.

BRENDAN SULLIVAN: Well, we can put a restriction of eleven o'clock.

THOMAS SCOTT: Are there performances that occur when the school is not in session? Like, during the summer? Or are there other troops that come in and do performances.

RICHARD ROSSI: No, no. I mean, they may have a summertime event like they have a summer camp, they may put on a performance, but that's rare. It's not a lot of them.

THOMAS SCOTT: Okay.

BRENDAN SULLIVAN: Anything else to add, questions or anything?

TAD HEUER: No.

BRENDAN SULLIVAN: Tim, any questions?

TIMOTHY HUGHES: I'm good.

BRENDAN SULLIVAN: Gus?

CONSTANTINE ALEXANDER: I've expressed my views. I'm in favor subject to proposing the conditions about hours.

THOMAS SCOTT: I'm the same.

BRENDAN SULLIVAN: Ready for a motion? Let me make a motion, then, to grant the relief requested for the installation of exterior signage as per the proposal and the plans and graphics as submitted.

The Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner.

The Board finds that the locus of the Cambridge Rindge Latin School, the high school, the high school is home to an arts program of significant scope and achievement, an integral part of the educational experience and the mission of the high school to further knowledge and to

prepare students to be better citizens by contributing to the civic and cultural life of the city. The Fitzgerald Theatre contributes to this end by providing a venue for students of the high school and other schools to attend or be part of a performances of drama, music, academics symposium, and conferences of interest. These are events are of benefit and interest to the high school community in particular, and to the City of Cambridge community as a whole.

The Board notes that the Fitzgerald Theatre, were it a commercial, stand-alone entity, would not be permitted in this particular Zoning district.

The Board finds that the Fitzgerald Theatre is a unique and beneficial component at this particular location, and that without relief from the strict adherence to the Ordinance, the high school would be unable to promote, inform, and celebrate the programs

of the students in a way that is beneficial and consistent with a vibrant arts program.

The hardship is owing to the fact that the Ordinance does not allow for the proposed internally illuminated marquis sign. The hardship relates to the existing unique geometry of the 1980's art building and a proper and aesthetically pleasing type signage to complement the arts program of the high school. The proposed sign is located well back from the street line and angled at such a manner and at a location on the building that provides an effective mitigation of various impacts that the Ordinance is otherwise intended to address.

A compliant sign would be ineffective and of no value and as such would impose a practical hardship on the program.

The Board finds that the relief being requested from the Ordinance is a fair and reasonable request.

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

The Board finds that the Fitzgerald Theatre serves the high school community and the Cambridge community as a public asset and is therefore not similar in purpose or operation to a commercial theatre and any signage associated with that that the Ordinance is intended to regulate.

The Board finds that the type, location, and design of the proposed sign results in a minimal impact and intrusiveness to the surrounding area.

Further the public interest is served by the proposed sign that actively displays information about educational activities at the high school, including public events and performances of a non-commercial nature.

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

The Board notes that Section 7.11.1 A and B notes that the Ordinance has been implemented to improve the aesthetic and physical appearance of the city, and to observe and enhance the substantial governmental interests of the City of Cambridge and its historical culture and aesthetic qualities.

This type of signage proposed is in keeping with the dramatic artistic and cultural events taking place at the school.

Public interest is further served by the specific nature of the proposed signage which is electronically controlled, can be dimmed, activated or turned off in accordance with the schedules that are agreeable to the neighbors. And as noted, is located to be minimally intrusive with regard to light and glare on any residences.

The Board also notes that letters from the Mid Cambridge Neighborhood Conservation

District and incorporates as part of its decision, also a letter of support from the Mid Cambridge Neighborhood Association and many letters of support contained in the file.

As part of the granting of this Variance, the Board will impose a condition that the sign be turned off, be dark from 11:30 --

CONSTANTINE ALEXANDER: I heard 11:00.

BRENDAN SULLIVAN: -- p.m. until 7:00 --

GEORGE METZKER: 6:30.

CONSTANTINE ALEXANDER: 6:30 a.m.

BRENDAN SULLIVAN: A.M.

Any other conditions? I'm sorry.

As per the plans and graphics submitted and initialed by the Chair.

You're not going to make any changes obviously at this point.

All those in favor of granting the relief.

(Show of hands.)

BRENDAN SULLIVAN: Four in favor.

(In Favor: Sullivan, Alexander, Hughes, Scott. Opposed: Heuer.)

BRENDAN SULLIVAN: Descending comments?

TAD HEUER: No.

BRENDAN SULLIVAN: Okay.

GEORGE METZKER: Thank you very much.

RICHARD ROSSI: I want to thank you. You did something really great for the students and the parents and faculty of that school.

TAD HEUER: Good luck.

(7:55 p.m.)

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

BRENDAN SULLIVAN: The Board will hear case No. 10147, 131-137 First Street. Is there anybody here on that matter?

Okay, if you would please introduce yourself for the record. And whoever is going to speak.

COLIN WEHRUNG: Colin Wehrung, C-o-l-i-n W-e-h-r-u-n-g.

DAVID CODY: David Cody, C-o-d-y.

BRENDAN SULLIVAN: Okay. I notice that in your pleadings here you said: Although the Petitioner has not filed under Article 6, the Petitioner intends to comply with as many sections as is realistically

applicable to this project. Which leads me to believe that you probably should file for relief under Article 6 and state, you know, what you can comply with and what you need relief from. I don't know if that has been pointed out to you or not.

CONSTANTINE ALEXANDER:

Mr. Chairman, I'm also concerned about the nature of the plans that are in the file. I don't think they meet our requirements.

BRENDAN SULLIVAN: As to information?

CONSTANTINE ALEXANDER: Well, I mean, it's sort of a concept plan. There are no dimensions. There's no siting of where the light poles are going to be. We typically, you know, if it were a building, we would never accept those kinds of plans to grant relief. I don't know how we can do it on something like this.

DAVID CODY: Did you get a copy of

the plans that were submitted earlier?

CONSTANTINE ALEXANDER: I don't know if it was in the file. Yes, that's what I saw in the file. But I don't see any dimensions on there. I don't see how big -- where things are going to be located. And where are the light poles?

DAVID CODY: The light poles are here, and it should have been what was also the filing for our first date dimensions that a lot of people have this one.

CONSTANTINE ALEXANDER: We don't have it in the files.

BRENDAN SULLIVAN: Let me say that I think that your concept is fine. It's just that, and I think we said this in the initial hearing, that it's new and we just want to make sure that we get it right. And there seems to be a little bit more -- less questions than we had the first time. But I'm not sure that we are really totally there

yet. And, again, with regard to what I think may be fatal, is a requirement to file under Article 6 parking because unless you can comply with it in toto, then you're not asking for any relief. If you're not asking for any relief from it and you say that you will try to comply with as many as possible, it seems that you're going to need some relief from Article 6 which is parking.

COLIN WEHRUNG: I'm not saying that we're not filing under that article, but in spirit of the parking lot article, I would try to meet as many of those requirements as possible because this isn't necessarily a parking lot.

TAD HEUER: So if you're not a parking lot, what are you?

COLIN WEHRUNG: I mean, I don't know what we are.

TAD HEUER: Because I don't think -- I see three options for what you

could be. You could be a buildable lot, and these are structures. I would suggest you really don't want to go there because then you're into a whole host of issues about, you know, what a structure needs to do and everything else. And the fact that you've now changed your proposal to say these structures are going to be moving in and out; right?

COLIN WEHRUNG: Once in the morning and once --

TAD HEUER: Right. So the fact that you now have vehicles on an empty lot I think makes you more of a parking lot than a structure lot because these are vehicles not structures. And I think that your other option is to go under the catch-all which we use literally once in a blue moon, probably less than a blue moon. Last time I remember us using it was for windmills prior to the Wind Ordinance, and that's something I don't,

I would not be in favor of.

I think your best shot here in terms of having to put what your plan is into somewhere in this Ordinance book is that you're a parking lot. If you're none of those things, I think I'm not sure we can grant anything because we don't know what you are and you don't fit into any category. If you don't fit into any category, there's no zoning that applies to you which means that it will be difficult for us to grant you a Special Permit or a Variance. I think your best shot is to call yourselves a parking lot, even though it's an unusual parking lot, because you are having vehicles enter and egress and remain situated for a fixed period of time and then remove themselves. And comply with the provisions of 6, Article 6 that deal with parking. And, yes, I understand that, you know, a lot of these things essentially you can do by right. Things you can't do by

right, that's why you need Article 6 relief, and that's something you need to receive. I think you need to advertise for that and ask for that item.

COLIN WEHRUNG: Well, not saying that we're meeting, you know, some of the provisions in the Article 6 parking lot rules, and we can say that part of this project we have to comply with what we spelled out in the plan.

TAD HEUER: But that's what everyone wants to do; right? You want to comply with by right and not what you can't.

COLIN WEHRUNG: I'm not trying to -- I mean, I'm not trying to skirt the issue. I'm trying to get to the meat of the bone to say, you know, how can I do this? Granted, you know, there's nothing for us to go on with the city.

Another issue for us is we're restricted with the lease that we have that

is, that we can't operate a parking lot on here and that's actually a restriction on the lease. So I don't know what the ramifications of that would be.

TAD HEUER: How is parking lot defined in your lease?

COLIN WEHRUNG: I guess how the city defines a parking lot.

BRENDAN SULLIVAN: Well, that would -- your deed restrictions is that you're not operating a commercial parking lot.

CONSTANTINE ALEXANDER: Yeah, I'm sure it's that. I don't think you're a parking lot for voting purposes would mean you're a parking lot for purposes of your lease.

DAVID CODY: I mean, after talking to the Traffic and Parking Department, technically if we had a permanent structure, which would have been here originally. We

would be allotted 20 parking spaces for employees of said that -- which is -- so you can't rent those parking spots out, according to the parking, rules that are in place now. So that's where that line sort of either gets crossed or it's a little blurry, because in essence it's, you know, these vehicles are more of a permanent structure than a vehicle. They will be there for eight to ten hours or more.

TAD HEUER: That's almost my drive to work. I drive to work, I park at eight in the morning and I leave at six at night.

DAVID CODY: If we didn't have to leave, as is by the laws of Massachusetts now as far as vehicles having to go to their commissaries, the trucks would like to be there. So I think that with the food truck industry expanding in Boston these kitchens really being commercial kitchens on the vehicles, those laws might change, but

obviously you can't go.

MAHMOOD FIROUZBAKHT: I don't know really know if there's a lot of use in going back and forth in discussing and arguing whether you should come back and apply to get relief under Article 6. I think you kind of need to do that to get passed this Board. So I don't think you can convince us otherwise. I think that was a concern we had last time. So I'd rather not take up the Board's time going back and forth with you, because you've gotta do it. If you want to do this, you gotta get relief under Article 6. You have to come back and reapply and it's got to be re-advertised. Quite frankly I think that's a benefit to you, because then you have more coverage given that this use is just so unique, and it's not clearly set forth, you know, in the code. I think it gives you more cover to have this additional relief so that if there's any doubt in the future whether

you've gotten the requisite relief that you need to do this very unique use, you know, you've covered your bases. So, I think that's where we're headed. Let's not waste that much more time arguing about it.

CONSTANTINE ALEXANDER: I agree with Mahmood.

BRENDAN SULLIVAN: I think it's probably just that you're going to have to sit down with Sean; is that correct, Sean? And just show either where they comply or don't comply with Article 6. And it appears that they're not in compliance with Article 6, and hence would have to seek some relief from one of the tenants of it.

SEAN O'GRADY: Yes. It's not like I didn't say it.

TAD HEUER: I mean, I think with that if you come back when, I think, as Gus mentioned, we would want to see a lighting plan. I think I would like to see a security

plan, at least in the front of the lot, and I think there absolutely needs to be -- and I'm not sure if we mentioned last time, I'm fairly certain we did, there needs to be some kind of template, contractual agreement that you're going to have with each of your vendors that memorializes everything that we would be asking you to do if you were the fast food entity. So we have all these findings we need to make, you know, everything from, you know, how you dispose of your trash, we use every effort to put biodegradable materials, and things like that. Usually as we discussed last time, we grant that to the vendor. Right? Here you're acting as kind of the middleman umbrella for that, and you're gonna be licensing essentially sub-entities under our Special Permit to vend. We would need to see an assurance that in granting you a Special Permit, they would be compliant, required to comply or their

contract would be invalid with everything that we're requiring you to comply with. I'd probably go forward and require that every time you got a new vendor, you recorded that against your deed. But we would -- I would personally need to see something like that because this is, like, Mahmood has said, so unique in a situation where you're getting -- fast food operators were not the actual permittees from the Board, I would personally like to see that level of iron-clad assurance as to how they would be held to the conditions that we're imposing on you.

CONSTANTINE ALEXANDER: And just to follow up a little bit on that. One of your dilemmas, if we grant relief, we're going to impose on all five conditions as you can tell. And as Tad has pointed out, you're going to have to get all of your trucks, people to agree to comply with those conditions. If

one of them doesn't, breaches this agreement with you, our Variance is going to be yanked. You're going to be in breach of contract to everybody else because they're not going to be able to operate anymore. That's the dilemma with your business model. You should think that through because that's your problem. You could be put into jeopardy by one of your tenants breaching its agreement with you. And you've done everything you could do, now we're going to shut down every other vehicle on your lot and you're going to have your hands full dealing with those people because you're going to be in breach of contract with them. Just think this through, guys.

MAHMOOD FIROUZBAKHT: I don't want to sound negative because actually -- I go to food trucks at downtown Boston all the time. So I like the idea. I like the concept, you know, and I'd like to see it done right. And

I think that's kind of what we're getting, at because it hasn't been done before, you know, we want to make sure that you get the requisite approvals and you do it correctly. And so if you're willing to go through that process, then, there's definitely, you know, a hope for this kind of a project.

BRENDAN SULLIVAN: We're trying to help you. I know you're saying, well, you're not being, you know, you're being difficult. No, we're not being difficult. We have to get it right, that's all. It's very different than what we're used to with fast food. It's usually tied to a specific operator. And we've got six different operators. And now we've got six different operators and we just have to get it right. That's all. And for your sake, also, it's got to be legally tight anyway. And so, I think what you're hearing is that we need to have one more go-round with this thing. Sit

down with Sean and find out exactly what is missing and then tidy up that part of it if you will.

DAVID CODY: Okay.

BRENDAN SULLIVAN: I mean, there's I think some sympathy here for what you're trying to do. We just have to get it to right, that's all.

Sean, what -- how much time -- when did -- let me ask you, when did you want to operate or get operating?

DAVID CODY: April.

BRENDAN SULLIVAN: April?

SEAN O'GRADY: We've got January 12th?

BRENDAN SULLIVAN: Anything before that, December?

SEAN O'GRADY: 1st. You've got December.

BRENDAN SULLIVAN: December 1st?

SEAN O'GRADY: Yes. You've got

three cases on December 1st.

BRENDAN SULLIVAN: Can we do  
December 1st?

CONSTANTINE ALEXANDER: Brendan, do  
they have to re-advertise?

TAD HEUER: Yes, they have to  
re-advertise.

BRENDAN SULLIVAN: Well, I'm just  
thinking of continuing this.

DAVID CODY: We have to re-file then  
under Article 6? We discussed that a while  
ago and that's why we didn't -- we'd have to  
start from scratch.

BRENDAN SULLIVAN: This is just to  
continue this particular case anyhow.

DAVID CODY: Right.

COLIN WEHRUNG: If we're not going  
to be able to go forward than what are we  
continuing to?

BRENDAN SULLIVAN: Well, at least we  
can continue this so that we keep this one

active. At least it has a beating heart so that you don't want to get into repetitive petition problems. So we want to keep this one active. If there was another one that tidies up all the loose ends, then we hear that one and then this one goes away after that, that's all.

TAD HEUER: And that being said, when I looked at your narrative, it seems at least in my read through, that you were saying the only violation of Article 6, and there may be others that arise and will make this not relevant, the only violation you had was on the side lot lines of a five-foot buffer. And, you know, if there's a way that you can say we can do that by right, we can make a five-foot buffer and re-organize where the truck spots are or whatever it is, and that's the only Article 6 relief we needed. And if we don't need that because we've made a change in the plan that allows us to do it by right,

you can come back and operate under this same petition. It's only if you actually need it, you say there's no way I can make this scheme work unless we get relief under Article 6 that you would need to re-advertise and do what you need to.

Does that make sense?

DAVID CODY: Yeah, I can answer that question right now. We applied with the fire department and if they're going off to Boston but the vehicles remain ten feet from each other.

TAD HEUER: Okay.

DAVID CODY: So if we were to move things closer in as far as an ability, for instance, for a fire truck to get in and out of the lot, it's not required. We wanted to go a little above and beyond because of the safety concerns to make sure safety vehicles can get in there. So if we end up going by those five feet, then we're done.

TAD HEUER: I understand. Okay.

BRENDAN SULLIVAN: Anything else?

I guess my suggestion would be to mark this up for December 1st.

SEAN O'GRADY: Okay.

BRENDAN SULLIVAN: And have a conversation with Sean as soon as possible. December 1st, does that work --

DAVID CODY: Sure.

BRENDAN SULLIVAN: -- for you guys? Okay.

Let me make a motion, then, to continue this matter to December 1, 2011, at seven p.m. on the condition that the Petitioner change the posting sign to reflect the new date of December 1st, time of seven p.m., and that the sign be maintained as per the Ordinance which is 14 days prior to the hearing. And that any changes or additional information be in the file by the Monday at five p.m. prior to the December 1st hearing regarding this

particular petition. If that's another petition, that's another whole matter. And Sean will help you through that, too.

So, on the motion to continue this to December 1st?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor of the continuance.

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

(8:10 p.m.)

(Sitting Members:

BRENDAN SULLIVAN: The Board will hear case No. 10166, 5 Western Avenue. Whoever is going to present, if you would please say your name and address and spell your last name for the record.

JOHN WOODS: My name is John Woods. I work for the Cambridge Housing Authority. The Cambridge Housing Authority's address is 675 Mass. Ave. here in Cambridge. The Cambridge Housing Authority is acting on, as a development agent, on behalf of the City of Cambridge to redevelop the former Cambridge police headquarters at 5 Western Avenue.

I'm joined tonight by my colleagues from the Cambridge Housing Authority, Kyle

Sullivan, Terry Dumas is in the back, as well as Michael Black from the City of Cambridge. And I see Rich Rossi is here, too.

In addition I'm also joined by Nancy Goodwin from Feingold, Alexander and Associates who is providing the design services for this exciting project. I'll be very brief in terms of describing what we're planning on doing at the 5 Western Avenue site. But what we're hoping to accomplish is to turn a vacant city-owned former Cambridge Police headquarters into a location for -- long-term location for the Cambridge Housing Authority as well as a series of city agencies. We'll do this by -- and we'll accomplish this by preserving the historical nature of the building, and also creating an energy-efficient structure. In fact, we're going for gold LEED standard on this particular property.

So in addition to the Cambridge Housing

Authority moving in the refurbished property and using it as its headquarters, there will be two city agencies that will move from another location within Central Square over to this property. Those agencies are the Cambridge Multiservice Center and the Cambridge Learning Center. In addition, there will be storage space made available for the Cambridge Elections Commission.

So we're here tonight, we're here before you tonight to seek relief for an increase of FAR to allow us to construct 1822 square feet of additional floor space within the structure itself, and to seek a Special Permit related to the reduction of parking for those 1822 square feet.

As you know, in June we requested and received a Special Permit from the city's Planning Board for the restoration of the building into the uses we're describing. That Special Permit provided us the

authorization to develop 59,670 square feet of the 61,498 square feet we intend to develop, to accommodate the needs of the CHA and the city agencies.

I'll turn over the presentation of how and where this extra floor space works into the design of the building, and then obviously we'll be available to help answer any questions that you might have. So I'll turn it over to Nancy Goodwin at this point who will take you through the process for the extra space.

NANCY GOODWIN: It's not a lot of square footage we're adding, but it's a very important amount of square footage to satisfy the programming needs for the Cambridge Housing Authority. They're going to be located on the top two floors of the building and one of the areas we are claiming. This is the existing auditorium in the building. It's a high, very high space. More than

double height. This is the part when you look at the outside and it has the portholes along the street, and it's an opportunity to develop what we're referring to now as a loft, because we have another mezzanine in the building, of approximately 1800 square feet in that volume. We're keeping it open around so that we still have the area of volume of the space, but inserting this piece to accommodate ten people in the conference room.

It's an FAR change from I think 4.22 to 4.36.

JOHN WOODS: That's correct.

BRANDON SULLIVAN: Any questions?

TAD HEUER: Can you talk about, and it's directly what you were just talking about, but I think it mentioned the porthole question? I was just looking at the elevations. Can you tell me what's happening with that, that upper level of the

roof? Because it looks like on one it looks like the parts are being removed. Is it getting removed and replaced or is there a different roofing that's going there?

NANCY GOODWIN: Well, we're sharing the mansard roof of the building basically. Yes.

TAD HEUER: Okay.

NANCY GOODWIN: The copper roof. Most of the windows in the building have already been replaced. We'll be repairing the portholes.

JOHN WOODS: And we're working Charlie Sullivan throughout the process and actually very happy with the opportunity to restore some of that ornamental ironwork.

NANCY GOODWIN: I also brought along a rendering of what it's proposed to look like. So you can see it actually helps the volume of the space, I think, to produce this new office area for the Housing Authority and

we've kept it open, as I've said, around the perimeter so we still feel the volume but you have the space.

CONSTANTINE ALEXANDER: What was the space used for when it was the police department, this area?

NANCY GOODWIN: Well, originally it was an auditorium for another group that was in the building. Most recently they were using it as a gym. It was a gym exercise space.

TAD HEUER: This is a somewhat unusual question that you don't frequently hear from the Zoning Board. But is there a reason why you didn't try to put more, maybe it's just the spaciousness I'm seeing to the left. Is there a reason you didn't try to get more space in that mezzanine by pushing it out toward the back wall?

NANCY GOODWIN: Code.

TAD HEUER: Okay.

NANCY GOODWIN: Code limits the space.

TAD HEUER: Okay.

BRENDAN SULLIVAN: That space is of no value -- the present space is of no value at all to the proposed tenants.

TAD HEUER: The double heightness of it?

BRENDAN SULLIVAN: Right, the height of this.

And you, however, do have a need for some more office space. At the current building as -- well, obviously you can chop it all up anyhow, but you need to capture this space, not use all of it, but to some degree to create more office space.

JOHN WOODS: That's correct.

BRENDAN SULLIVAN: Because you're three city departments moving into this building.

JOHN WOODS: That's correct.

There's actually ten work stations created by having this additional square footage as well as a conference room that is needed for the CHA use.

BRENDAN SULLIVAN: Okay.

TAD HEUER: And what's the handicap accessibility of the new --

NANCY GOODWIN: There's a new elevator that will go from the basement to this added floor.

TAD HEUER: Oh, okay.

NANCY GOODWIN: So it will be fully accessible. This is the site of the current elevator location and we're replacing it with a new elevator.

The Housing Authority is actually using some of the attic space, too, as storage. And so we're maximizing the space for them that we can. So but this is the only used space.

TAD HEUER: Could you talk about the

other half of the petition, the parking element, and just walk us through, you know -- certainly I think we know that at least for the record, you know, it's in Central Square. You're close to other means of transportation that are not, you know, automotive driven.

JOHN WOODS: Exactly. We had a traffic impact study actually as part of the Planning Board Special Permit process. Although I think you all are aware of the fact that the Central Square Overlay District provides a waiver for the parking requirements, there are 13 spaces in the basement that will be newly lined out in accordance with today's standards. But the vast majority of the information that we got from the traffic impact study showed a dramatic decrease in terms of the traffic impact from the former use as a police station.

CONSTANTINE ALEXANDER:

(Inaudible).

JOHN WOODS: Yes, yes, it was very dramatic. But in addition to that, both the CHA and the city agencies all have programs currently and will incorporate them into future uses that encourages employees to use public transportation, that encourage employees to bring bicycles to the workplace. In fact, that's part of the LEED gold requirement. So there will be showers as well as bicycle set-asides.

In addition, the ZipCar is also utilized currently and will be continue to be utilized. So the hope is by moving all three of these agencies from other parts of Central Square into this Central Square location, there will be very minimal impact on the traffic.

CONSTANTINE ALEXANDER: Sir, do you have a lot of clients -- I don't want to refer

to them as clients, but people that come to do business to do business with you, come to the CHA or is it mostly --

KYLE SULLIVAN: What we have are residents who come and fill out applications. People who come to recertify Section 8.

CONSTANTINE ALEXANDER: And having a central location in Central Square for your operations with the access to public transportation is really furthering the public good.

KYLE SULLIVAN: This is keeping us in a more permanent place.

CONSTANTINE ALEXANDER: You will be able to discharge your responsibilities and benefits more effectively having the location here with the space you need.

JOHN WOODS: Absolutely. Three steps from the Red Line is very important. Both the clients, as well as the staff, who use the public transportation quite a bit.

NANCY GOODWIN: There are a great number of bus lines as well.

BRENDAN SULLIVAN: Currently you're at 675 Mass. Ave., 166 Prospect, and 119 Brookline. And you have leased parking spaces which total 24. The building, you're proposing to have 12. Do you maintain any of those other parking spaces or will you abandon those?

JOHN WOODS: No, I assume we'll continue to at least try to find alternative parking spaces, not those in particular. At 675 those spots are actually connected to the lease arrangement.

BRENDAN SULLIVAN: So those will be abandoned?

JOHN WOODS: Right. So we're in the process now of trying to identify additional parking spaces.

BRENDAN SULLIVAN: And the 24 that you currently lease, they're totally

utilized?

JOHN WOODS: Yes, I would say yes.

BRENDAN SULLIVAN: Okay. So the 12 that are gonna be proposed in the building will be obviously more than utilized and looking for other spaces to accommodate --

JOHN WOODS: Yes.

BRENDAN SULLIVAN: -- mostly staff I would think; is that correct?

JOHN WOODS: Yes. There will be some adjustments necessary for, you know, staff for both the CHA and obviously for the city agencies. But, again, there's plenty of other options available from the public transportation.

BRENDAN SULLIVAN: And there was no other area that you can increase the parking spaces within the building?

JOHN WOODS: No.

BRENDAN SULLIVAN: It's 12?

JOHN WOODS: Yes.

BRENDAN SULLIVAN: Okay.

JOHN WOODS: And, again, the fact on the FAR issue, too, one of the things that we sort of were committed to was making sure that we weren't making any negative impact in the existing historic property. So we're making everything work within the walls that are there.

BRENDAN SULLIVAN: Right. It's totally interior anyhow, what is proposed?

JOHN WOODS: Yes.

TAD HEUER: And you're zero lot line on all sides; right?

JOHN WOODS: Right.

TAD HEUER: So even if you wanted to put things elsewhere on your lot, you have no more lot?

KYLE SULLIVAN: Right.

BRENDAN SULLIVAN: What is the date of the building?

JOHN WOODS: 1933.

BRENDAN SULLIVAN: Okay. So it predates whatever we have before us?

JOHN WOODS: Yes. I think 1941 was....

BRENDAN SULLIVAN: Correct.

Any other questions?

(No Response.)

BRENDAN SULLIVAN: Let me open it public comments.

Is there anybody here who would like to speak on the matter at 5 Western Avenue?

ATTORNEY ROBERT SNYDER: Yes, I would.

BRENDAN SULLIVAN: Please identify yourself for the record.

ATTORNEY ROBERT SYNDER: Yes. My name is Robert Snyder. I'm an attorney. I'm here with Michael Simon who is a general partner of Central Liberty Partnerships which owns and operates several abutting buildings to this location. Now, I suggest

to you that we should start thinking about this, on the Central Square Overlay, which gives this Board specific instructions to be very careful about making any changes to Central Square. And I suggest to you now that I don't think there's enough information that you have to construct Special Permit conditions that make sense. Now, I know that you've heard tonight that there's a representation that this building will be used less intensely than the police station. And I suggest that that is not correct. If you look at this building in the way it's designed, it has a lot of little office spaces. There are a lot of employees there. They're also going to have a lot of people coming for housing for filing applications. That's not the way a police department runs. I have personal experience with the Boston Police department, their headquarters are not run that way. Police departments people

tend to come, you know, in waves and then leave.

Secondarily, one of the things that you're asked to do here is to approve the mezzanines. That makes the building more intensive because there's going to be more square footage in the building now than it was when the police station was there. So that is a logical inconsistency. And by the way, we have no objection to this building being modernized, being improved, being expanded inside. We're here because, because every car that's added to the parking area around Central Square is going to decrease the parking spaces for our tenants in the square.

So, my basic point is, let's not rush into this. You say that there's a, there's a traffic study, but it's from the City of Cambridge. You know, we -- members of the Board, you took an exam they required this year on conflicts of interest.

Massachusetts is very specific about conflicts of interest. By definition, a traffic study from the City of Cambridge may be competent but it has a conflict, built in conflict of interest, and I think it's unreliable for that purpose. Now I think that prior to the time you act on this before you can construct sensible Special Permits, I think there should be an independent parking study and traffic study paid for by CHA so that you will have better information on what's happening.

Now, I heard you suggest that in addition to the 12 spots, they should get some accessory spaces. Two points on that:

If they get accessory spaces that are generally available now, then they've deducted spaces that Central Square has used prior to this time. If they get accessory spaces that I think that they should, then the spaces should be additional spaces then

already exist. I mean, without looking at the Ordinance, every by-law, Zoning By-Law, every Ordinance that deals with parking, when we read it, says one per bedroom, one per two employees, and whatever it is. Those standards have come down to us based on years and years of experience in hundreds of thousands of cases of municipalities that have to deal with parking.

Now, if you know, you looked at the Ordinance and you'd say well, you should have 20 spaces for this building and the amount of people in it and the difference is 12 to 20, well that's not such a great -- but you're dealing here with a small percentage. The most -- if this building was decided on a straight parking requirement, you'd need like 60 to 70 spaces. I mean, the amount of spaces here of 12, and even bringing in 26, is minute compared to what it is. So, I suggest that you really need to look at this

as a factual basis, considering how sensitive the area is, and get an independent study on what's really needed and then construct Special Permits and requirements for parking additional to exist --

CONSTANTINE ALEXANDER:

Mr. Snyder, are you aware, have you seen the report of the Central Square Advisory Committee?

ATTORNEY ROBERT SNYDER: No, we didn't have notice of it and we haven't see the traffic report. I understand, Mr. Alexander, but it comes from the City of Cambridge.

CONSTANTINE ALEXANDER: Now, wait a minute, our Zoning By-Law is setup, we have a whole procedure with respect to how we're going to have developments take place in Central Square. And the Zoning By-Law contemplates this group, which is not a function of the City of Cambridge, it's an

advisory committee to be the watch dogs, provide the information that you say we need to have. They provided us that information. So I'm a little puzzled why given the report of the Central Square Advisory Committee, why we need more?

ATTORNEY ROBERT SNYDER: I haven't seen that. That wasn't provided to my client.

JOHN WOODS: I'm more than happy to share that with you.

BRENDAN SULLIVAN: Hold on.

ATTORNEY ROBERT SNYDER: And that was not provided to my client ahead of time.

BRENDAN SULLIVAN: It's all in the file.

CONSTANTINE ALEXANDER: It's all in the file.

BRENDAN SULLIVAN: And it's subject to review for at least the last month.

ATTORNEY ROBERT SNYDER: I saw your

file, and I didn't see any of that report in here.

BRENDAN SULLIVAN: Well, it's here. And it's been available as far as, you know, we not having enough information, we have enough information. I would proffer that you don't have never information to comment.

ATTORNEY ROBERT SNYDER: I admit that we did not get the information prior to this time.

BRENDAN SULLIVAN: Okay. Well, again, I'm not going to --

ATTORNEY ROBERT SNYDER: My client got notice just last week that this hearing was on.

BRENDAN SULLIVAN: Okay. All right. Thank you.

Anybody else?

RICHARD ROSSI: Richard Rossi, the City of Cambridge. I just want to point out the City of Cambridge did not do a traffic

study for this project. I think John can explain to you how that was done. So it's not a bias study by the City of Cambridge. And in terms of parking, for all the years the police department was there, we had about 230 personnel, most of whom who drove to work. They're all gone from Central Square. They used to take up a great number of spaces in the Green Street garage which I think now opens it up to a lot of public parking because you don't have police officers going in there every shift. That used to be a 24-hour, seven-day-a-week operation and that ceases with this project. We were able to take, right on Green Street, right opposite Mr. Simon's property right on Green Street, we took spaces that were dedicated only to police parking and put in metered parking. So all businesses I think gained by that. I think this project has a much, much less of an impact in terms of parking on the Central

Square area. I think it's a win for Central Square.

BRENDAN SULLIVAN: Anyone else like to speak on the matter?

MICHAEL SIMON: Yes. Michael Simon. I'm in the square a lot and I talk with tenants, and we've been through a terrible recession and a number of our tenants, you know, economic times have changed since the police station was there. And those parking spaces that, you know, we've had a lot of parking since the police station moved out, we've, you know, we've enjoyed it. And the businesses, small businesses that are struggling to survive are very, very worried about, about what's going to happen when those parking spaces are gone again. And specifically trying to pick up furniture, there's a furniture store across the street. We're trying to -- people trying to provide important services to the

community. I think we're in a different time now and it's hard to compare the time when the police station was there, because it's much harder on the tenants now. It's much harder on small businesses than it was, and I think it's a much more important issue than it was back then.

BRENDAN SULLIVAN: Thank you.

Anybody else wish to comment on the matter?

(No Response.)

BRENDAN SULLIVAN: I see nobody.

There is correspondence from the Central Square Advisory Committee. (Reading) On June 28th Central Square Advisory Committee reviewed the proposed development plans for the former Cambridge Police headquarters. This development proposal is being submitted to the Cambridge Planning Board. The project will not create an expansion of the building footprint, but will increase the FAR from 4.22 to 4.36 with the addition of a new

mezzanine above the fourth floor. Members of the Central Square Advisory Committee strongly support the project as a very positive usage for the site and consider it a win/win project for the city as it improves and brings activity to a much needed site and consolidates and allows of expansion for existing programs. Overall the committee fully supports this project as a wonderful addition to Central Square.

There is correspondence from the Planning Board dated October 24th. (Reading) The Planning Board granted a Special Permit for the restoration and renovation of the Cambridge Police Station into office space for the Cambridge Housing Authority, the community learning center and the multiservice center. Their decision is attached. This proposal has been reviewed and found to be an appropriate reuse of the existing building. The Planning Board

supports the Variance request for the new common areas as a significant improvement to accommodate the agencies that currently are located in Central Square in less than optimal spaces.

And that is the sum and substance of the correspondence.

Okay. Anybody else acknowledge the receipt of the traffic study?

Okay. Is there anything else you want to add?

JOHN WOODS: I did clarify that we did pay for a private firm to come in and do a traffic study at great expense.

BRENDAN SULLIVAN: Again, and the matter that is before us is not the building in toto but in fact the fourth floor in-fill.

JOHN WOODS: Okay.

BRENDAN SULLIVAN: And what impact that 1800 and some odd square feet will have on Central Square.

JOHN WOODS: Yes.

BRENDAN SULLIVAN: Let me close that part of it.

Gus, any questions?

CONSTANTINE ALEXANDER: No, I have no questions. I am in support of the petition. I would go back to the Zoning Ordinance which says the Central Square Overlay District that we're -- that we were reading from 20.304.13 E, it states and it's expected that in making decisions regarding Special Permits and Variances within the overlay district, the Board of Appeal will give due consideration to the report and the recommendations of the advisory committee.

And it doesn't say we have to follow them, but we're supposed to give due consideration, and we actually have to correspond with the committee if we don't agree with them.

I think this is the independent

watchdog that our city intended with respect to the district. They have done their job. They've given us a report, positive. We also have the recommendation of the Planning Board. So the bodies that are of this, of the community which are responsible for planning, all support this. And given that, I have trouble disagreeing with them. So I'm going to vote in favor.

BRENDAN SULLIVAN: Tom?

THOMAS SCOTT: I'm all set.

BRENDAN SULLIVAN: Doug?

DOUGLAS MYERS: One question.

Considering the report of the advisory committee, what will be the process or the policy regarding the use of a public use of conference space?

JOHN WOODS: We will make the -- there's a large conference room, boardroom actually for the Cambridge Housing Authority on the third floor which we'll make

available on a, you know, scheduled basis for the public to use. It's primarily going to be used for Cambridge Housing Authority uses, but if other public agencies would like to use it, people can certainly make it available to them.

NANCY GOODWIN: Fourth floor.

JOHN WOODS: Fourth floor.

DOUGLAS MYERS: What about the general public?

JOHN WOODS: Well, I can't say that we would say no, but we don't necessarily think it's going to be made available or -- we're not going to seek out opportunities to allow it to be used. We feel that there are other spaces that may be more appropriate for them within Central Square. Of course, as a member of the Central Square Community, we'll certainly work with a group who may be interested in it.

DOUGLAS MYERS: So it's not your

policy that the general public would be excluded?

JOHN WOODS: That is correct. That is correct.

TAD HEUER: Do you have anything else?

DOUGLAS MYERS: No further questions.

BRENDAN SULLIVAN: Tad?

TAD HEUER: No. I think it's a very sensitively designed project. I think it's a great adaptive reuse of a major building in the middle of Central Square. I think it's an intelligent use. I think you want to be balancing, you know, the mix of certainly governmental functions with commercial and non-profit functions in that area, but given that you're currently spread all around, you know, this area, you know, it's not like you're drawing people in from very far away. You're just far away enough to create

problems I imagine in terms of  
coordination --

JOHN WOODS: That's right, yes.

TAD HEUER: -- and still have them  
all in a single place, not only to serve the  
public very well, because they have  
essentially a one stop shop for all these  
things, it allows to coordinate your staff  
better. It means that you also are freeing  
up some of these other sites for uses that may  
be appropriate in just one of these places,  
or you can abandon them if you don't need  
those leases anymore.

JOHN WOODS: That's correct.

TAD HEUER: Which I think that's  
also to the public benefit.

JOHN WOODS: Yes.

TAD HEUER: I also think it's  
important that the Board understand, and I  
think we do that, you're asking for two  
different types of relief. You're asking

for a Variance, which is the higher standard for the space. And I do think having this double height essentially useless headroom in the building that you can't use for anything else, but would have to pay to heat, particularly if you're looking at gold LEED certification. You've got all kinds of problems dealing with, you know, an auditorium that is in a building that doesn't need one. Or a gymnasium where the building doesn't need one. I think the standards for a variance are met because you do have a hardship that you've got a lot of wasted space in something where it can very easily be used in a very sensitively designed addition that doesn't expand the footprint or do anything else.

And the parking issues that we're discussion are actually under the Special Permit standard. That's a lower standard. And the Ordinance says that we should be

granting those unless we find a reason that we shouldn't essentially. And here I think the fact that, you know, as you've discussed, you have the traffic study. I would agree that the intensity of the use is going to decrease dramatically from the police station. You know, you're no longer 24/7. You're no longer multiple shifts. You're no longer, you know, coming in and out with all kinds of automotive uses, non-automotive uses. You have people arriving in the morning and leaving. And you do have people coming in to use your services, I would suggest, you know, maybe marginally more if you're a police station, but certainly not outweighed by way of the fact that you have headquarters of a major urban police department there that's no longer there. And I think the fact that you have the Red Line literally on your doorstep, as well as numerous bus routes on your doorstep, and I

would imagine that many of your tenants, particularly if you were Section 8 tenants, aren't necessarily people -- they're living in Cambridge perhaps because they don't have a car because it's much easier for them to get to work and using public transportation. I don't think you would have, you know, a huge amount of influx of visitors coming by car or both because of the nature of the circumstances and because of the ease of the transport that you would be providing. All of which I think is the public good. And I think for all of those reasons while certainly hear, Mr. Simon's concerns, and I would encourage you to work with him on those aspects and with his tenants, I think the project as a whole certainly meets for both of its standards both of the tests that we would apply and I would be in favor of it.

BRENDAN SULLIVAN: Sounds like a motion.

Let me make the motion to grant the relief requested as per the application and the plans contained therein to construct a mezzanine fourth floor level that would increase the FAR from an additional eight -- I'm sorry, it would increase the floor area an additional 1820 square feet.

The Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner.

The Board notes that the structure was originally used as a police station which has been abandoned, and the building is in need of major overhaul and abating processes which would be financially prohibitive unless the building can be made more efficiently used by the addition of this particular interior space. The planned joint reuse of the building by the City and the Cambridge Housing Authority for uses at the site is

jeopardized if the use cannot be properly accommodated. Resources above the City and the Cambridge Housing Authority are necessary in order to accomplish the project. The project becomes financially unfeasible if the projected uses cannot be accommodated because of inadequate space and the joint development cannot proceed as planned.

That hardship is owing to the fact that the building, built in 1933, predates the Zoning Ordinance and is non-conforming so that any additional floor area would require some relief from this Board.

The Board finds that the building is an unusual structure and has the existence of an auditorium at the fourth floor level with an extremely high ceiling which has become of no value whatsoever and can be better used to be captured for office space.

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 or purpose of the Ordinance, and also finds that is compliant with Section 20.30, the Central Square Overlay District requirements.

And the Board notes the letter from the Planning Board and from the Central Square Advisory Committee in favor of the project.

All those in favor granting the relief as per the plans submitted.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

BRENDAN SULLIVAN: Regarding the parking, which is a Special Permit, the Board finds that the -- let me make a motion to grant the relief from the parking requirement at 5 Western Avenue.

The Board finds that the requirements

of the Ordinance can be met.

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

In fact, the Board finds that the proposed use would be less intense than the previous use as a police station.

[The] Board finds that continued operation of or development of adjacent uses as permitted with the Zoning Ordinance, would not be adversely affected by the nature of the proposed use, and that there would not be any nuisance and hazard created to the detriment of the health, safety or 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 districts or otherwise derogate from the intent and purpose of the Ordinance.

All those in favor of granting the Special Permit for the reduction of the parking.

CONSTANTINE ALEXANDER: Did you touch on all the things on the 6.35.1?

BRENDAN SULLIVAN: Which one?

CONSTANTINE ALEXANDER: I just want to make sure.

BRENDAN SULLIVAN: Which one, Gus?

CONSTANTINE ALEXANDER: I'm trying to find it. The parking. The Special Permit, it was under 6.35.1. Let's just look at it for a second and see what....

BRENDAN SULLIVAN: I was trying to incorporate all his findings.

The Board finds that the requirement of 6.35.1 can be met to reduce the amount of required parking. The availability of surplus off-street parking in the vicinity of the use being served by the Green Street garage, also the proximity of the MBTA rail

and bus lines are available.

CONSTANTINE ALEXANDER: Just to go further back into the earlier part. Based on the findings you made earlier, we make a determination that the lesser amount of parking will not cause excessive congestion, endanger public safety, substantially reduce parking availability for uses or otherwise adversely impact the neighborhood.

So I think we made all those. I just want to reiterate we made -- the evidence that you've cited before supports the findings that I suggest we will make.

BRENDAN SULLIVAN: If we incorporate 6.35.1 in the decision.

Okay. All those in favor of granting the Special Permit for the reducing of parking?

(Show of hands.)

BRENDAN SULLIVAN: Good.

(Sullivan, Alexander, Heuer, Scott,

Myers.)

(8:50 p.m.)

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

BRENDAN SULLIVAN: The Board will hear case No. 10167, 5 Callender Street.

Would you please introduce yourself and spell your last name for the record.

DAVID GIBBS: David Gibbs,  
G-i-b-b-s.

JOSE MENDEZ: Jose Mendez,  
M-e-n-d-e-z, director of marketing and outreach.

BRENDAN SULLIVAN: Okay.

DAVID GIBBS: We are requesting relief, and I'll be quite honest with you, I'm not exactly sure what we are requesting relief from, but we have been advised that we need a variance in order to conduct a winter farmer's market in our gymnasium.

CONSTANTINE ALEXANDER: The issue is the gymnasium is located in a residential district and you're a business and that's why you need a variance.

DAVID GIBBS: Yes.

CONSTANTINE ALEXANDER: Just for the record.

BRENDAN SULLIVAN: And what brought the community center to this point of offering a farmer's market? What's spurred it on?

DAVID GIBBS: Sure. An ongoing effort on our part to serve the needs of the community in as wide a variety of ways that we can. You may know that we have a large

facility which is essentially empty on weekends, and this idea, I don't remember the exact genesis of it, I know that Jose is one of the first people who said to me, hey, how about this? The more we thought about it, the more it seemed like a great way to address several of the concerns that we have at the community center.

No. 1, we'll be able to assist local farmers with their business.

No. 2, we'll be able to bring in fresh produce, healthful food into a neighborhood that has a lot a low income tenants in the immediate vicinity.

No. 3, we can play off of the market to offer things like preventive health classes, nutrition classes, cooking classes, parenting classes around healthy eating kids.

BRENDAN SULLIVAN: All tied in food related?

DAVID GIBBS: All tied in food related, exactly. We already run a diabetes support program which focusses heavily on eating habits, lifestyle issues as it relates to diabetes. And this just seemed like a really great way to tie in the whole lot of these things.

CONSTANTINE ALEXANDER: Did you consider any other locations in the City of Cambridge?

DAVID GIBBS: We did not at first. And we haven't considered any other specific locations. The main reason, honestly, is because we have the space that's available to us. There are some drawbacks to this space, and Mr. Rossi has been extremely helpful to us in working issues around traffic, parking, snow removal, that sort of thing. I won't deny for a minute that there might be a better space somewhere in the city, and we would certainly be open to thinking about that in

the future, but rather than wait and take the time, and frankly the expense, we're not a wealthy organization, so taking the time and expense to explore other venues, we felt that it was relative to try it here and see how it goes.

BRENDAN SULLIVAN: Are there other farmer's markets? I know there's one in Charles Square and I know there's one in Main Street and all the way down to the T.

DAVID GIBBS: That's right.

BRENDAN SULLIVAN: Are there any others that you know of?

DAVID GIBBS: There are -- in Cambridge and Somerville there are, I believe, ten farmer's markets.

CONSTANTINE ALEXANDER: Summer. That's the key. But not in the winter.

DAVID GIBBS: In the winter there is one in Somerville on Highland Avenue.

CONSTANTINE ALEXANDER: But none in

Cambridge?

DAVID GIBBS: Correct, there are none in Cambridge.

BRENDAN SULLIVAN: That's what I was getting at, your application is somewhat unique.

DAVID GIBBS: Correct.

BRENDAN SULLIVAN: Where it is indoors and where it would not be available to the community, your proposal would be during probably a much more needed time if you will.

DAVID GIBBS: Yes, that's right.

CONSTANTINE ALEXANDER: Have you considered the fact that given in the summer, there are markets everywhere so most people can walk to the market in their neighborhood.

DAVID GIBBS: Right.

CONSTANTINE ALEXANDER: This is going to be the only winter market for the whole city. So people are more likely -- you

might either attract people driving to use it --

DAVID GIBBS: We --

CONSTANTINE ALEXANDER: -- and that exacerbates parking issues. Did you give any thought to that?

DAVID GIBBS: We have definitely given thought to that. We are going to do everything we can to discourage people from driving. We are going to be very explicit in our publicity to that effect. At present we do not have any dedicated parking for people to use. And the neighborhood, as you probably know, is a fairly, you know, tightly packed neighborhood already. So, we, have however, gone to all of our neighbors. We've had a community forum at the center asking them to come and give us their feedback on that. And the feedback is uniformly they're in favor of this happening. We are -- I'm sorry, we're --

CONSTANTINE ALEXANDER: Go ahead.

DAVID GIBBS: The idea has been suggested that we approach a couple of other businesses that have parking structures in the neighborhood; Harvard University has an underground structure under the park at Memorial Drive and Western I believe. And there are a couple other possibilities. But we don't, we don't honestly have that for customers. We are paying a great deal of attention to parking for the vendors themselves, and our plan is that the vendors will drive up in staggered shifts on Saturday morning. We'll have volunteers there to help them quickly unload their trucks. The trucks will then go to a designated parking off-site and then will return at the end of the day.

CONSTANTINE ALEXANDER: Going back to customers. Is it not true that you're a reasonable walking distance from the T?

DAVID GIBBS: We're seven minutes to public transportation.

CONSTANTINE ALEXANDER: So, therefore, you have public transportation that minimizes the need for people to drive.

DAVID GIBBS: Yes, absolutely.

TAD HEUER: That's seven minutes in the summer.

CONSTANTINE ALEXANDER: Say again?

TAD HEUER: That's seven minutes in the summer.

DAVID GIBBS: We call it nine in the winter, yeah.

CONSTANTINE ALEXANDER: Slip and slide.

DAVID GIBBS: Depending on how well Western Avenue is cleared off.

BRENDAN SULLIVAN: So is your service entrance basically on Magee Street?

DAVID GIBBS: The main entrance for the market will be the Howard Street

entrance. There's no entrance on Magee Street.

BRENDAN SULLIVAN: Howard Street, I'm sorry.

DAVID GIBBS: Howard Street, yeah. It will be the Howard Street entrance. Although we will have an additional entrance on Callendar Street. And we'll probably have folks coming in on both of those entrances.

TAD HEUER: How many vendors do you expect to have or do you have a cap?

DAVID GIBBS: We have a cap based on the size of the gymnasium and what we can reasonably accommodate. We have 18 booths, booth spaces. Some vendors may choose to take up two or three spaces, so 18 is really our maximum.

TAD HEUER: And one of the things, I had the same concern, like, I love farmer's markets. I shop them all the time. The

question I have is really on this traffic and parking, particularly in the winter, where, you know, obviously that area, as you've said, very tight in terms of the street width. You know, I guess it's a two-way street, but it's really not a two-way street. And I think I'm okay in terms of people coming, because I think people will recognize that. And if you live in Cambridge, you know that there's no parking anywhere so you shouldn't expect to find it. My question is can you walk me through, not what the minute-by-minute, but how you're going to get the vendors in and out particularly in a winter scenario where there might be, you know, one or two spaces there designated snow dump spaces, so you're already taking spaces off the street and things like that.

DAVID GIBBS: Great points. We're actually not taking spaces off the street. There is space between the Howard Street line

and our gymnasium that's -- we can make a big snow pile there. And we've been talking again with the city about specifically clearing off that full section of Howard Street and dumping the snow on our property so that it's out of the way. So we'll have the clear loading and unloading zone right on Howard Street, right outside the gym door. Two or three trucks at a time pull up. Volunteers and farm workers unload the trucks right into the gym. Those trucks go away and the next one comes.

TAD HEUER: And I don't want to make this sound like a ballet. Are you going to be coordinating -- I can imagine everyone trying to get in to get their 8:30 spots.

DAVID GIBBS: No.

TAD HEUER: Are you going to have them staggering where you radio them in and say --

JOSE MENDEZ: Basically, exactly.

From the start of the market, we're anticipating the start time at ten a.m. We'll have vendors come two at a time between eight and ten is when we're going to be staggering those vendors two or three vendors at a time. What's going to be critical is having the volunteer portion to make sure they get their stuff out, sort of drop it off fast and vendors goes in the truck and just goes. And we're already also speaking with Lesley University, MIT, and as well as some of the local high schools that we have the volunteers to make that happen smoothly and quickly.

TAD HEUER: Okay. I mean, I guess the coordinator there will tell your vendors if you're slotted for 9:30, you can't show up at 9:15 just because you're here.

JOSE MENDEZ: That's actually already accounted for in the application. It's stated very clearly their spot may not

be available if they arrive late or early.

DAVID GIBBS: If they don't play by that rule, they're not going to be selling.

TAD HEUER: Right. And where is your off-site parking during the day for them? Is that going to be -- I mean, are they far away? Or are they just --

JOSE MENDEZ: Well, I mean, currently we'll introduce Mr. Rossi about possible parking.

RICHARD ROSSI: So we're looking at several scenarios. One is some parking at the school, the King School and also down by Corporal Byrnes side of the park. So there's one whole side of the park there that we would restrict for truck parking for that time.

I mean, the other thing I just want to mention about the snow clearance. So we had suggested that they speak with the neighbors because of they could coordinate this in a friendly way. In the end it's going to be a

bonus for the neighbors because once the market is done on Saturday afternoon, there will be a cleared area because they can park there because it is tight down there. We recognize that. We're going to try to work with them. This is something that the city really sees as a goal. The City Council have been meeting on this for the last year and a half, not just this idea, but trying to find venues for a winter market and they came to us and we thought this was a great opportunity.

TAD HEUER: And I guess, not to say this isn't a good set for it, my other question is have you thought about the King School? It's the same neighborhood, you've got a bit more space to play with, you know, you have parking --

JOSE MENDEZ: That is true. Sure. During the winter months the King School already has programs on the weekends during

that time.

DAVID GIBBS: Not to mention the fact that they're soon to do something substantial to that building. So, or at least in the next couple of years.

RICHARD ROSSI: They'll be back to talk to you about it.

DAVID GIBBS: Different application.

BRENDAN SULLIVAN: Okay, any questions?

CONSTANTINE ALEXANDER: No questions.

BRENDAN SULLIVAN: Mahmood?

MAHMOOD FIROUZBAKHT: Could you talk a little bit more about the vendors, you know, who do you -- do you have folks lined up?

JOSE MENDEZ: Actually, we sent out the application on October 1st to all known vendors and required kind of a mass mail, 60

plus vendors. At this point we have 11 vendors who have sent in their applications who are ready to go for the season. We're anticipating at least nine or ten more vendors who are going to apply within the next couple of weeks. We're going to be going over those applications assessing what they're going to be offering for the market and letting them know whether or not they've been accepted into the market.

DAVID GIBBS: The goal is to get a good balance of, you know, first produce, second other locally produced items like meats, cheeses, you know.

TAD HEUER: So what you're trying to limit the number of leaks that people are bringing from their winter gardens?

DAVID GIBBS: Actually I think in terms of turnips and kale myself. We'll get a nice variety in there. We're going to allow some produce to be brought in from out

of state. There are some of the farmers have suggested that they might want to source products from elsewhere that because of our climate they can't produce them here. The restriction we're putting on that is that whatever they bring in from out of state has to be of a type that could be sold in a similar local farmer's market there. So you won't see Sunkist oranges. You might see an organic orange grower from a small farmer in Florida. Don't know yet.

CONSTANTINE ALEXANDER: So you're not going to be a mini Whole Foods.

DAVID GIBBS: Correct, correct, correct.

And incidentally Whole Foods has been very supportive of this idea. They don't see us as competition which I'm very grateful for. They've been very wonderful about that.

JOSE MENDEZ: They will be giving

healthy eating presentations.

DAVID GIBBS: That's right. They've already signed up to help us do presentations.

TAD HEUER: Do they want to donate any parking spaces to your vendors?

DAVID GIBBS: That's pushing it.

BRENDAN SULLIVAN: Does this have to go before Licensing also?

JOSE MENDEZ: We've already approached Licensing as far as whatever. We are planning to and things of that nature. I already have documentation.

BRENDAN SULLIVAN: That's another level?

DAVID GIBBS: That's right.

The individual farmers have to do whatever they need to do in terms of their own -- the way these are structured, they have to get their own permits to sell whatever they're selling. They have to comply with

state laws on labelling and that sort of thing.

RICHARD ROSSI: ISD. They all get permitted by Inspectional.

DAVID GIBBS: They all get permitted.

CONSTANTINE ALEXANDER: They have to do that now anyway for the summer markets. So it's not like there's anything new is going on.

DAVID GIBBS: Yes, that's right. But. Yes, we are in communication with Licensing about whatever we need to do for this.

BRENDAN SULLIVAN: All right. Let me open it public comments.

Is there anyone here who want to comment on case No. 10167, 5 Callender Street?

(No Response.)

BRENDAN SULLIVAN: I see no one in attendance.

There is correspondence on the letterhead of the office of the Vice Mayor. (Reading) I support the Variance needed to operate a farmer's market on Saturdays in the community center gym from January 7th through April 28th. While Cambridge has thriving farmer's markets during the summer and fall, there has been a great deal of interest in a winter farmer's market for the city. This is an excellent opportunity for Cambridge residents to buy fresh fruits and vegetables during the winter months. The winter's farmer's market in Somerville is very popular and residents of Cambridge will benefit from having access to one in their own city. In the Council order I have asked the City Manager and city departments to work with the community center to address the issues of parking and snow removal. I hope the BZA will grant the Variance. Thank you for your consideration. Henrietta Davis, Vice Mayor

of the City.

There is a Council order dated October 3rd in City Council. (Reading) The Cambridge Community Center is actively working to establish a winter farmer's market at 5 Callender Street this year, and now therefor be it ordered. The City Manager be and hereby is requested to ask all appropriate city departments to work with the Cambridge Community Center to solve problems such as parking, snow clearance, and other matters. Adopted on the affirmative vote of nine members no less. Signed by Margaret Drury.

There is a correspondence from the Planning Board dated October 24th. (Reading) The Planning Board reviewed the application for a winter farmer's market on Saturdays in the gym from January to April. The Planning Board supports this request as a neighborhood-focussed opportunity as a

terrific use that will have minimal impacts. The Board also supports the locally-focused agricultural activities.

And that is it. We'll close public comments.

Any comments or questions from the Board at all at this point?

CONSTANTINE ALEXANDER: No questions. I've got a comment. I am like Tad, I am very much in favor of what you want to do. I support the farmer's markets particularly in the winter. However, as you've identified, this site does have some problems. And I think it's probably incumbent upon us just to grant the Variance, and I think we should, put a time limit on it to see how it works. I would suggest two years. Go through two winters and we'll see if there are any problems. And at the of two years there are no problems, they can come back and we can give it in perpetuity. But

I think we should have a little testing period to protect the community.

BRENDAN SULLIVAN: Any problems with that at all?

DAVID GIBBS: I don't have a problem with that at all. I think we're in as much of an experimental mode at this as --

CONSTANTINE ALEXANDER: Yes, let's see how it works.

DAVID GIBBS: Absolutely.

BRENDAN SULLIVAN: That entered my mind, also.

THOMAS SCOTT: How have you addressed trash removal? What will you do about that?

DAVID GIBBS: The farmers are required to remove their own trash.

THOMAS SCOTT: They are?

DAVID GIBBS: Yes.

THOMAS SCOTT: So nothing is left behind?

DAVID GIBBS: Nothing is left behind. I mean, you know, from our own workshops and activities, there will be trash. But we have adequate means to deal with that.

BRENDAN SULLIVAN: You have the same operation as any other farmer's market except it's indoors, on Saturday, in the winter.

DAVID GIBBS: In the winter, yeah.

BRENDAN SULLIVAN: Mahmood, any questions?

MAHMOOD FIROUZBAKHT: No questions. It seems like it's very well thought out.

BRENDAN SULLIVAN: Tad?

TAD HEUER: Only a comment on what Gus has said. That the actual petition is for a farmer's market starting January 7, 2012, through April 28, 2012. So they've asked essentially time limited themselves. Do we want to be granting for an additional year beyond what's requested? Can we? It's

six of one, half dozen of the other. I'm just pointing out --

CONSTANTINE ALEXANDER: You only asked for one year? I didn't realize that.

DAVID GIBBS: Only one year.

CONSTANTINE ALEXANDER: You're right. You're right I didn't see that.

DAVID GIBBS: We don't mind coming in for a year. We can come back again, not a problem.

RICHARD ROSSI: We can come back again. That's one way to do it.

TAD HEUER: So you'll know if it's a workable space.

DAVID GIBBS: If this turns out to be a nightmare for everybody, we'll be looking hard for another place.

BRENDAN SULLIVAN: Should you want to re-up, though, you should mark down Labor Day as an application time and push to the head of the class, but at any time rate not

wait until October for a January 13th or something like that.

DAVID GIBBS: Sure.

BRENDAN SULLIVAN: All right. Let me make a motion to grant the relief requested for the operation of a farmer's market to be used on Saturdays in the gym of the Cambridge Community Center starting January 7, 2012, through April 28, 2012, between the hours of eight a.m. and four p.m.

The Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner and also to the community at large.

The Board finds that the mission of the Cambridge Community Center is to offer a wide range of social, cultural, educational, recreational activities across generation lines to foster positive human values and promote community cooperation and unity.

The winter farmer's market will allow residents of all income levels; farmers, non-profits, and businesses to reap significant benefits relating to food and nutrition.

That one of the primary focuses of the winter farmer's market is to provide access to high-quality, nutritious food to EBT users.

The winter farmer's market will create a presence that allows the Cambridge Community Center to provide funding for programs such as the double EBT coupon program. Without the requested relief, the Petitioner will be unable to offer these benefits to the community.

The hardship is owing to the fact that the proposed use is not allowed under Section 4.35 A without the use of a Variance.

The Board finds that desirable relief may be granted without substantial detriment

to the public good. In fact, the testimony and the letters in support both from Planning and the Vice Mayor and from the Deputy City Manager have attested to the fact that the public will benefit greatly from the proposed use.

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

The Board finds that this is a Variance for a one-year period as per the application.

Any other comments?

All those in favor of granting --

TAD HEUER: You may want an additional finding that its value is that it is in a residential neighborhood and that to the extent that they were forced to limit themselves only to areas that were zoned for this purpose, it cannot effectuate the purpose that the Board believes is intended to effectuate.

BRENDAN SULLIVAN: And it might be out of the reach of the community for which it is intended to serve.

TAD HEUER: Correct. And it is highly time limited both in times of length and day of the week Variance and that's a proportionate response for the Board to make.

CONSTANTINE ALEXANDER: And further, that the premises they're going to be using or it's not used for residential purposes. There is already a non-residential use and all you're going to do is make use of that.

TAD HEUER: Right.

BRENDAN SULLIVAN: All those in favor of granting the Variance?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor. Motion granted. Thank you.

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

(9:10 p.m.)

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

BRENDAN SULLIVAN: Is there anybody  
here interested in 2500 Mass. Avenue?

The Board will hear case No. 10168, 2500  
Mass. Avenue. Please introduce yourself for  
the record.

NICK HALL: Good evening. Nick Hall, construction manager for the Marino Center at 2500 Mass. Ave.

CARMEN PASCARELLA: Carmen Pascarella. CFO.

BRENDAN SULLIVAN: There is correspondence here requesting a continuance until December 1st. Is that doable? Or should we go the 15th?

SEAN O'GRADY: Both the 1st and the 15th, you have four on one and three on the other. It's up to you.

BRENDAN SULLIVAN: So the 15th would be more doable?

SEAN O'GRADY: The 15th is more doable than the 1st, yes.

BRENDAN SULLIVAN: Is that okay?

NICK HALL: The continuance is requested by the neighborhood association.

BRENDAN SULLIVAN: So it is there, anyhow.

CONSTANTINE ALEXANDER: Brendan, I just have a question. Am I correct that the sign that you're seeking permission for is already up?

NICK HALL: Correct.

CONSTANTINE ALEXANDER: Under the circumstances, I think we should make it very clear, at least in my view, this case will not be continued beyond that date, up or down. Because otherwise you're going to get the benefit of the relief without us granting the relief. You don't come in here with clean hands to start with.

NICK HALL: I was going to address it tonight.

CONSTANTINE ALEXANDER: I'm not crazy about giving them as much time to continue the case.

CARMEN PASCARELLA: We were going to deal with it tonight, but we met with the North Cambridge Stabilization and they asked

us to postpone the hearing.

CONSTANTINE ALEXANDER: I just want to go on record I will not support further continuances.

BRENDAN SULLIVAN: Right. It has to come off on the 15th.

The other thing I want to talk about is this submission, which I mean you might as well have handed it in to us on black paper because it is almost indistinguishable. I would like it to be --

NICK HALL: I have a color version.

TAD HEUER: We're the people making the decisions so give us your best stuff and save the copies for somebody else.

BRENDAN SULLIVAN: Right.

NICK HALL: I don't know how that -- I know color copies went in. Did no one get color copies?

TAD HEUER: No.

BRENDAN SULLIVAN: No.

Either you can submit that now. You have copies of it now?

NICK HALL: Yes, I have copies of photos.

BRENDAN SULLIVAN: That will supersede. We have other copies. It's just that this was almost ineligible to be reviewed.

Okay, on the motion, then, to -- well, let me read into the record. There was correspondence, (reading) As discussed on the phone today, the Marino Center is requesting a continuance on our hearing in front of the Board. We would request to move to your December 1st meeting if that is doable. Thank you and please let me know if you need any other further information. Carmen Pascarella, chief financial officer of the Marino Center for Integrative Health.

So on the motion to continue this matter to December 15th, on the condition that the

Petitioner change the posting sign to reflect the new date of December 15th, and time of seven p.m. And that the sign be maintained as per the Ordinance which, you know, 14 days prior to the hearing.

Sean, a decision, do we know that? The date?

SEAN O'GRADY: The date required by 11/25.

BRENDAN SULLIVAN: So if you would sign a waiver to the requirement you have a hearing date prior to December 25th, then we can continue it until December. By statute we have to hear it within a certain number of days. And the December 15th would be outside of that hearing date, that's all. So that I would ask that you sign, as the Petitioner, a waiver to that, that's all.

TAD HEUER: And can I also ask a question? On the photo simulations that you have submitted, there's a demarcation of

current and new. Given that the sign is up, I'm not sure what the difference between current and new is. If it's intended to distinguish between something other than what's there, I would make that clear.

NICK HALL: Current is stating it's -- so you have those color photos, but you didn't get the color --

TAD HEUER: Right.

NICK HALL: I'm just saying that's the current situation showing the sign and the lighting is new. That's what I was indicating.

TAD HEUER: Oh, the lighting is new?

NICK HALL: Yeah. Both the sign and the lighting.

TAD HEUER: Okay.

NICK HALL: Double arrow I think there is there, yeah.

TAD HEUER: Okay.

BRENDAN SULLIVAN: Okay. And if

there's any changes to the application, that it be in the file by five p.m. on the Monday prior to the hearing of December 15th so it's available for public review.

All those in favor of continuing this matter to December 15th.

MAHMOOD FIROUZBAKHT: This is a case not heard, correct?

BRENDAN SULLIVAN: Case not heard.  
(Show of hands.)

BRENDAN SULLIVAN: Five in favor.  
See you then.

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

(9:15 p.m.)

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

BRENDAN SULLIVAN: Anybody here  
interested in 725 Concord Avenue at all? The  
Board will hear case No. 10171, 725 Concord  
Avenue.

(No Response.)

BRENDAN SULLIVAN: The Board is in receipt of correspondence from Katherine Rafferty. (Reading) Mount Auburn Hospital respectfully requests that our case 10171, originally scheduled to be heard before the BZA on 10/27, not be presented at that hearing. The hospital shall continue to work with the Planning Board to present a plan that addresses their concerns, while at the same time meets the needs of the patients, family members, and caregivers who have medical appointments at this facility. It is our desire to re-file this application in the early part of 2012.

So a motion to continue this matter. Also they have -- she has signed a waiver. Motion then to continue this matter until....

SEAN O'GRADY: The 12th or 26th of January.

BRENDAN SULLIVAN: Whatever.

SEAN O'GRADY: Call it the 12th.

BRENDAN SULLIVAN: The 12th.

TAD HEUER: Are they planning on re-filing?

SEAN O'GRADY: I'm not exactly sure as to what's going on. I'll check. I think she misspoke.

BRENDAN SULLIVAN: I'll make a motion, then, to continue this matter to January 12th -- is that correct?

SEAN O'GRADY: Yes.

BRENDAN SULLIVAN: -- 2012, at seven p.m., on the condition that the Petitioner change the posting sign and maintain the posting sign -- change the posting sign to reflect the new date of January 12th and the time of seven p.m., and maintain the sign as per the Ordinance, which is 14 days prior to the hearing. And also that any changes to the submittal be in the file on the Monday prior to the hearing of January 12th.

All those in favor of granting the

continuance.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

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

(9:20 p.m.)

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

BRENDAN SULLIVAN: The Board will  
hear case No. 10169, 208 Lexington Avenue.  
If you please, whoever is going to speak,  
introduce yourself and spell your last name  
for the record if you will.

MARK WAGNER: My name is Mark Wagner. I'm the architect for 208 Lexington Avenue for Mary Lou Jordan and Peter Harris. You want my address?

BRENDAN SULLIVAN: Yes. Whatever you --

MARK WAGNER: I live in Cambridge Massachusetts, 5 Malcolm Road.

This Special Permit proposal is requesting an addition of a bedroom and a bathroom on the first floor, and a removal of a second floor bedroom at 208 Lexington Avenue. The addition will be one story with a bathroom and a room labelled sun room, but for now it will be a bedroom for Mary Lou and Peter's five-year-old son Nathan. When Nathan is older, he will be able to move to a second floor bedroom, allowing the sun room to become a breakfast room or a garden room. A closet will not be built, that may or may not make it a bedroom in terms of the

legality.

Nathan is presently sleeping in the dining room right now because things are tight and Mary Lou cannot get to the second floor because of her handicap.

A new side exit to the dining room will be added with three steps and a landing so this will allow easier egress to the grade rather than the eight steps that come up to the front right now. And it can be ramped in the future.

Additionally, Mary Lou and Peter would like to remove their two car garage and much of their driveway to create additional garden space. This will increase the lot open space as well.

This house became non-conforming because of the smaller than allowed side yard setbacks in 1943 when the Cambridge Zoning Ordinance came into effect. If the right side of the house was three foot further from

the lot line, an additional 644 square feet could be added to this house then what this proposal is proposing right now. This application for Special Permit is in reference to the 8.22.2 C, the Zoning Board of Appeal may grant a Special Permit for the alteration or enlargement of a non-conforming structure provided any enlargement or alteration of such non-conforming structure is not of further violation of the dimensional requirements. This proposal complies with all dimensional requirements. And the non-conforming structure must not increase an area or volume by more than 25 percent since it first became non-conforming, which was 1943 when it, when the Zoning code came in.

In 1943 the area of this house was 2,108 square feet with a 25 percent increase that would allow 2,635 square feet for this house. The floor area of this proposed renovation is

2,599 square feet, 36 square feet less than allowed. This proposed renovation conforms to all the Zoning By-Laws in every respect. And this proposed renovation is very important for my clients because of Mary Lou's handicap which I'll let the attorney talk about it a little later. But for Mary Lou, Peter, and Nathan to live in this house, the way houses are used often changes over time. I was told that the room Mary Lou and Peter were using for their bedroom on the first floor was used by Mrs. Mahoney the previous owner also as a bedroom. So I mean, it's not uncommon that people who live on the first floor when handicaps cause, you know, a need for that.

You know, Mary Lou, Peter, and Nathan plan to remain in this house for many years. So this seems to me to be a pretty reasonable request and a pretty modest addition. You have the plans although I can show you them

if you want to talk about them. Should I talk to you about them?

BRENDAN SULLIVAN: Mark, just to clarify something.

MARK WAGNER: Yes.

BRENDAN SULLIVAN: The reason why you're here is the house is non-conforming.

MARK WAGNER: That's right.

BRENDAN SULLIVAN: And having to do with the right side, pre-existing condition. It's four foot, five now.

MARK WAGNER: 4.5, yes.

BRENDAN SULLIVAN: And the requirement is --

MARK WAGNER: It's seven and a half.

BRENDAN SULLIVAN: Seven and a half. And you have to add up to 20. The addition that you're proposing is compliant with setback?

MARK WAGNER: It's totally compliant. It's eight feet from the lot

line. They're not even making it.

BRENDAN SULLIVAN: And all of the other requirements are in compliance?

MARK WAGNER: That's correct.

BRENDAN SULLIVAN: Okay. That's all.

MARK WAGNER: Just to also fill in a little bit on this, I spoke with the abutting neighbor Mike Mahoney several times and gave him the plans that you have right here as well. And after several conversations, I don't believe the Mahoneys want any changes to what was their house. They sold the house to Mary Lou and Peter last year. So, I just don't know that there's going to be any resolution to this, but we're asking for your consideration on this.

And I'd like to have Michael Rossi talk to you a little bit about Mary Lou's handicap as well.

ATTORNEY MICHAEL ROSSI: Thank you,

Mark, and good evening, Members of the Board. For the record, my name is Michael Rossi. I'm an attorney with the Cambridge firm of Clark, Hunt, Ahern and Embry, here tonight on behalf of Mary Lou and her husband Peter. This is, I would suggest, a classic hardship case. Mary Lou is disabled. In 1998 she was injured in a horseback riding accident, a serious horseback riding accident. She suffered a traumatic brain injury and serious spinal cord damage. She still undergoes treatment today for injuries that she sustained in this accident. Currently she has trouble with mobility. She has trouble with her balance. She has trouble going up and down stairs. And she has cognitive issues as well, issues with her mental functioning that leave her feeling fatigued, disoriented, and associated issues.

One of the physicians that she treats with currently is a Doctor Alec Meleger at the

Spaulding Rehab. Doctor Meleger has prepared a letter that I would like to make part of the record of these proceedings, and I do have copies of the Board if I may provide them.

CONSTANTINE ALEXANDER: I would point out to you hardship is a requirement for a variance. You're not seeking a variance here.

ATTORNEY MIKE ROSSI: We're not, sir, but I think it's important to understand the request and the context of that. We're seeking something less than a variance, but it's more important to understand the reason behind what it is that we're looking for is due to, in large part, to Mary Lou's disability. And I think that's a very important component to understanding neighbors --

MARK WAGNER: Neighbors have contested her handicap as well.

CONSTANTINE ALEXANDER: The handicap to me is irrelevant. The question is if the requirements of our code with respect to all exterior and non-conforming structures.

ATTORNEY MICHAEL ROSSI: And I think this is -- my presentation here is more than that. I think Mark has made clear that it most certainly does. I think this brief background on Mary Lou's history is important to abut some of the issues that have been raised by those in the neighborhood.

CONSTANTINE ALEXANDER: In my mind those issues that have been raised are irrelevant, and I think this presentation would be irrelevant but go right ahead.

ATTORNEY MICHAEL ROSSI: Okay. I'll wrap it up then. I think it's clear from what we've heard so far from the current situation that Mary Lou has is untenable. She has difficulty climbing stairs yet she

got not have a full bathroom on the first floor of her residence.

Her son is currently -- who is five-years-old is currently sleeping in the dining room, on the first floor, because she cannot reasonably or safely access the second floor of the house. So the very modest changes that she's looking to make would accommodate the hardship and the disabilities that she faces. She needs to be able to get around her home safely. She needs to be able to get around her home comfortably. And she's not asking a lot to be able to make that possible. All of the expanded areas that she requested as Mark have said, are fully compliant with the Zoning, with the dimension requirements. There's no nuisance or hazard that are created. And I'll leave it to Mary Lou to see if there's anything to add but I think we've covered it.

MARY LOU JORDAN: I think -- I'm sorry you think I should speak or not?

BRENDAN SULLIVAN: Go ahead.

MARY LOU JORDAN: I was in an acute care hospital for a week and then I was at Spaulding Rehab for a month. Dr. Eddie Phillips who's currently the head of outpatient -- there's a rash of very nice people at the Brigham who also look after me now and looked after me then. But one of the things that they emphasized to me from the very beginning, and if you've ever had a relative who's involved in or a friend in therapy, you know they just kick your butt from dawn to dusk. Even if you can't stand, you can't maintain your consciousness, you know, they have you going at every moment. And before you leave there they make it clear to you, if you want to have as normal a life as possible, you have to live as normal as is possible. And I think this can be deceptive

for people. But certainly I can't risk falling on the stairs anymore. It's happened a bunch of times. And the older I get, the more dangerous it becomes. And my doctors are really -- they were kind of horror struck, I had to go up a flight of stairs every time I had to take a shower. And the neighbors would be suggesting that I should have to climb a flight of stairs at night to look after my son. Stairs are not my friend, and they're never gonna be my friends. And, you know, that's just what I live with. But I don't trot this out for people. I don't display it to anybody who doesn't need to know about it because it makes people uncomfortable and there's no need for it. But, yeah, so -- yeah, that's all. Sorry.

BRENDAN SULLIVAN: You bought the house, what, was it last year?

MARY LOU JORDAN: Last year.

BRENDAN SULLIVAN: And in reading some of the correspondence, it appears that you moved from a two-story house or something because it was hard to negotiate. And when you bought this house, and it was only when you walked into the house, did you feel that this was going to accommodate your needs?

MARY LOU JORDAN: Well --

BRENDAN SULLIVAN: Or not.

MARY LOU JORDAN: I made a perhaps a warranted assumption. It's just my naivety. That since the lot was large overall, in the event it didn't work out, we could, you know, squeeze in a full bath. Because there's a half bath on the first floor now, and a small bedroom for Nathan. And also I thought that if we put in a stairway for the long part of the stairs, that that would make the stairs more tenable. But it really hasn't. So, I made some assumptions when we bought the house that it turned out to not be correct.

BRENDAN SULLIVAN: Okay.

MARY LOU JORDAN: But then Mark came up with this plan.

BRENDAN SULLIVAN: I guess, you know, from my view it's the footprint of the addition which even though it is compliant, still has an impact. Either it be the next-door neighbor, you know. I mean, I went down the driveway and sort of stood, looked at yours where the deck is and said okay, that's open space. And now that's going to get filled in. I mean, I can understand converting, obviously, a bedroom on the first floor. I'm very sensitive to that, and the addition of the bathroom and it be of a certain size that you need to maneuver around that bathroom and make it workable. But it's the sun room I guess and, again, even though it's compliant, it's still, to me it's an impact of filling in, you know, space that's right now is open. That was just my concern.

ATTORNEY MICHAEL ROSSI: Could I address that?

BRENDAN SULLIVAN: Sure.

ATTORNEY MICHAEL ROSSI: I think that impact needs to be weighed with the impact on Mary Lou and Peter's son. He's five-years-old. And right now he's sleeping in the dining room because he needs to be on the same level that she is. This addition, though it may have some impact to the neighbors, will have the most impact and the most important impact to Mary Lou, because as a mother, she'll be able to have access to her son when he cries out at night and when he needs her attention. And I think that impact needs to be weighed in comparison to the impact on the abutters or anybody else that objects to this.

BRENDAN SULLIVAN: Yes, except that the addition will always be there. Whereas, again, I'm not trying to be insensitive, but

whereas the child, the boy will get older, mature and not need, not have that same requirement, that's all. And yet the addition part, that footprint will always be there. That's all.

ATTORNEY MICHAEL ROSSI: And in fairness, too, just in thinking about the impact and the footprint, and I know this doesn't pertain directly to the footprint, Mary Lou and Peter have elected to remove, to tear out the second floor bedroom that's adjacent to this one to diminish -- again, I understand it's not the footprint, the footprint remains the same, but it shows the lengths to which they're going to make the structure as aesthetically appealing as they can to the neighbors. And this is purely about accommodation of her disability.

BRENDAN SULLIVAN: Yes.

TAD HEUER: Do you need the FAR from the garage in order to stay underneath?

MARK WAGNER: The garage has no FAR.

TAD HEUER: Right.

MARK WAGNER: Garages are not FAR. We're removing that anyway, but that's just reducing lot area.

TAD HEUER: Right, that's the only reason I ask is because I agree with you. But on the Special Permit it says you need a Special Permit to remove the garage, and I don't understand why that was true. You don't need it, you don't need it.

MARK WAGNER: You don't really need it to remove a garage or anything. That's just surplus.

TAD HEUER: That's surplus.

MARY LOU JORDAN: Excuse me.

BRENDAN SULLIVAN: You may be enumerating on what the project entails.

MARK WAGNER: I was just describing the extent of the project.

TAD HEUER: I just wanted to make

sure we weren't granting anything that we didn't need.

MARY LOU JORDAN: Excuse me?

BRENDAN SULLIVAN: Yes.

MARY LOU JORDAN: I think one of the reasons why I have included this is that some of the neighbors have objected to our removing the garage.

BRENDAN SULLIVAN: Well, you can do that as of right.

TAD HEUER: As of right, yes.

CONSTANTINE ALEXANDER: Right. They could object, but to what?

MARY LOU JORDAN: Yes.

TAD HEUER: And do you need the space from the reduction of the second floor?

MARK WAGNER: Yes.

TAD HEUER: Okay.

MARK WAGNER: Yes. We're removing 249 square feet from the second floor. And we're increasing 262 square feet downstairs

with a bathroom and the new bedroom and the bay.

TAD HEUER: So you're proposing it's an FAR swap.

MARK WAGNER: It's an FAR swap basically. And we're still 36 square feet less than -- I mean, we still have a surplus of 36 square feet if we wanted to make it bigger. But, you know, we're not asking that. We're just keeping it modest. It's a small bedroom. It's small room.

MAHMOOD FIROUZBAKHT: Can you just quickly walk us there?

MARK WAGNER: Absolutely. Absolutely. Right now -- this is the 1943 house, okay? At some point, I'm not sure when it was, there was an addition put on right here. There was this second floor and added this pink part right here. There's no record in the Building Department or Historical or anywhere else for that

addition. Okay? It's a phantom addition.

But, so well, anyway, what we're going to do is remove this second floor, restore it back to where it used to be with a dormer on the back. Very much I can tell by the attic, there's a hole in the attic where there was a dormer right here. Restore that rear gambrel roof on the second floor, and we're gonna add a small addition to the bathroom, a very small room here for a bedroom and/or a breakfast room, which is right now, there's no windows through to the backyard at all. There's a skylight, but there's no way to actually see out of the kitchen which is actually kind of weird as well, too. So this will be easy access to sort of a breakfast area in the future when they use it later. I mean, it's really not excessive. And Mary Lou, because she can't really get around that much, there is a big bow window in there. We're putting in a better bay window that she

can actually get to and look out into the garden a little bit better.

I mean, this is 262 square feet. It's not excessive by any means. And it's, you know, eight feet from the lot line. The shadow from this is going to hit their driveway. It's not going to hit anything more than their driveway, the neighbor's driveway.

TAD HEUER: I want to ask, that as well as the place of the windows, if I'm remembering correctly, the last time months ago we had a question about shadow throw from the addition, and I also asked you questions about, you know, I can't remember whether they were from the Board or from the neighbors about --

MARK WAGNER: Right. It wasn't brought up this time.

TAD HEUER: The blank wall.

MARK WAGNER: But, yeah, the blank

wall. Well, this is the bathroom, okay, and this is for privacy. And frankly, Mary Lou and Peter really don't -- I mean, the neighbors are not being very nice. So they're going to put a row of trellises there, and they're going to put vegetation on it, but the neighbor's already talking about putting a six plus fence there to block it so they can't look at the trellises. I don't know what that's all about.

TAD HEUER: So you've added windows in the wall that in the previous iteration didn't have them.

MARK WAGNER: No, there were windows there. There were windows there, yeah.

TAD HEUER: And -- okay.

MARK WAGNER: The other side of this house has more windows facing the garden. And this other side in the back, and this other side, there's a door that comes out so that you can get out to your steps actually

and onto the garden.

MAHMOOD FIROUZBAKHT: Can you just switch around to the plot plan again? So in terms of the massing that you're adding here we're talking about --

MARK WAGNER: This part right there, yeah.

MAHMOOD FIROUZBAKHT: And you're getting rid of the garage?

MARK WAGNER: We're getting rid of the garage and we're getting rid of the second floor there, too.

MAHMOOD FIROUZBAKHT: You've got what, how many thousand square feet of land do you have there?

MARK WAGNER: It's a big lot. It's right on the -- actually, 7,225.

MAHMOOD FIROUZBAKHT: Yes, I mean --

MARK WAGNER: It's a huge lot.

MAHMOOD FIROUZBAKHT: I guess in

terms of massing, and I hear what the Chairman is saying, you know, you're adding massing to the lot, but there certainly seems to be a good amount of lot to provide for that massing.

MARK WAGNER: Right.

MAHMOOD FIROUZBAKHT: You're getting rid of the garage which is a structure kind of in the middle of an open space area. This is -- seems like an appropriate swap.

MARK WAGNER: What Mary Lou wants to do is actually garden and have vegetable gardens. I think that might be some problem for some of the neighbors, too, because they really want a lawn and some shrubs.

MAHMOOD FIROUZBAKHT: At the end of the day we're looking at special condition requirements, right?

TAD HEUER: Right.

CONSTANTINE ALEXANDER: At the end of the day, the standard we've got will fly.

We've been going off on personal issues. But the standard under 8.22.2 is whether -- I'll read it. Whether the proposed addition will -- well, we have to make a finding that the proposed work you want to do will not be substantially more -- substantially more detrimental to the neighborhood than the existing non-conforming use. That's the standard we have to apply. That's the basic standard. And then there are these other aspects of Special Permit.

MAHMOOD FIROUZBAKHT: And the non-conformity has to do with setback which this proposed addition does not violate the setback.

CONSTANTINE ALEXANDER: So the question is whether what they want to do is substantially more detrimental to the neighborhood than what's there right now.

MAHMOOD FIROUZBAKHT: Right. I guess in my mind it meets the standard pretty

clearly. And that's how I would vote on this petition.

BRENDAN SULLIVAN: Okay, any other questions at this time?

TAD HEUER: No.

CONSTANTINE ALEXANDER: No questions.

BRENDAN SULLIVAN: Let me open up to -- you'll have a chance to --

MARK WAGNER: Sure.

BRENDAN SULLIVAN: Let me open it to public comments. Is there anybody here who wishes to speak on the matter 208 Lexington Avenue?

ANN MARIE MAHONEY: My name is Ann Marie Mahoney. I'm a direct abutter. I live at 210 Lexington Avenue. There's two comments I would like to make, actually, two corrections.

The room that is currently Mary Lou and Peter's was a family room and was never used

as a family room. I lived in that house for -- from 1960 until -- never used as a bedroom. I'm sorry, never used a bedroom. My parents added both the family room and the bedroom in 1962 or '63. My father passed away five years ago, and after he passed away, my mother lived there as a widow in a large nine room house. We offered her to move in with us downstairs. We did our first floor over. She moved in with us. There was never any problem with selling the property. I didn't own the property. My parents owned the property. My mother sold the house. I mean, there was -- my mother wanted to sell the house. She's 90-years-old and she didn't need a nine room home.

And I think one of our major concerns, and it actually was brought up at the first meeting as well, it's not so much the addition, it's our concern as neighbors and as our other neighbors here as well, is what's

gonna happen to that house? The first addition, proposed addition, that was going to go on we said, you know, a family of three, why do you need a six-bedroom home? And our concern -- and I asked Peter one day, I said, I have concerns, what are you going to do with the four bedrooms upstairs? Is it going to become a rooming house? And his comment was, that's a good point. Never, you know, it's not going to be or we're going to utilize it in some other way. So that's a very big concern of mine. And I think that our other neighbors have the same concerns as well.

I mean, so you're going to remove one bedroom, it will become a five-bedroom home, again, for three people? I'm just concerned of what's going to go become of the house and the property.

CONSTANTINE ALEXANDER: Ms. Mahoney, of course if they did do this rooming house and they don't comply with the Zoning

By-Law, you and other neighbors would have the right to complain to Mr. O'Grady. So, you are protected, should we grant relief, against this what you seem to think is an improper use of the property thereafter.

I guess I'm going to turn it around. Why should we turn this down because of a hypothetical problem which you have a relief for if it occurs?

ANN MARIE MAHONEY: All right. I'm glad to know that. I think my husband has some additional comments to make as well.

BRENDAN SULLIVAN: Okay.

MICHAEL MAHONEY: Yes, as for that hypothetical situation --

BRENDAN SULLIVAN: Just introduce yourself.

MICHAEL MAHONEY: Yes, my name is Michael Mahoney. I also with my wife at 210 Lexington Ave., Cambridge, that's the property that abuts 208, and the one that

would be mostly affected by this Special Permit.

Let me start, I have spoken to Mr. Wagner a few times. And I said, why are these people -- first you're going for a Variance. Dropping the Variance, now you're going for a Special Permit. I says, can't we try to negotiate something here? And I offered them to just take the deck down, leave the structure as is, bring out the house about six, seven feet, make it 10 to 12 feet long, put a nice bathroom in there to accommodate the handicapped individual. As for the slash sun room/bedroom we said that's not needed. You can do some minor renovations inside the house at the dining room area, because as they stated in their own letter, that's only going to be needed for one or two years. Then their son will be going upstairs. But obviously that fell on deaf ears, because the next thing all I received

from Mr. Wagner was a new set of plans for the Special Permit.

Now since this has been going on for six months, the two individuals Mary Lou Jordan and Peter Harris, have not approached me and my wife once to explain anything that they wanted to do with the house. And I must say, less than two weeks ago I went to them, they were standing in their front yard, and I approached them and said, Mary Lou and Peter, I received a new letter from the city about you going for a Special Permit. I said, if this is not a good time, is there another time when we can discuss it? Mary Lou Jordan turned to me very boldly and said, there is nothing to discuss. We have applied for a special handicap order. Whatever that is, I have no idea. And then three days later after I approached them, Mr. Harris, and Mr. Harris, my wife and I are very offended with this statement you made slash threat.

He went to a neighbor and said to a neighbor if Mary Lou and I do not get this Special Permit to put this addition on, then we will be forced to move. And if we are forced to move, then we'll be forced to rent this house and this neighborhood will become quite noisy. So there's your answer about renting the house. And at the end of his statement he also said, please relay that to Michael, which is me, because I never see him. We live all of what 15 feet away from each other? So this is getting out of hand too much, and these people are just basically saying if we don't get what we want, hey, the hell with the neighbors. We'll just stick it to them.

And other than my statement, I'm going to end my statement there, but I do have two questions about if the permit is issued. If the permit is issued, must they take down the second floor structure first and have that completed outside and inside before they

would be allowed to put the addition on?

BRENDAN SULLIVAN: No. I think it's part of the project.

MICHAEL MAHONEY: Part of the whole -- so they could put the addition on and then go and try to take the second floor apart?

BRENDAN SULLIVAN: Yes, that's basically a building inspector, Building Department enforcement at that point. They would pull the permit for the entire project that is before us. How it's phased, is another matter.

MICHAEL MAHONEY: And the other question I have is --

BRENDAN SULLIVAN: But they would have to do the whole thing --

MICHAEL MAHONEY: I'm sorry, I didn't mean to interrupt you.

BRENDAN SULLIVAN: -- or they would run the risk of not getting a Certificate of

Occupancy to occupy the new part.

MICHAEL MAHONEY: Well, see that's some things that some of us are afraid of, because by judging from some other projects they do, they never get finished. They start something and they never get done. And we're afraid that if they start this structure, we might be looking at it for quite a few years. It might be done on the inside for their comfort, but it's going to be plywood and Tyvek on the outside.

BRENDAN SULLIVAN: It's an enforcement issue at that point.

MICHAEL MAHONEY: And the second question, which I asked Mr. Wagner, I says what's the purpose of the trellis? And they said, well, the trellis we were going to put some hanging roses and vines there to make it look more presentable to your property. Well, if I'm only allowed to put up a six-foot fence is the max, going by his calculations,

these trellises are between eight and ten feet high and I would like those at a minimum at least those eliminated from this.

CONSTANTINE ALEXANDER: Why? Can I ask why?

MICHAEL MAHONEY: Yeah, well because -- well, first of all, the hanging vines they want to put up, if it's going to be like anything else they've landscaped in their yard, it's going to look like another jungle. An overgrown area. It's going to look horrible.

That's all I have to say. Thank you very much.

MARY LOU JORDAN: Could I say --

BRENDAN SULLIVAN: No, let me go through public comments first.

Is there anybody else who wishes to speak on the matter Lexington Ave.?

(No Response.)

BRENDAN SULLIVAN: I see none. All

right.

DOROTHY CRAWFORD: I would.

BRENDAN SULLIVAN: Oh, I'm sorry.

DOROTHY CRAWFORD: I was here for the last hearing and the architect said he would do his best --

BRENDAN SULLIVAN: If you could just identify yourself.

DOROTHY CRAWFORD: Oh, I'm sorry. Dorothy Crawford. I live across the street at 203 Lexington Avenue.

The architect did offer to meet with us about the plans, and I think that there wouldn't have needed to be quite so much questions if that had happened.

The other thing is they recently planted a magnolia tree I think within three feet of the house. That tree is going to grow enormous.

BRENDAN SULLIVAN: Okay.

Anybody else on Lexington Avenue?

ANN MARIE MAHONEY: I'd like to add.

BRENDAN SULLIVAN: Briefly.

Thirty words or less.

ANN MARIE MAHONEY: I really take exception to what you had said about the neighbors really being -- I'm not sure what you said, nasty or difficult.

CONSTANTINE ALEXANDER: Are you talking to him or me?

ANN MARIE MAHONEY: No, no, no. Mr. Wagner.

MARK WAGNER: Not being very nice about this.

ANN MARIE MAHONEY: Not being very nice. We have bent over backwards. On the first occasion we went to City Hall to get the plans. Nothing was shared with us. We did major renovations to our home. We actually added a third floor to our home 20-something years ago. We went, personally went to every one of our neighbors and said there's going

to be a meeting. This is something that we're planning to do to the house. We shared our plans with neighbors. Do you have any problem with these? Any, you know, we reached out to our neighbors. None of that was done this time. So, I am really offended by you saying that we have not been very nice. I think we have bent over backwards. We have gone down to the Zoning Board. We have pulled the letters, the applications for permits. We have pulled the plans. My husband has been the one that has made phone calls to you and we -- and Peter and Mary Lou have not once come to us about it. It's been in discussion that my husband has gone to them to ask about it so I take exception to that.

BRENDAN SULLIVAN: All right. Let me close public comment and allow you to --

ATTORNEY MICHAEL ROSSI: Just two.

BRENDAN SULLIVAN: Let me -- again, let me just -- I would really rather stick to

the issue that's before us, and the personal stuff really doesn't really matter.

ATTORNEY MICHAEL ROSSI: I understand, Mr. Chairman. If I could just very briefly address two issues that were raised in the public comment.

First, as far as the rooming house goes, the number of bedrooms is not changing the property. One is being removed --

THE STENOGRAPHER: Hold on. You're talking way too fast. You just need to slow down.

ATTORNEY MICHAEL ROSSI: I'm sorry, I know time is precious.

The number of bedrooms in the structure is not changing. There is one that will be removed from the second floor, and one will be added on the first floor. More than that, Mary Lou is the disabled mother of a five-year-old. She really doesn't have the time or energy to be running a rooming house.

And then lastly, the characterizations of one of the speakers as to a conversation with Mr. Harris about renting. I just would like to point out for the record that he vehemently disagrees with the characterization of that conversation.

BRENDAN SULLIVAN: Yes, okay.  
Well --

MICHAEL MAHONEY: Of course he would.

BRENDAN SULLIVAN: Mike, that's it.  
Okay, anything else to add at all? Any questions?

CONSTANTINE ALEXANDER: No questions.

THOMAS SCOTT: No questions.

BRENDAN SULLIVAN: Mahmood, any questions?

MAHMOOD FIROUZBAKHT: No.

BRENDAN SULLIVAN: (Inaudible).  
Tad?

TAD HEUER: Yes. What was that directed at me?

BRENDAN SULLIVAN: Yes. Any questions at all?

TAD HEUER: No.

BRENDAN SULLIVAN: All right. Let me make a motion to grant the Special Permit as per the plans. You're not going to change the plans now; right?

MARK WAGNER: No.

BRENDAN SULLIVAN: At this point you've been beaten about the head and brow, have you? As per the plans --

MARK WAGNER: I can remove the trellises if the neighbors don't want the trellises.

TAD HEUER: That can be after.

CONSTANTINE ALEXANDER: Not our concern.

TAD HEUER: I do have one question actually before we go ahead and it's a staging

question. I think the Chairman is right, that when you pull the Building Permit, you're pulling a Building Permit as the plans approved as they will ultimately be -- you tend them to be.

MARK WAGNER: Exactly.

TAD HEUER: What are your staging plans in terms of demolition first, building second; building second, demolition first?

MARK WAGNER: I'm not the contractor. I'm not exactly sure how they would do it. But the framing portion of this will probably be the same as the demolition and removing of that second floor all at the same time. That's when the framing stuff -- the first part is the foundation. Then they start doing all the framing. And all the framing will be done at that time, I'm sure, because they want to put a roof over it.

SEAN O'GRADY: I'm not sure how we treat it in this circumstance because we

don't usually see this as of right build, we would require the demolition being complete prior to any construction of new FAR.

BRENDAN SULLIVAN: So removal of to pull things underneath that number before it's added to?

SEAN O'GRADY: Yes. At no time do we want the property to be over FAR and stall.

TAD HEUER: Well, that was more of my question. Yes, going to the concerns of the neighbors, it would seem if you made the addition, you would be over FAR and out of compliance regardless of whether you have a CO or not.

SEAN O'GRADY: Regardless of the affect of the Variance, also, yes.

TAD HEUER: Right. So I would presume that the way it would need to offset the FAR demolition would need to occur in order to give you the FAR you would need to build the addition. So....

MARK WAGNER: Okay, sure. We can do that.

BRENDAN SULLIVAN: Just so that you're aware of that.

TAD HEUER: I'm not proposing you make that a condition of the Variance but I'm just sort of elucidating that for the benefit of the neighbors and others.

MARK WAGNER: Okay.

BRENDAN SULLIVAN: Let me make a motion to grant the Special Permit to construct an addition of the first floor bathroom and slash sun room, remove the existing second floor rear bedroom and to remove the garage which does not require approval from this Board, but is part of the application process.

All work as per the plans submitted initialed by the Chair.

The Board finds that the requirements of the Ordinance can be met. That the house

is a non-conforming structure with regard to the right side yard setback.

The Board notes that the addition will be compliant in all aspects.

The Board finds that the proposed renovation of 2599 square feet is in fact 36 square feet less than what is allowed in the district.

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

The Board finds that continued operation of 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, hazard created to the detriment of the health, safety, and the welfare to the occupants of

the proposed use or to the citizens of the city. And the proposed use would no impair the integrity of the district or adjoining districts or otherwise derogate from the intent and purpose of the Ordinance.

You were citing a particular --

CONSTANTINE ALEXANDER: Yes, we have to make an additional finding if the motion's going to pass. Under 8.22.2 the introductory part. We have to also make a finding that the work being proposed will not be substantially or more detrimental to the neighborhood than the existing structure. So you should add that to the motion and we can vote on that basis.

BRENDAN SULLIVAN: Okay. So if you would add that in, Cathy, and then to the motion for granting relief.

Anything else to add?

All those in favor of granting the Special Permit.

(Show of hands.)

BRENDAN SULLIVAN: Four in favor.

(Alexander, Heuer, Scott,  
Firouzbakht.)

BRENDAN SULLIVAN: One opposed.

(Sullivan.)

(9:55 p.m.)

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

BRENDAN SULLIVAN: The Board will  
hear case No. 10170, 87 Plymouth Street.  
Introduce yourself for the record.

PAUL KARNATH: Hi, my name is Paul  
Karnath, K-a-r-n-a-t-h, I'm a homeowner of 87

Plymouth Street.

BRENDAN SULLIVAN: Tell us what you would like to do.

PAUL KARNATH: I would like to just rebuild the existing side porch. There's a mudroom in the back of the house that needs to be rebuilt. I'm going to enlarge that by just 14 square feet and replace the original roof to the stoop has been taken off at some point and replaced by something from the sixties. It's pretty ugly to be honest with you. The whole intent is we're in the process of trying to restore this. It's an 1873 Victorian mansard second empire house. We want to bring it back pretty much to where it was at one point.

BRENDAN SULLIVAN: Trying to restore some new life to it and beauty?

PAUL KARNATH: Yeah.

TAD HEUER: Yes, that porch covering is pretty ugly.

BRENDAN SULLIVAN: What are the violations, Paul, that you know of?

PAUL KARNATH: The house is basically within the setbacks.

BRENDAN SULLIVAN: So it's all setback stuff?

PAUL KARNATH: Yeah.

BRENDAN SULLIVAN: Which all predates the Ordinance except for height. You're okay for height.

PAUL KARNATH: I think FAR we're all set, too.

BRENDAN SULLIVAN: Yes. And that is very typical of the area.

PAUL KARNATH: The whole street is within the front setback.

BRENDAN SULLIVAN: Everything was front loaded.

Okay, Gus, any questions at this time?

CONSTANTINE ALEXANDER: Only that I trust your impressions your neighbors are

better than what we just heard? Have you talked to your neighbors?

PAUL KARNATH: Absolutely, and they're all for it. We have a row of five of these Victorian mansards, and over the last six years from, you know, from, you know, five delapidated ones, two have been done by a developer. They're condominiums. The third one down has a couple that's slowly restoring it on their own. We're doing ours and then there's one more closer to Hampshire Street that's in good shape owned by an officer of the police force in Cambridge. It's starting to become a nice little row of antique houses.

BRENDAN SULLIVAN: You live there now and you're going to continue?

PAUL KARNATH: Yes. We've lived there for the last four and a half years, almost five years. And we have two young children that we plan to raise in Cambridge

and stay in that house.

BRENDAN SULLIVAN: Let me open it to public comment.

Is there anybody here who wishes to speak on the matter of 87 Plymouth Street?

BETTY HOWK: Yes, my name is Betty Howk. I live at 324 Windsor Street. And this is a three-part condo. It's a semi-detached house which is catty-corner to 87 Plymouth Street. My neighbor Lisa Monroe who is an abutter, she did not receive a notice about this evening's meeting. And I'm hearing impaired so I didn't really hear what the discussion was. I would like to, as an abutter, like to see what kind of impact the additions would have on our property.

BRENDAN SULLIVAN: Okay. There is possibly a suggestion and I'll offer is that maybe you could go in the back room, can you turn the lights on in the other room and walk her through the proposal?

PAUL KARNATH: Sure.

BRENDAN SULLIVAN: Rather than having us do it here. We'll hear the next case and when you're ready, come back in and we'll hear you.

BETTY HOWK: That would be great, thank you.

BRENDAN SULLIVAN: Who did not get notified you're saying?

BETTY HOWK: Lisa Monroe at 322 Winter Street.

BRENDAN SULLIVAN: There's a Katherine Monroe.

BETTY HOWK: Was there a notice sent out to her?

BRENDAN SULLIVAN: Yes.

BETTY HOWK: Well, she said she didn't get it. Maybe it slipped through the cracks. I don't know.

BRENDAN SULLIVAN: Okay. Well, why don't you, you have the drawings and

everything.

PAUL KARNATH: Yes, I do?

CONSTANTINE ALEXANDER: There's a room back there.

BRENDAN SULLIVAN: Let me make a motion to suspend this particular case to allow the Petitioner time to inform the neighbor.

All those in favor of suspending.

(Show of hands.)

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

(10:05 p.m.)

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

BRENDAN SULLIVAN: The Board will hear case No. 10172, 820 Memorial Drive. Introduce yourself for the record.

ATTORNEY FRANK FRISOLI: Good evening, Mr. Chairman, Members of the Board,

I'm Frank Frisoli. I represent the Petitioner. I'm a local attorney.

ALAN MEDNICK: Alan Mednick from 820 Memorial Drive.

CONSTANTINE ALEXANDER: You're the owner? I'm sorry.

ALAN MEDNICK: Yes.

BRENDAN SULLIVAN: Tell us what you -- I sort of read the petition, but sort of briefly run us through why you want to do what you want to do.

ATTORNEY FRANK FRISOLI: Thank you. Presently this site has a gas station with a convenience store and they sell only packaged foods. And they do this pursuant to a variance previously granted many years ago. Since that time the neighborhood has changed and the customers have changed, and his customers largely consist of people walking up to the site. There are only three parking spaces on the site. Most of the business

that he does is people that either live in the community, work in the community nearby, and he does a fair amount of business of people walking around the Charles. Especially, you know, on good weather days. And the frequent request he's been getting is can't you sell me something that's healthier and fresher? And he looked into doing that. And the problem is basically the expansive definition in the by-law of what is a fast food operation. And as I noted, as we noted in the petition, the three reasons we believe that his operation and his proposed use is radically different than the typical fast food operation.

First, there's only three parking spaces.

Second his entire area that would be selling this and used for our production of it, is only 100 square feet.

And, third, there's no seating in or out

for customers. This is largely people coming into the premises, buying something for off-site consumption.

So what he would like to do is better accommodate the needs of his existing customer base. And in fact, the initiative behind doing this was the frequent request from the customers, can't you do better? Why don't you do this? And we see Subways in convenience stores. We see this kind of use, you know, now more prevalent in the city. Why can't you do this?

So the first step in the process on our end was to talk to Community Development, because I understood that there was some talk of rezoning. And what I understand is that is still being discussed. In fact, I would characterize my assessment of what I heard as a probability that that will be addressed at some time in the future. But we were encouraged to come before you and seek this

Variance because there will be a time delay before that is implemented.

The equipment he's proposing to use is nothing more than you would see in a typical Dunkin' Donuts. There would be no, you know, there would be nothing that requires any venting, vents or any -- anything --

CONSTANTINE ALEXANDER: No cooking whatever?

ATTORNEY FRANK FRISOLI: No cooking other than using things like a microwave. And we have for the Board, I brought with us, if the Board would like to consider, these are just printouts of the things, the items of equipment that he's considering purchasing, and I'd just like to offer that to the Board if I may.

And the point I'm trying to make is that there is nothing that I would think the Board would consider to be a nuisance or to create any environmental issues whatsoever.

CONSTANTINE ALEXANDER: Are you going to buy your supplies from the farmer's market?

ATTORNEY FRANK FRISOLI: He would certainly consider doing that. He supports local businesses and he thrives, you know, he exists because of the community, and this is an effort to better service the community.

There is, the Board has recognized characterized the change in character by permitting a Dunkin' Donuts to be open nearby, and that seems to be a good operation, a successful operation, and a benefit to the community, and we would hope that what he is planning to do here would likewise be a benefit to the community.

BRENDAN SULLIVAN: So, you're not going to have any cooking so there's no need for any fume attenuation or containment or anything like that. It's going to be a conventional oven which is probably no more

or no less than any other microwave which is --

CONSTANTINE ALEXANDER: Will you need to get a license from -- are you subject to the Licensing Board or modification from what you have now? I'm just curious.

ALAN MEDNICK: No. The only thing that I understand now is from Inspectional, the division just to apply for the license for that is my understanding.

SEAN O'GRADY: You're probably going to need a common victualer's license.

ALAN MEDNICK: Obviously whatever I need to get, I would follow up.

BRENDAN SULLIVAN: Okay. I noticed that in one of the earlier hearings that granted the convenience store that there were no restrictions on that. However, a later application some three months after that, there was a request -- I'm not sure if you were the petitioner at the time, request for

a -- for the fast food permit that was denied. But that was denied because it was going to be a Dunkin' Donuts. Were you the petitioner at that time?

ALAN MEDNICK: I was not.

BRENDAN SULLIVAN: It was prior to you?

ALAN MEDNICK: Yes, it was.

BRENDAN SULLIVAN: Okay. And there was opposition to that, and the request was denied for a fast food Variance at that time.

What you're proposing now is totally different than what was proposed then obviously.

ALAN MEDNICK: It is absolutely different. And the one thing about that from what I've read, I -- my understanding is they wanted to convert the whole store and I could be wrong with that.

BRENDAN SULLIVAN: Allowing the pumps?

ALAN MEDNICK: Of the store. No convenience. No, you know --

BRENDAN SULLIVAN: So it would strictly be a --

ALAN MEDNICK: That's my understanding when I read it. I could be wrong again.

ATTORNEY FRANK FRISOLI: I think that's correct from reviewing the file. They were going to take what used to be the bays of the gasoline station and make the entire thing a food operation. And as I noted what we're asking for here is to be using about 100 square feet which I think was only like seven percent of the floor area of the premises.

TAD HEUER: All right. I think that they said they were looking for use of 140 square feet in the corner of the store for a couple of Dunkin' Donuts. That's just what the transcript reads.

BRENDAN SULLIVAN: Which is probably typical to what you see now, a convenience store will have a Dunkin' Donuts element to it I guess.

Is there still a convenience store at 808 Memorial Drive at all on the ground floor?

ALAN MEDNICK: That's the Mobil, yes.

BRENDAN SULLIVAN: There was one also on the ground floor of the apartment complex. Is that gone?

ALAN MEDNICK: The only thing I'm familiar with, and I apologize for that, right next-door to me there is a Mobil with a garage and a convenience store there.

CONSTANTINE ALEXANDER: Across the street from you.

ALAN MEDNICK: Yes, right across the river.

CONSTANTINE ALEXANDER: Yes, right across. Do they serve sandwiches or food?

ALAN MEDNICK: They do not serve -- the only thing they serve is what I do now, pre-packaged.

BRENDAN SULLIVAN: So it's like a Quick Stop type of thing like you have in some gas stations now, that have some sort of a convenience food element to it.

ALAN MEDNICK: Whatever that we have would be pre-packaged that would follow the guidelines of Inspectional Services where it would have to be right now made off site, brought in, has to be labelled, has to have the ingredients on the label.

BRENDAN SULLIVAN: You have the ability to zap something if something needs to be heated up or something like that. Other than that there was no on-site. So this is what you're requesting now is to be able to prepare fresh foods as opposed to something that comes in a package?

ALAN MEDNICK: That's correct.

MAHMOOD FIROUZBAKHT: And would you operate this yourself or would you consider subleasing or leasing that portion of the store out to a vendor like a Subway or, you know, some other operation like that, D'Angelo's or something like that?

ALAN MEDNICK: That's a good question. I would be doing it myself.

MAHMOOD FIROUZBAKHT: Okay.

ATTORNEY FRANK FRISOLI: I would like to note that we did get a petition that we posted I think in the store, and there were like 91 signatures. That is in your file. We filed that I think this morning. And since then we've had a few other signatures. We're up to 99 now.

When the Board was addressing the prior application to put a Dunkin' Donuts in there, the point, one point I would make is that Dunkin' Donuts, I think, historically has vehicle traffic associated with it. And

almost everyone I've seen, people are driving in, they see the Dunkin' Donuts sign outside, and they pull in. It's a very popular product. He only has three parking spaces. There would be no change in exterior signage. We don't anticipate any increase at all in vehicle traffic. And that was a big concern, as I read through the historical files of the city. That was a big concern because he's on a corner by the light, and there was a lot of concern about traffic. That shouldn't be a concern here.

BRENDAN SULLIVAN: Dunkin' Donuts I think was perceived as an attractive nuisance, if you will.

ATTORNEY FRANK FRISOLI: I'm sorry, I frequent them.

BRENDAN SULLIVAN: Which is sort of -- didn't you sort of go to that territory with the Subway?

TAD HEUER: Yes.

MAHMOOD FIROUZBAKHT: On Cambridge Street?

TAD HEUER: Yes.

BRENDAN SULLIVAN: Very reasonable territory. Okay.

THOMAS SCOTT: So there would be no dine in? Like, no tables or chairs?

ALAN MEDNICK: None at all.

THOMAS SCOTT: Just basically buy a sandwich and you're out.

ALAN MEDNICK: That's it. I mean, a lot of the people I've been getting requests from are my neighbors across the street in the building. They would come, they would ask for, you know, sandwiches. As a matter of fact, a lot of people when I started mentioning, you know, because people said to me, and I said would you like it? And they, like, yeah, I mean, I come home at night, I got no place to go if I don't want to cook. I've had, you know, we got the hotel across

the street, the Hyatt. I've got visitors from out of town. I had someone from Oregon coming in last for a wedding, their son's wedding, walking around looking for a place to eat. And, you know, they said they can't find any place to eat around there, especially later in the evening. And that's what brought on most of this.

BRENDAN SULLIVAN: What are your hours of operation?

ALAN MEDNICK: We're 24 hours.

MAHMOOD FIROUZBAKHT: So you contemplate this sandwich operation being available also?

ALAN MEDNICK: In the beginning, no. We would see how it progressed because I would like to have full control over it. In the beginning if you do grant it to me and, you know, we are able to move forward, I would have basically my wife, and then run it. And me and she has experience. And we would get

to the point where we would hire somebody that is knowledgeable that has been in the industry to run it and, you know, at that point we'll see how far we can go. But obviously my first concern is make sure it's maintained in the proper order.

BRENDAN SULLIVAN: Okay. Any other questions at this time? Let me open it to public comment.

Is there anybody here who would like to speak on the matter of 820 Memorial Drive?

(No Response.)

BRENDAN SULLIVAN: I see no one. There is correspondence in the file from the Cambridge Chamber of Commerce. (Reading) Honorable Members of the Zoning Board of Appeal: We are writing to support the above-referenced Variance request at 820 Memorial Drive by Alan Mednick. Mr. Mednick has been a very active member of the Chamber and the Cambridge business community.

Mr. Mednick currently offers pre-wrapped sandwiches at his convenience store which is a (inaudible). He is proposing to expand his offering to freshly made sandwiches which would serve a need expressed by his customers. The change would not require any change to the exterior of the building, only modest changes to the interior necessary to prepare fresh sandwiches. Approval of this application will allow a small change in the use of 820 Memorial Drive that will provide great benefits to the community looking for attractive options for healthy and fresh dining alternatives. We strongly urge you to approve this Variance. Kelly Thompson Clark, President, and Terence Smith, Director of Government Affairs.

We are in receipt of a petition, in favor of granting a use variance to Alan Mednick proprietor of Memorial Shell.

(Reading) The undersigned being customers of

the Shell Station and the convenience store, request that the city grant a Variance to allowing to sell a more extensive variety of freshly made sandwiches in the store. We feel you're providing more choice in healthier, freshly made sandwiches would benefit the neighborhood and Mr. Mednick's customers. And signed by 100 plus or minus people.

That's the sum and substance of the correspondence.

Okay, anything else to add? You've done it. Let me close the portion.

Gus, any questions?

CONSTANTINE ALEXANDER: No, only comment is I think we can expect a petition in the future from the people who own the Mobil Station across the street.

ALAN MEDNICK: Oh, I'm sorry.

CONSTANTINE ALEXANDER: That doesn't make any difference. That doesn't

make a difference how I'm going to vote on this.

BRENDAN SULLIVAN: There will be a sandwich fight. Food fight in the neighborhood.

ALAN MEDNICK: Oh, I see. I see what you mean.

CONSTANTINE ALEXANDER: No, I'm in favor of it.

BRENDAN SULLIVAN: Okay.  
Mahmood?

MAHMOOD FIROUZBAKHT: I think it's appropriate.

BRENDAN SULLIVAN: Tad?

TAD HEUER: I think two things:  
It's a variance. So I think that we should incorporate the Special Permit conditions that we would usually apply to a fast food Special Permit into the Variance that would automatically go into it. It would be a Special Permit. Just to add those

in as conditions for the Variance.

And also usually our Special Permits for fast food are limited to the operator, and have to be renewed. I would also encourage limiting this Variance to the operator as though it was a Special Permit because I believe --

CONSTANTINE ALEXANDER: Can we do that?

SEAN O'GRADY: We've talked about that. Did we determine we could?

TAD HEUER: We can.

BRENDAN SULLIVAN: There's language in here to that.

CONSTANTINE ALEXANDER: Okay.

THOMAS SCOTT: That's a good idea.

CONSTANTINE ALEXANDER: That's a good idea.

TAD HEUER: I think it is, let me find my --

BRENDAN SULLIVAN: It's right

in....

TAD HEUER: Yes, that's it. All right, so 10.34. (Reading) 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 10.44, as are determined to protect the surrounding neighborhood including the continued existence of any particular structure, but excluding any conditions, safeguards or limitations based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or any owner.

SEAN O'GRADY: My personal opinion, and I actually sent this question across to Legal because I think it does solve it, but I believe that conditioning the operation to the operator is not the same thing as conditioning the variance to the ownership of

the property.

BRENDAN SULLIVAN: It's actually a use, so it's an expansion of the use, hence not necessarily tied to a land as much as it is to an operation and hence to ownership. And under the fast food ordinance, we most assuredly can direct it, tie it to ownership of the establishment.

TAD HEUER: We can't go into fast food ordinance. We need to be in the variance standard; right?

SEAN O'GRADY: We are under the variance standards.

BRENDAN SULLIVAN: It's a change of use.

SEAN O'GRADY: Yes. And I think you can make the findings of a Special Permit for comfort sake, but I mean, I think the question that we're asking here is are we doing something impermissible by limiting the operation to the operator? And having not

heard back from Legal, I think that we can because I don't think that that's the same as limiting the variance of ownership of the property.

TAD HEUER: Correct.

SEAN O'GRADY: Right.

TAD HEUER: Yes, I would agree with that.

MAHMOOD FIROUZBAKHT: Yes, I mean --

CONSTANTINE ALEXANDER: I'm not persuaded, but by the same token, let's do it and if someone wants to challenge it -- I mean, rather than debating it.

MAHMOOD FIROUZBAKHT: I mean, I think it's, yes. I think it's stretching it -- not stretching it, it would be helpful to hear from Legal. But if the condition is the time continued ownership of the land or structures, and that's not what we're talking about. That's not our condition here.

We're conditioning the operation of this particular use to this operator. It has nothing to do with the ownership of the land.

TAD HEUER: The alternative is to do a --

CONSTANTINE ALEXANDER: I'm not going to debate. The hour is too late.

SEAN O'GRADY: I want to hear what you're thinking.

BRENDAN SULLIVAN: Well, I'm thinking that, yes, there are Special Permits for fast order food establishments. The request is for a variance to allow the preparation is not permitted -- fast food order establishments are not permitted as of right. Hence the question begets Article 4, does that require a Special Permit? And Article 8, 8.22, enlargement of the non-conforming use, that would require a variance.

SEAN O'GRADY: If you look in the

Table of Uses.

TAD HEUER: Article 4 is anything not permitted. Anything expressly allowed is prohibited; right?

SEAN O'GRADY: I mean, it's not even that. It says fast food?

TAD HEUER: No.

SEAN O'GRADY: No. Yes, so it's explicitly prohibited so that's why the variance.

BRENDAN SULLIVAN: And so they probably should have applied for a Special Permit and not a Variance.

SEAN O'GRADY: They don't have the opportunity to apply for a Special Permit, because if you look at the Table, in other districts it will say SP, Special Permit. But in this one --

BRENDAN SULLIVAN: Okay. All right. So this one is no.

CONSTANTINE ALEXANDER: And the

fact of the matter is is that what they're really seeking is a Variance to use the land for purposes of a conducting a fast order food establishment. And, therefore, I think because it's a use the land for that purpose, I don't think we can put a condition on it that says only this person can use the land for that. But as I said before, let's do it. And if anybody wants to do it, let's see what happens.

TAD HEUER: Than the alternative limitation you do is certainly do a time limitation. It could be limited to five years.

CONSTANTINE ALEXANDER: You could do it for time. But that applies to anybody who owns the land or uses the land for that period of time.

TAD HEUER: Certainly. And as long as you make it short enough then you've essentially wired it within a rough period of

time to --

ATTORNEY FRANK FRISOLI:

Mr. Chairman, may I respond to that?

TAD HEUER: Sure.

ATTORNEY FRANK FRISOLI: We would certainly prefer to have the restriction be on the continued operation by the present operator rather than time, because he envisions being there a number of years. He's been moderately successful. He thinks he's going to make it more successful, and he runs a good operation. I would also point out that irrespective of whether some court may sustain that restriction, anybody purchasing the place is highly likely to come back to the Board based on the restriction and challenge it. I mean, it seems kind of silly. As an attorney I would never advise somebody to go and say well, that's not enforceable, just go do it. You want to being a good citizen in the city. You want

to run a business. You've got to come back to the Board and apply. The issue is largely going to be if the operation has been successful, the issue is going to be your qualifications to continue it. So I would just like to note that we have no objection as to the restriction based upon his continued operation.

TAD HEUER: And nor do I. I actually like to be able to do that. My only question is whether I can by law.

SEAN O'GRADY: Five attorneys at the table.

BRENDAN SULLIVAN: It's one of those things that falls into no man's land, really. It's almost we should apply the criteria for a permit for fast food order.

SEAN O'GRADY: I think that you can.

TAD HEUER: Well, my further point --

SEAN O'GRADY: You still have to

find a hardship.

TAD HEUER: Right. And my further point is since this is a Variance and not a Special Permit, I'm probably going to vote against it for the same reasons that I've always have. Not because I don't agree that it's going to be a great use. I'm not sure that legally there's a hardship ancillary that we had an on Mass. Ave. with the pizza joint moving from wherever it was on Mass. Ave. four doors down to a zoning district where it was not allowed by right. So, but that's just me.

BRENDAN SULLIVAN: All right. Let me work my way through this.

Let me make a motion to grant the relief requested for -- to allow the Petitioner to operate a fast food order element to the existing structure use at 820 Memorial Drive as per the application and the plans, diagrams contained therein.

Is there going to be any additional signage at all?

ALAN MEDNICK: No. We're not going to have anything, you know.

BRENDAN SULLIVAN: So there's no signage at all? Okay.

ATTORNEY FRANK FRISOLI: There will be the interior postings of the products available.

BRENDAN SULLIVAN: No exterior?

ATTORNEY FRANK FRISOLI: No exterior signage.

BRENDAN SULLIVAN: Okay.

A literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner because it would severely limit him from providing to the community a fresh food element to the business which now serves packaged foods.

Petitioner will incur a financial hardship if he cannot properly and adequately

use the premises to prepare such food, and to meet the requests and the needs of the expanding community.

The hardship is owing to the fact that the particular request, use of fast food, is not permitted in the zone, and as such, any introduction of this element would require some relief from this Board.

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

And the Board would notice the letters of support from the Chamber of Commerce and the petition signed by 100 plus customer to provide this particular type of fresh food element.

Relief may be granted without nullifying or substantially derogating from the intent or purpose of the Ordinance.

The Board finds that there will not be any adverse impact on the surrounding use.

And will not be any increase in traffic generated.

The Board finds that -- you want to walk through the fast food?

That the operation shall not create traffic problems. There will not be any reduction to the available parking. It will not threaten the public safety on the streets or the sidewalk. And will not encourage or produce double parking on the adjacent public streets because it's just not feasible to do that on a major thoroughfare.

The Board finds that the physical design of the establishment will not change an asset is compatible with the and sensitive to the visual and physical characteristics of other buildings, public spaces at this particular location.

The Board finds that the establishment does fulfill a need for such a service in the neighborhood.

And that the Board finds and the presentation of the petitioner states that they will attract patrons primarily from walk-in trade from the adjoining apartment complex, walkers along the river way and also from the adjacent businesses as opposed to someone driving to this location to partake of this added feature.

The Board finds that the establishment shall utilize biodegradable materials.

If you're going to package things.

And that also you shall provide convenient, suitable, and well marked waste receptacles outside that they can dispose of.

And that the establishment complies with all state and local requirements.

And that the Board would also impose as another condition, that this variance is being issued to the Petitioner, and that any change of ownership of the premise or the operation of the fast food element would

require --

SEAN O'GRADY: Brendan, I'm sorry.

BRENDAN SULLIVAN: Yes.

SEAN O'GRADY: You can't say change in ownership of the premises. That's the one thing we can't do. So it would be operator of operation.

BRENDAN SULLIVAN: Operation of the fast food element. Any change in the ownership or operation of --

SEAN O'GRADY: Just the operation.

BRENDAN SULLIVAN: The operation.

SEAN O'GRADY: Nothing about ownership.

BRENDAN SULLIVAN: All right.

So that any change to the operation of the fast food element of which this permit is being granted, changes would require another application from this Board for relief.

CONSTANTINE ALEXANDER: Don't go there.

TAD HEUER: Really? Mahmood and I were just discussing whether we've just created a profit-a-prendre.

CONSTANTINE ALEXANDER: A what?

TAD HEUER: A profit-a-prende in sandwiches. You have a personal interest tied to the property. Essentially like you have a mining personal interest, you have a personal interest in something tied to the profiting property. As Mahmood has just pointed out, essentially what we would be granting is that if the ownership of the property were sold, they could still operate a fast food establishment as long as Mr. Mednick himself did it.

CONSTANTINE ALEXANDER: I don't know why we're twisting ourselves in knots over the fact of continued operation or operation by this gentleman. Why don't we just grant a Variance for a fast food enterprise, subject to whatever conditions

you want to approve.

BRENDAN SULLIVAN: Well, because I wouldn't want to see a Subway sign go up there.

CONSTANTINE ALEXANDER: Well, you know, I don't think you mean just a Subway. You don't want to see a different fast food establishment. We can't discriminate --

BRENDAN SULLIVAN: Right. It has nothing to do with chains.

TAD HEUER: We want every any new chain owner to come before us and provide their reasoning afresh as why --

BRENDAN SULLIVAN: I think this is a local businessman providing services to the customers that he knows and we're granting him the ability to do that to his customer base. Whereas, another operator would not be probably locally run and attune to the needs and wishes of the community. That's where I'm coming from.

CONSTANTINE ALEXANDER: I know.

The fact of the matter this local operator could do the worse job in the world and some national chain comes in and operates and exemplary operation. I think we're trying to be too controlling.

BRENDAN SULLIVAN: I think the marketplace will dictate that.

CONSTANTINE ALEXANDER: Well, then why put the condition in at all then? I mean why -- that's fine, I'll go whichever way you want, but I think we're just going too far.

BRENDAN SULLIVAN: If somebody else comes in --

CONSTANTINE ALEXANDER: I'll support it.

TAD HEUER: In which case I think you give a time limit.

MAHMOOD FIROUZBAKHT: I think, I mean, I've thought through it and discussed it a little bit more, I think our tying it to

the operator, I don't think it's the cleanest legal approach.

CONSTANTINE ALEXANDER: It isn't.

MAHMOOD FIROUZBAKHT: Tying it to a time limit is probably more appropriate and would give us the opportunity to, you know. I mean, I'm actually -- I'm actually okay leaving it open ended. And to the extent that a Subway comes in -- I mean, if they need signage and they come back to us for approval on signage, well then that's a different story. But to the extent that that outfit is a Subway and they operate a good, you know, a store, a sandwich shop in there, I'm actually okay with that. Totally different location. Totally different location. This location, I think, is appropriate for that kind of -- this kind of a -- what you're proposing. Frankly, I don't really care if it's you or if it's Subway.

CONSTANTINE ALEXANDER: That's how

I feel.

MAHMOOD FIROUZBAKHT: But if Subway is going to put a big sign outside that's lit and going to generate traffic, then I think it would be, you know, a concern. I think at that point, you know, we'd have to look at some traffic conditions.

BRENDAN SULLIVAN: All right. So how do we get it --

TAD HEUER: Five years.

MAHMOOD FIROUZBAKHT: I think five years is a fair -- that's a fair --

BRENDAN SULLIVAN: All right. So we will strike the ownership of the fast food element in the premise and instead grant the Variance for the operation and limit it to five years.

ATTORNEY FRANK FRISOLI: Thank you.

BRENDAN SULLIVAN: Okay. On the motion to grant --

THOMAS SCOTT: And at the end of five

years if it's doing well, you just come back before us.

CONSTANTINE ALEXANDER: We'll see you in five years.

BRENDAN SULLIVAN: On the, motion then, to grant the Variance, all in favor.

(Show of hands.)

BRENDAN SULLIVAN: Four in favor.

(Sullivan, Alexander, Scott, Firouzbakht.)

BRENDAN SULLIVAN: One objecting.

(Heuer.)

ATTORNEY FRANK FRISOLI: I just want to comment, as a lifelong resident in Cambridge, I grew up here and my family, I want to thank all of you for the public service you give. The City is much more valuable because of it. We need people like you to spend these late hours. This is nothing compared to some of the things I've seen years ago.

TAD HEUER: We're getting out of here early tonight.

(10:35 p.m.)

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

BRENDAN SULLIVAN: Let me bring back case No. 10170, 87 Plymouth Street.

And what was the fruits of your discussion?

PAUL KARNATH: Well, I won't speak for Ms. Howk.

BRENDAN SULLIVAN: Yes, do you want to come up and just reintroduce yourself for the record, please, that's all.

BETTY HOWK: My name is Betty Howk, 320 Windsor Street, unit 1. And Paul explained to me what the changes are going to be and I think it looks like a lot of improvement, and it will only enhance the neighborhood so I'm happy to know what's going to be happening.

CONSTANTINE ALEXANDER: Thank you for coming down and taking the time.

BETTY HOWK: My pleasure. I'm fascinated to see how government works. I was on a Zoning Board in a little town in New Hampshire. And so thank you.

BRENDAN SULLIVAN: And the

comparisons?

BETTY HOWK: Oh, it's just very different. Ours was a rural town.

BRENDAN SULLIVAN: Okay. So, Paul, anything else to add?

Let me open it to public comments.

Anybody here who wishes to speak on the matter 87 Plymouth Street?

(No Response.)

BRENDAN SULLIVAN: I see none. Nothing to add? It is what it is.

PAUL KARNATH: It is what it is, yeah.

BRENDAN SULLIVAN: Any questions anybody?

Let me make a motion to grant the request. This is what you're going to do? You're not going to change anything?

PAUL KARNATH: Correct.

BRENDAN SULLIVAN: I'll make a motion to grant relief requested to rebuild

the side porch, rebuild the rear mudroom, and replace the bracketed front stoop entrance roof as per the proposal and the plans contained therein, initialed by the Chair.

The Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner because it would preclude Petitioner from bringing the old structure back to its original design. One that is a name which is much desirable. The area that is in question is in need of repair and do not conform to the style of the house. And it is the hope of the Petitioner to do this work to restore it to its original grandeur. And because it was built prior to the enactment of Zoning, any work of this nature would require relief from this Board.

The hardship is owing to the fact that the building is non-conforming to size and also to lot size, and that any -- again, work

would require some relief from this Board.

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 condition that the work comply with the plans as submitted and initialed by the Chair.

All those in favor of granting.

(Show of hands).

BRENDAN SULLIVAN: Five in favor.

PAUL KARNATH: Thank you very much.

CONSTANTINE ALEXANDER: Good luck.

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

(10:40 a.m.)

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

BRENDAN SULLIVAN: The Board will  
hear case No. 10173, 16 Garden Street.

So last when we spoke you said you'd be back.

MICHAEL GULESERIAN: And here we are.

BRENDAN SULLIVAN: And you're back?

MICHAEL GULESERIAN: Yes.

BRENDAN SULLIVAN: All right. If you would introduce yourself, Michael, for the record.

MICHAEL GULESERIAN: Michael Guleserian. I'm Chair of the Commander Hotel.

LAWRENCE GARRITY: Lawrence Garrity, G-a-r-r-i-t-y from Hardway Associates occupant.

BRENDAN SULLIVAN: Can you tell us briefly what you want to do there?

LAWRENCE GARRITY: In the previous hearing we were granted a Variance to add an entry to the newly renovated restaurant, and now we're back for the signs that go on

that -- on two of the elevations which were presented first to the Historical Commission which approved the addition.

The Variance we're talking about is internally lit. The hotel in a residential district it says no internally lit signs. This sign basically is a disc. And the only light will be coming from those letters which are about half an inch wide. And they're LED light. It's not a glare. You know, so it's not like neon or anything else like that. Exterior signs would have been allowed, exterior lit signs.

BRENDAN SULLIVAN: How many are you going to put in?

LAWRENCE GARRITY: Two.

BRENDAN SULLIVAN: Two? One facing Garden and one facing down Garden?

LAWRENCE GARRITY: Yes.

BRENDAN SULLIVAN: So the oval is one, or the round, I should say.

LAWRENCE GARRITY: They're both round, they're just two different diameters.

MICHAEL GULESERIAN: One on the side and one on the front?

LAWRENCE GARRITY: Right.

BRENDAN SULLIVAN: Any questions at all?

CONSTANTINE ALEXANDER: You must like to pay filing fees to the City of Cambridge. Why are you doing two petitions? You could have done one.

MICHAEL GULESERIAN: Honestly, when we put the first petition in we actually didn't realize we needed a Variance for this. And I'm sure that -- I think that the comment was made it would have been easier if we did it all at once. I agree.

CONSTANTINE ALEXANDER: Cheaper, too.

BRENDAN SULLIVAN: Any other questions at this point?

TAD HEUER: Have you spoken with the neighbors across the street in the apartment complex?

MICHAEL GULESERIAN: So, I spoke to two neighbors. One of them called me, and the specific question was she asked me what exactly is an internally illuminated sign? And I actually told her. I said, I didn't know what the difference was until --

TAD HEUER: Did you say look up on the roof?

MICHAEL GULESERIAN: I didn't even know that was an internally illuminated sign until you brought it up. So I explained what it was, and I think that after -- and I invited her to come and actually see the plans and everything. But when I actually explained it over the phone, and I told her that although it is a sign that is by definition lit from inside, it's not a beacon of light and it's not, you know, the -- she knows, and

she's seen the logo as the other person as well that I spoke to, and they actually felt like the look and feel of what we were going for was great.

The other person was actually, earlier today was a neighbor that I had just saw. She was actually in the restaurant at the bar, and I had my plans on my way here, and I -- and I'm not sure whether or not every individual tenant in the building across the street gets a notice or the landlord. I don't know how that works.

TAD HEUER: Is it rental or owner?

MICHAEL GULESERIAN: I think it might be both.

CONSTANTINE ALEXANDER: We wouldn't have any record of the city of who the tenants are so it can't be the tenants.

TAD HEUER: It's not condo, is it?

MICHAEL GULESERIAN: It might be condo.

CONSTANTINE ALEXANDER: Condos are different. If it's condo, then they would get it.

BRENDAN SULLIVAN: If it's condo with a rental element.

MICHAEL GULESERIAN: And I'm a neighbor as well, and I think it's a fantastic idea.

BRENDAN SULLIVAN: Niles.

MICHAEL GULESERIAN: Niles is the management company across the street.

CONSTANTINE ALEXANDER: I don't think it's condos.

TAD HEUER: I think it's rental.

MICHAEL GULESERIAN: So anyway, one of the renters, I talked to her today and I mentioned that I was going for a hearing. And she's, like, what is it for? And I was, like, you didn't get a notice? And that probably explains that answer. And I said let me show you the plans. I showed it to

her, and I explained that the light is just coming from the letters. And I showed her the actual vestibule on the plans, and she said it was great.

TAD HEUER: So is this -- so usually when we think of an internally illuminated sign, it's a light in the back and a blank face across it. Is that what you have?

MICHAEL GULESERIAN: Really what it is, how I understand it is so that the -- where you see that it's black, it's actually going to be a like a chocolate brown, that's the color. And that's going to be completely opaque. No light's going to come through the brown part. Only the letters are going to light up. And the way that it was designed is that I don't think that it was just the light that's coming through. I think that it's going to be almost like a line of almost like a some kind of a material.

LAWRENCE GARRITY: They have a like

a face, like a transparent face. Like a --

MICHAEL GULESERIAN: Like an exit sign. Like a frosted plastic-ish kind of thing that's like that which is going to be illuminated.

BRENDAN SULLIVAN: There's a back plate and then there is going to be an LED or some kind of a bulb or something. And then you're going to have a front plate with an acrylic, say Nubar on it and then over that you'll have a black chocolate applique. So that basically what you see is what you see Nubar and it's going to be like a pencil.

MICHAEL GULESERIAN: Right. And to the point that was brought up last time about externally illuminated, I think that the end of the day it's going to look -- the sign is the sign. And whether you have it, whether you have the light coming from the letters or from the -- from a spotlight on it, it's essentially going to be a lit sign. And we

felt like the look and feel being in a historic neighborhood, we felt like it would look better this way than having a boom come out with a spotlight back onto it.

BRENDAN SULLIVAN: I think that's more elegant looking.

MICHAEL GULESERIAN: That's what our thought process was, and that's how it was designed.

BRENDAN SULLIVAN: Very simple.

MICHAEL GULESERIAN: In keeping, you know, thinking about the historic nature of the neighborhood. And then when we found that actually it's non-compliant with the code -- I don't know the words I'm using, I was surprised. Because I feel like this actually looks better than, you know, like I rod or something out coming with a spotlight coming back to it.

TAD HEUER: And did Historic --

MICHAEL GULESERIAN: They approved

it, yeah.

BRENDAN SULLIVAN: Actually, if you had externally illuminated, you would lose the lettering. You know, you see it with the big. And that is -- would be far more -- first of all, I think it's quieter and far more elegant.

MAHMOOD FIROUZBAKHT: What about the white circle, will that be illuminated?

MICHAEL GULESERIAN: I think -- you know, I was thinking about that on the way over. I think that it might be.

MAHMOOD FIROUZBAKHT: Which I think would be --

MICHAEL GULESERIAN: It's part of the logo.

MAHMOOD FIROUZBAKHT: That would make more sense to me.

MICHAEL GULESERIAN: Right. So that everything saw see white, with the exception of the paper. The circle, and it's

all part of the logo. And this is the dimension. So however wide that would be on a 30 --

BRENDAN SULLIVAN: They're going to frame it basically.

LAWRENCE GARRITY: About five-eighths of an inch wide.

BRENDAN SULLIVAN: Let me open it up to public comment.

Is there anybody here who wishes to comment on the matter 16 Garden Street?

(No Response.)

BRENDAN SULLIVAN: I see none. There is correspondence in the file from the Planning Board dated October 24th.

(Reading) The Planning Board reviewed the sign request for the Sheraton Commander and it has no additional comments regarding the request for internal illumination. The Planning Board refers and supports the Historical Commission review process.

There is correspondence from the Cambridge Historical Commission dated October 27th regarding case No. 10173, 16 Garden Street. (Reading) The property is located in Old Cambridge Historical District where exterior alterations are subject to review and approval at a public hearing. The Commission approved a Certificate of Appropriateness for the vestibule addition and related signage. And see the attached.

And the attached really does not address directly the signage other than the fact that they approved the plan as presented, and the signage is an integral part thereof.

LAWRENCE GARRITY: I happen to both presented and it specifically mentions the sign being lit.

BRENDAN SULLIVAN: Any other questions by the Board?

Mahmood, any?

MAHMOOD FIROUZBAKHT: No.

BRENDAN SULLIVAN: Let me make a motion for the variance to allow two internally illuminative wall signs as per the proposal and for the drawings contained therein.

The Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner because it would preclude some identification on this new entryway into the restaurant. Lacking this identification would make it very difficult for the general public, and would impair the restaurant's design image and the presence on the street both in turn would impact the business of the restaurant and hence create a severe handicap financially.

The hardship is owing to the shape of the existing land which makes it extremely difficult to locate an adequately visible

sign with external lighting.

The Board notes the approval of the Cambridge Historical Commission and the Planning Board.

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.

All those in favor of granting the relief.

(Show of hands.)

BRENDAN SULLIVAN: Four in favor.

(Sullivan, Alexander, Scott, Firouzbakht.)

BRENDAN SULLIVAN: One in opposition.

(Heuer.)

BRENDAN SULLIVAN: Okay, Granted.

(Whereupon, at 10:50 p.m., the

Board of Zoning Appeals meeting

adjourned.)

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**ATTACH TO BOARD OF ZONING APPEAL**

**DATE:** 10/27/11

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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 7th day of November 2011.

---

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

My Commission Expires:  
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