

BOARD OF ZONING APPEAL  
FOR THE  
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, OCTOBER 22, 2020

6:00 p.m.

Remote Meeting

via

831 Massachusetts Avenue  
Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Brendan Sullivan, Vice Chair

Janet Green

Jim Monteverde

Alison Hammer

Slater W. Anderson

Jason Marshall

Matina Williams

City Employees

Sisia Daglian

Sean O'Grady



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1 P R O C E E D I N G S

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3 (6:03 p.m.)

4 Sitting Members: Constantine Alexander, Brendan Sullivan,  
5 Jim Monteverde, Alison Hammer, Jason  
6 Marshall, and Matina Williams

7 CONSTANTINE ALEXANDER: Good evening.

8 The Chair will call and welcome to the October 22 meeting of  
9 the Cambridge Board of Zoning Appeals. My name is  
10 Constantine Alexander, and I am the Chair. I'm going to  
11 next ask Sisia -- I'm going to take a roll call of the other  
12 members of the Board who are on the call, so everyone is  
13 aware of who's hearing this case.

14 As I said, I'm on.

15 SISIA DAGLIAN: Brendan?

16 BRENDAN SULLIVAN: Brendan Sullivan.

17 SISIA DAGLIAN: Jim Monteverde?

18 CONSTANTINE ALEXANDER: I saw Jim.

19 JIM MONTEVERDE: Jim Monteverde is here. Yep, Jim  
20 is here.

21 SISIA DAGLIAN: Jason Marshall?

22 JASON MARSHALL: Jason Marshall is here.

1                   SISIA DAGLIAN:  Alison?

2                   CONSTANTINE ALEXANDER:  Who was the person before  
3  you, Jason?

4                   SISIA DAGLIAN:  Alison Hammer?

5                   CONSTANTINE ALEXANDER:  It was so faint I couldn't  
6  hear.

7                   JIM MONTEVERDE:  Jim Monteverde.

8                   CONSTANTINE ALEXANDER:  No, no.  We're at four,  
9  who is the fifth?

10                  ALISON HAMMER:  Alison Hammer.

11                  CONSTANTINE ALEXANDER:  Okay, thank you, Alison.

12                  JIM MONTEVERDE:  Yeah.

13                  CONSTANTINE ALEXANDER:  All right.  Moving on,  
14  this meeting is being held remotely, due to statewide  
15  emergency actions limiting the size of public gatherings in  
16  response to COVID-19, and in accordance with Governor  
17  Charles D. Baker's Executive Order of March 12, 2020,  
18  temporarily amending certain requirements to the Open  
19  Meeting Law; as well as the City of Cambridge temporary  
20  emergency restrictions on city public meetings, city events,  
21  and city permitted events, due to COVID-19, dated May 27,  
22  2020.

1                   This meeting is being video and audio  
2 recorded, and is broadcast on cable television Channel 22,  
3 within Cambridge. There will also be a transcript of the  
4 meetings -- of the proceedings. By the way, let me stop  
5 right here. I take it the transcriptionist is on the call,  
6 Sisia?

7                   SISIA DAGLIAN: Yeah.

8                   CONSTANTINE ALEXANDER: Just want to be sure  
9 someone --

10                  SISIA DAGLIAN: Yeah, she is.

11                  CONSTANTINE ALEXANDER: Okay. All right, moving  
12 on. All Board members, applicants, and members of the  
13 public will state their name before speaking. All votes  
14 will be taken by roll call.

15                  Members of the public will be kept on mute until  
16 it is time for public comment. I will give instructions for  
17 public comment at that time, and you can also find  
18 instructions on the city's webpage for remote BZA meetings.

19                  Generally, you will have up to three minutes  
20 to speak, but that might change based on the number of  
21 speakers. And change, by the way, would be reduction in  
22 number of minutes, not to increase.

1 I'll start by asking the Staff to take Board member  
2 attendance, and verify that all members are audible. And  
3 I've already done that. So with that, let's move on.

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2 (6:04 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,  
4 Jim Monteverde, Alison Hammer, Jason  
5 Marshall, Slater W. Anderson and Matina  
6 Williams

7 The first case I'm going to call is Case Number  
8 #92796 -- 198 Broadway. Anyone here wishing to be heard on  
9 that matter, on this matter?

10 DANIEL KLASNICK: Yes, good evening, Mr. Chairman.  
11 I appreciate the opportunity to appear before the Board this  
12 evening. My name is --

13 CONSTANTINE ALEXANDER: Excuse me, you're very  
14 faint. Can someone turn up the volume?

15 DANIEL KLASNICK: Can you hear me okay now?

16 COLLECTIVE: Yes

17 CONSTANTINE ALEXANDER: Okay.

18 DANIEL KLASNICK: Once again, I'm [cough ] sorry,  
19 I just got a --

20 CONSTANTINE ALEXANDER: Take your time.

21 DANIEL KLASNICK: I just got something in my  
22 throat. I'm sorry, thank you.

1           Once again, my name is Daniel Klasnick. I'm the  
2 attorney that's representing Verizon Wireless in its  
3 proposal to modify its existing rooftop wireless facility  
4 located on the building at 198 Broadway.

5           Just by way of background [20:21 audio unclear in  
6 1998, and also, for this Board's information ]

7           CONSTANTINE ALEXANDER: We're not hearing you.  
8 We're having audio problems.

9           JIM MONTEVERDE: Mr. Chairman, this is Jason  
10 Marshall. It seems like somebody starts speaking and  
11 they're represented twice, at least on the Zoom call and  
12 that's causing some interference.

13          JIM MONTEVERDE: Right. So Daniel, are you on  
14 twice somehow?

15          DANIEL KLASNICK: No.

16          JIM MONTEVERDE: Did you log in --

17          DANIEL KLASNICK: I can see my appearance is  
18 twice, but I did not log onto two devices, just one.

19          JIM MONTEVERDE: You know, Jim that happened to me  
20 when I announced that I was present for attendance. So I  
21 think it's something with the Zoom connection.

22          JIM MONTEVERDE: Okay.

1 DANIEL KLASNICK: Do you want me to continue?

2 SISIA DAGLIAN: Yeah, that's better.

3 DANIEL KLASNICK: Is that better?

4 [Noise]

5 Yeah, there's definitely too many -- one is  
6 supposed to -- I will continue, unless the Board wants me to  
7 --

8 CONSTANTINE ALEXANDER: The audio is not working.

9 DANIEL KLASNICK: Should I try now?

10 [Noise]

11 CONSTANTINE ALEXANDER: It's been suggested that  
12 maybe you need to log in one more time. Because on our  
13 side, everything seems to be in working order.

14 DANIEL KLASNICK: Okay. You want me to leave the  
15 meeting and come back?

16 CONSTANTINE ALEXANDER: What happened to him?

17 JIM MONTEVERDE: He just logged off and then  
18 logged back on again.

19 CONSTANTINE ALEXANDER: He should have come up by  
20 now, though.

21 JIM MONTEVERDE: He's back, it's just muted.

22 DANIEL KLASNICK: Okay, is that better?

1           JIM MONTEVERDE:  There you go.

2           DANIEL KLASNICK:  Would you like me to start from  
3 the beginning, or -- no, there's two of me again.  Shall I  
4 proceed, or --

5           CONSTANTINE ALEXANDER:  Want me to mute it?

6           BRENDAN SULLIVAN:  I think he should start at the  
7 beginning.  Okay.  I'm going to mute it.  This is Brendan  
8 Sullivan.  Dan, if you could maybe just speak a little bit  
9 closer to your mic, wherever that may be, that may help.

10          DANIEL KLASNICK:  Okay.  Can you hear me okay?

11          BRENDAN SULLIVAN:  That's better, much better.

12          DANIEL KLASNICK:  Thank you.

13          CONSTANTINE ALEXANDER:  You can pick up where you  
14 left off, I think.

15          DANIEL KLASNICK:  Okay.  I guess I was just going  
16 to give a little more background in regard to the  
17 application that was filed in this 6409A Eligible Facilities  
18 Modification.

19                 We included a copy of your special permit  
20 application form, and detailed project there, a set of  
21 stamped plans, photo simulations and FCC licenses.  We  
22 included an outline of the satisfaction of the standards for

1 6409 as well as the ordinance standards.

2 Verizon Wireless currently has 12 ballast-mounted  
3 antennas installed on the roof of the building. The  
4 proposed modification consists of removing nine of those  
5 existing antennas, and in their place Verizon Wireless will  
6 install nine antennas. So it's just a basic swap out, nine  
7 for nine.

8 We did include plans -- and I don't know if we  
9 need to look at those, but in any event, what the facility -  
10 - thank you, if you were to go to Sheet C1, please, this  
11 provides you with a birds eye rooftop perspective.

12 We see that Verizon Wireless currently has  
13 installed the ballast mounts, as I had indicated -- three  
14 separate sectors designated Alpha, Beta, Gamma.

15 Each one of those ballast mounts contains those  
16 four antennas, so all that we'll be doing, once again, is  
17 removing nine of them, installing nine, obtaining one.  
18 There will be some additional radio heads added to the  
19 valves as well as a junction box.

20 We also provided -- I don't know if we want to  
21 move down to this, if possible, please? -- photo  
22 simulations. We included four separate photo simulations --

1 two from Broadway, one on Harvard Street and one on  
2 Portland.

3 So if we can please slide down to the next slide,  
4 please?

5 So this is the photo location map, as I just  
6 described it, with the four different locations, providing  
7 us with perspectives all around the facility.

8 If it's possible to move to the next slide,  
9 please?

10 This first location, seen from Broadway, shows you  
11 the existing conditions. As I said, there are other  
12 wireless service providers installed in this building. So  
13 the façade mounts are in different wireless providers.  
14 Verizon Wireless's are the antennas mounted on the rooftop,  
15 ballast-mounted.

16 We can go to the next slide, please.

17 Once again, this is the afterview of the alpha  
18 sector and beta sectors I described. I guess at that height  
19 from this perspective, you can't notice any visual change to  
20 the facility itself. So if it's possible just to move  
21 through the other ones, please?

22 Once again, this is the existing, and then the

1 next one is the proposed, and then once again this is from  
2 Harvard Street -- existing, proposed, the detail of  
3 everything.

4 And then the last set of photo simulations from  
5 Portland Street showing existing and proposed.

6 So I think what this illustrates is that there  
7 isn't going to be any individual change that anyone will  
8 notice, and it will, as I indicated -- this is really an  
9 important part of Verizon Wireless's network to improve the  
10 reliability of voice and data service for Cambridge  
11 residences and businesses.

12 I think that the modification is highly  
13 advantageous, and that it's utilizing the existing location  
14 and has not only Verizon Wireless 's antenna but also  
15 antennas of other wireless service providers to provide that  
16 approved service.

17 We just would respectfully request that the  
18 proposed modification does satisfy the standards for  
19 Eligible Facility request, and as we outlined in our  
20 narrative and other details, and request that this Board  
21 respectfully grant the special permit. Thank you very much,  
22 Mr. Chair.

1           CONSTANTINE ALEXANDER: Okay. Questions from  
2 members of the Board?

3           BRENDAN SULLIVAN: Brendan Sullivan; I have no  
4 questions.

5           JIM MONTEVERDE: Jim Monteverde, no questions.

6           CONSTANTINE ALEXANDER: Alison?

7           [Pause]

8           Alison?

9           Jason?

10          ALISON HAMMER: Yeah hi, sorry.

11          CONSTANTINE ALEXANDER: All right. Any questions?

12          ALISON HAMMER: No, thank you. Sorry about that.

13          CONSTANTINE ALEXANDER: Jason?

14          JASON MARSHALL: Jason Marshall, no questions.

15          CONSTANTINE ALEXANDER: Okay. I will now open the  
16 matter up to public testimony. Is there anyone here wishing  
17 to be heard on this matter?

18          SPEAKER UNIDENTIFIED: No. Nobody's asking to  
19 speak.

20          CONSTANTINE ALEXANDER: Who's telling us?

21          SEAN O'GRADY: I'm sorry, that's Sean.

22          CONSTANTINE ALEXANDER: Sean?

1 SEAN O'GRADY: Yes. Nobody's there.

2 CONSTANTINE ALEXANDER: Anyone wishing -- is there  
3 anybody in the queue?

4 SEAN O'GRADY: No.

5 CONSTANTINE ALEXANDER: Okay. And then we have  
6 nothing in our files, no written comments so I'm going to  
7 close public testimony. Discussion, or are we ready for a  
8 vote. I'm ready for a vote.

9 BRENDAN SULLIVAN: Brendan Sullivan, ready for a  
10 vote.

11 JIM MONTEVERDE: Jim, ready for a vote.

12 ALISON HAMMER: Hammer ready for a vote.

13 JASON MARSHALL: Jason Marshall ready for a vote.

14 CONSTANTINE ALEXANDER: Okay. The Chair moves  
15 that we make the following findings:

16 That the requirements of the ordinance cannot be  
17 met unless we grant the relief being sought.

18 That traffic generated or patterns of access or  
19 egress resulting from what is being proposed will not cause  
20 congestion, hazard, or substantial change in established  
21 neighborhood character. As the petitioner points out in his  
22 material, essentially the amount of equipment is not being

1 increased, or the size or the like, it's just a swap of  
2 similar sized equipment.

3           That the continued operation of or development of  
4 adjacent uses, as permitted in the zoning ordinance, will  
5 not be adversely affected by what is being proposed and we  
6 have received no evidence that that would be the case. If  
7 there would be an adverse effect. No one has complained or  
8 submitted opposition based on this.

9           No nuisance or hazard will be created to the  
10 detriment of the health, safety and/or welfare of the  
11 occupant of the proposed use, or the citizens of the city.

12           And that generally, what is being proposed will  
13 not impair the integrity of the district or adjoining  
14 district, or otherwise derogate from the intent and purpose  
15 of this ordinance.

16           In addition, the Board also finds that the  
17 modification of its existing telecommunications facility on  
18 the site proposed by the petitioner does not substantially  
19 change the physical dimensions of the existing wireless  
20 tower or base station at such facility, within the meaning  
21 of Section 6409A of the Middle Class Tax Relief and Job  
22 Creation Act of 2012, also known as, "The Spectrum Act."

1           Based on these findings, the Chair moves that the  
2 petitioner be granted the special permit it is seeking,  
3 subject to the following conditions:

4           One, that the work proceed in accordance with the  
5 plans submitted by the petitioner and initialed by the  
6 Chair.

7           Two, that upon completion of the work, the  
8 physical appearance and visual impact of the proposed work  
9 will be consistent with the photo simulations submitted by  
10 the petitioner, and initialed by the Chair.

11           Three, that the petitioner shall at all times  
12 maintain the proposed work, so that its physical appearance  
13 and visual impact will remain consistent with the photo  
14 simulations previously referred to.

15           Four, that should that petitioner cease to utilize  
16 the equipment approved tonight for a continuous period of  
17 six months or more, it shall promptly thereafter remove such  
18 equipment and restore the building on which it is located to  
19 its prior condition and appearance, to the extent reasonably  
20 practicable.

21           And five, that the petitioner is in compliance  
22 with and continues to comply with in all respects the

1 conditions imposed by this Board with regard to previous  
2 special permits granted to the petitioner with regard to the  
3 site in question.

4 In as much as the health effects of the  
5 transmission of electromagnetic energy waves is a matter of  
6 ongoing societal concern and scientific study, the special  
7 permit is also subject to the following conditions:

8 a) That the petitioner shall file with the  
9 Inspectional Services Department each report it files with  
10 the federal authorities regarding electromagnetic energy  
11 waves emissions emitting from all of the petitioner's  
12 equipment on the site.

13 Each site report shall be filed with the  
14 Inspectional Services Department no later than 10 business  
15 days after the report has been filed with federal  
16 authorities.

17 Failure to timely file any such reports with the  
18 Inspectional Services Department shall ipso facto terminate  
19 the special permit granted tonight.

20 b) That in the event that at any time the federal  
21 authorities notify the petitioner that its equipment on the  
22 site, including but not limited to the special permit

1 granted tonight, fails to comply with the requirements of  
2 law, or governmental regulations -- with regard to the  
3 emissions of electromagnetic energy waves or otherwise --  
4 the petitioner within 10 business days of receipt of such  
5 notification of such failure, shall file with the  
6 Inspectional Services Department a report disclosing in  
7 reasonable detail that such failure has occurred, and the  
8 basis for such claimed failure.

9           The special permit granted shall ipso facto  
10 terminate if any of the petitioner's federal licenses is or  
11 are suspended, revoked or terminated.

12           c) That in the event that a special permit has  
13 terminated, pursuant to the foregoing paragraph a) and b),  
14 the petitioner may apply through this Board for a new  
15 special permit, provided that the public notice concerning  
16 such application discloses in reasonable detail that the  
17 application has been filed because of the termination of the  
18 special permit pursuant to paragraph a) and b) above.

19           Any such new application shall not be deemed a  
20 repetitive petition, and therefore will not be subject to  
21 the two-year period during which repetitive petitions may  
22 not be filed.

1           d) That within 10 business days after receipt of a  
2 building permit for the installation of the equipment  
3 subject to this petition, the petitioner shall file with the  
4 Inspectional Services Department a sworn affidavit of the  
5 person in charge of the installation of equipment by the  
6 petitioner of the geographical area that includes Cambridge  
7 stating that

8           a) he or she has such responsibility, and

9           b) that the equipment being installed pursuant to  
10 the special permit we are granting tonight will comply with  
11 all federal safety rules, and will be situated and  
12 maintained in locations with appropriate barricades and  
13 other protections, such that individuals, including nearby  
14 residents and occupants of nearby structures will be  
15 sufficiently protected from excessive radiofrequency  
16 radiation under federal law.

17           All those in favor of granting the special permit,  
18 subject to the conditions I've just read?

19           BRENDAN SULLIVAN: Brendan Sullivan, yes to grant  
20 the special permit.

21           JIM MONTEVERDE: Jim Monteverde, yes.

22           ALISON HAMMER: Alison.

1           CONSTANTINE ALEXANDER:  Alison?

2           ALISON HAMMER:  Alison Hammer, yes.

3           JASON MARSHALL:  Jason Marshall, yes.

4           CONSTANTINE ALEXANDER:  And the Chair votes yes as  
5 well.

6           [All vote YES]

7           Special permit is granted.  Thank you.

8           DANIEL KLASNICK:  Thank you very much.  Have a  
9 great evening.

10          [All vote YES]

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2 (6:20 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,  
4 Jim Monteverde, Alison Hammer, Jason  
5 Marshall

6 CONSTANTINE ALEXANDER: The Chair will now call  
7 Case Number #90693, 6 Shephard Street. Anyone here wishing  
8 to be heard on this matter?

9 [Pause]

10 CONSTANTINE ALEXANDER: Hello?

11 SEAN O'GRADY: Steedman? Go ahead.

12 CONSTANTINE ALEXANDER: The floor is yours. Speak  
13 up, please, closer to the mic so we can hear you.

14 STEEDMAN BAAS: I'm sorry, our architect, Richard  
15 Bernstein, should be the lead presenter on this.

16 CONSTANTINE ALEXANDER: Up to you. You decide  
17 who's to be lead presenter. I just want to make sure, have  
18 that person identified and we can all hear him. It's only  
19 people in the radio audience.

20 RICHARD BERNSTEIN: Okay. I think I've connected  
21 to you. I don't see a picture, but --

22 SISIA DAGLIAN: Richard, can you introduce

1 yourself.

2 RICHARD BERNSTEIN: Dark video. Wait, I'm --

3 FaceTime, there we go.

4 CONSTANTINE ALEXANDER: There you are.

5 RICHARD BERNSTEIN: Can you hear me?

6 CONSTANTINE ALEXANDER: Yes.

7 RICHARD BERNSTEIN: Hello?

8 CONSTANTINE ALEXANDER: I can hear you.

9 RICHARD BERNSTEIN: The connection is unstable.

10 Oh, yes, I can. And you -- oh, if you can hear me, I'll  
11 introduce myself. My name is Richard Bernstein, the  
12 architect for the project. Joining me is Steedman Baas, who  
13 is the Trustee in charge.

14 And the proposal is to replace an existing rear  
15 stair. You can start with the photographs. Can you put  
16 those up? OKAY, that's fine.

17 So the -- you see the existing stair structure.  
18 The building contains six apartments originally constructed  
19 in about 1880. It was two attached single-family homes  
20 converted to apartments, then condominiums in around 1980,  
21 and the existing stair is in very bad shape and disrepair.  
22 It's also extremely substandard as far as the dimensions.

1           You can go through the photographs. [39:17 audio  
2 unclear] this is the area between 5 to 7 Rutland and the  
3 existing stair.

4           Next photo? The view from the other side.

5           CONSTANTINE ALEXANDER: So let me interrupt you.

6           RICHARD BERNSTEIN: The left is --

7           CONSTANTINE ALEXANDER: It's your testimony that  
8 the existing stair is noncompliant with the state --

9           RICHARD BERNSTEIN: Correct --

10          CONSTANTINE ALEXANDER: -- building laws, is that  
11 correct?

12          RICHARD BERNSTEIN: It's a -- yes, correct. It's  
13 an existing, nonconforming structure.

14          CONSTANTINE ALEXANDER: Okay.

15          RICHARD BERNSTEIN: -- as far as building to code.

16          CONSTANTINE ALEXANDER: But nonconforming as to  
17 the building code --

18          RICHARD BERNSTEIN: So.

19          CONSTANTINE ALEXANDER: -- not just to our, I mean  
20 it's to our zoning as well. But the issue specifically  
21 you're concerned about, I think -- you tell me -- is that  
22 you have stairs that do not comply with the state building

1 code?

2           RICHARD BERNSTEIN: They do not, that's correct.  
3 But most importantly it's in a state of disrepair, so that  
4 it is extremely unsafe, and the association spent about five  
5 years looking at alternatives of repairing and replacing in  
6 place, and none were feasible.

7           So the only alternative is to remove the existing  
8 structure and replace it with a conforming structure.

9           So if you go to the next drawing, so this is the  
10 proposed replacement structure, the rear elevation and plan.

11           If you can go down to the survey plan, I think  
12 that will give you a very good idea of what the proposal is  
13 and how it's located.

14           The building is on a corner lot. So for zoning  
15 purposes, there are two side yards, no rear yards. So two  
16 front yards and two side yards. And so, that's the proposed  
17 stair.

18           We have reviewed the project with neighbors -- in  
19 particular 5 and 7 Rutland Street, and they appreciate the  
20 effort that the association's making and they realize that -  
21 - that pretty much sums up.

22           If I could just add that the original stair, the

1 clearance in each run of stairs was two feet four inches,  
2 and the proposed stair is three feet four inches, which is  
3 really a minimum required. These are the floor plans of the  
4 three stories, indicating the new stair in red over the  
5 plan.

6 CONSTANTINE ALEXANDER: Okay. Questions from  
7 members of the Board at this point?

8 BRENDAN SULLIVAN: Brendan Sullivan, no questions  
9 at this time.

10 JIM MONTEVERDE: This is Jim Monteverde. I just  
11 have one question.

12 RICHARD BERNSTEIN: Sure.

13 JIM MONTEVERDE: Sisia, on the sheet that's  
14 called, "Title Zoning 2" so just to confirm, Mr. Bernstein,  
15 what's noncompliant about the existing stairs, you just  
16 mentioned the width.

17 RICHARD BERNSTEIN: And the winders.

18 JIM MONTEVERDE: Looks like there's also a winder,  
19 right?

20 RICHARD BERNSTEIN: Yes. The winders and the  
21 rise. So they're too steep.

22 JIM MONTEVERDE: Right, yeah.

1 RICHARD BERNSTEIN: Yeah.

2 JIM MONTEVERDE: And that's what causes you in the  
3 new geometry to push this closer to the property line,  
4 correct?

5 RICHARD BERNSTEIN: That's correct. And also to  
6 consolidate it as much as possible.

7 JIM MONTEVERDE: Yep, okay, thank you.

8 RICHARD BERNSTEIN: Yep.

9 CONSTANTINE ALEXANDER: Any other members have any  
10 questions they wish to ask? Andrea or Jason?

11 ALISON HAMMER: Alison Hammer, no questions.

12 JASON MARSHALL: Yeah, Mr. Chair, Jason Marshall.  
13 Just one clarifying question, and I probably just reviewed  
14 too many contracts in my day job, but in the supporting  
15 statement, it says that the design will allow for the  
16 survival of the tree. Is the tree going to remain?

17 RICHARD BERNSTEIN: Yes, it will.

18 JASON MARSHALL: Okay, thank you.

19 JIM MONTEVERDE: And we're going to structure it  
20 so that actually it's cantilevered to avoid disturbing the  
21 existing groups. Because it will require some foundation  
22 work.

1                   JASON MARSHALL: Thank you for that. No more  
2 questions.

3                   CONSTANTINE ALEXANDER: Okay. I'll open the  
4 matter up to public testimony. And let me give the  
5 instructions for doing so. Any member of the public who  
6 wishes to speak should now click the icon at the bottom of  
7 your Zoom screen that says, "Raise hand." If you're calling  
8 in by phone, you can raise your hand by pressing \*9 and  
9 unmute or mute by pressing \*6.

10                   I'll wait a few moments to see if there's anyone  
11 who wishes to speak?

12                   SEAN O'GRADY: Well, we had a Scott Fedak, but I  
13 don't see his microphone. He had raised his hand -- oh!  
14 Wait, let's see. Maybe he's on the phone here. I can't  
15 seem to advance him, though. Scott, if you can hear me, I  
16 can't get you through.

17                   SCOTT FEDAK: Hey, can you guys hear me okay?

18                   SEAN O'GRADY: There we go.

19                   SCOTT FEDAK: This is Scott Fedak. Hey, first of  
20 all thanks for having this meeting. And I think -- so just  
21 to introduce myself, I'm a Trustee of the 5-7 property, and  
22 been chosen to represent our interests in regard to this

1 project.

2           And this may or may not be something that this  
3 Board can answer, but our main concern is that -- and I  
4 think this has shown well in this view that we're looking at  
5 here -- at the bottom there is a rectangle structure which -  
6 - right above the structure it says, "80."

7           And then it's also showed well in picture number I  
8 think 5, that's shows the porch area. Excuse me it was --  
9 yes, picture 5.

10           What our concern is, it seems like our porch  
11 structures are too close to the property line, given current  
12 zoning. And I just want to confirm that if our porch  
13 structures were to be replaced, they would be not in  
14 compliance of the zoning code.

15           And I am not a lawyer, I'm not an architect, I  
16 tried to review the zoning code and it's not clear to me.  
17 And potentially this is not within your purview, given the  
18 time in this meeting, and we have to investigate ourselves.  
19 But I'm just curious if you can answer that for me.

20           CONSTANTINE ALEXANDER: Well, I'm not in a  
21 position to answer that question, which is a legitimate one.  
22 I don't know if anyone else can, or the petitioner's

1 representative?

2 RICHARD BERNSTEIN: I'm sorry?

3 CONSTANTINE ALEXANDER: What's your response?

4 RICHARD BERNSTEIN: Well, my response is this  
5 issue had come up and since the structure is an existing,  
6 nonconforming structure it's legally protected. It's also  
7 on a separate property, and therefore there would be no  
8 issue in the event that he would need to repair it. If you  
9 remove it, you lose the nonconforming status. So --

10 SCOTT FEDAK: Understood, thank you, Richard.

11 RICHARD BERNSTEIN: Sure.

12 SCOTT FEDAK: And does the extension of the  
13 proposed stair structure on the 6 Shephard project limit our  
14 ability to do any further redevelopment on our property,  
15 that we're aware of?

16 RICHARD BERNSTEIN: It wouldn't impact as far as -  
17 - I'd like to answer it as far as I know -- it would not  
18 impact it because you're a separate property, and you would  
19 have to sort of stand-alone permitting issue.

20 SCOTT FEDAK: Okay, so permitting -- zoning  
21 permitting is mainly in regards to our distance of our  
22 structures to the property line, rather than the distance of

1 our structures to the structures on our neighboring  
2 property?

3 RICHARD BERNSTEIN: That's correct, that's  
4 correct.

5 SCOTT FEDAK: Okay, understood. From my end,  
6 that's all the questions I had as of now.

7 CONSTANTINE ALEXANDER: Thank you.

8 RICHARD BERNSTEIN: Much appreciated.

9 CONSTANTINE ALEXANDER: Anyone else have questions  
10 or comments they wish to make?

11 SEAN O'GRADY: Gus, Sean. Nobody else to talk.

12 CONSTANTINE ALEXANDER: Thank you, Sean. I will  
13 close -- well, I looked in the file and there seems to be no  
14 correspondence. So I think with that we will close public  
15 testimony. Discussion, or are members ready for a vote?

16 BRENDAN SULLIVAN: Brendan Sullivan, ready for a  
17 vote.

18 JIM MONTEVERDE: This is Jim Monteverde, ready for  
19 a vote.

20 ALISON HAMMER: Alison Hammer, ready for a vote.

21 JASON MARSHALL: Jason Marshall, ready for a vote.

22 CONSTANTINE ALEXANDER: And the Chair is ready for

1 a vote as well. Okay. The Chair moves that this Board make  
2 the following findings.

3 That a literal enforcement of the provisions of  
4 the ordinance would involve a substantial hardship, such  
5 hardship being is that this is an older structure with  
6 stairs that are noncompliant with current legal and building  
7 requirements, and are in need of replacement -- in part, at  
8 least, to include the safety of the inhabitants of the  
9 structure.

10 That the hardship is owing to the fact that this  
11 is -- the shape of the lot and the fact that this building  
12 does predate zoning.

13 And that relief may be granted without substantial  
14 detriment to the public good, or nullifying or substantially  
15 derogating from the intent and purposes of this ordinance.

16 In this regard, the Chair would note that if we  
17 grant the relief, we will have stairs that are building code  
18 compliant, which is not the case now, and improve the safety  
19 for the inhabitants of the structure, current or future.

20 So on the basis of all of these findings, the  
21 Chair moves that we grant the special -- the, I'm sorry --  
22 the variance requested on the condition that the work

1 proceed in accordance with plans prepared by R.F. Bernstein,  
2 B-e-r-n-s-t-e-i-n Architects, the first page or the cover  
3 page of which has been initialed by the Chair.

4 Brendan?

5 BRENDAN SULLIVAN: Brendan Sullivan, yes to  
6 granting the variance.

7 JIM MONTEVERDE: Jim Monteverde, yes for the  
8 variance.

9 ALISON HAMMER: Alison Hammer, yes.

10 JASON MARSHALL: Jason Marshall, yes for the  
11 variance.

12 CONSTANTINE ALEXANDER: And the Chair votes yes as  
13 well.

14 [All vote YES]

15 Variance granted. Thank you.

16 RICHARD BERNSTEIN: Thank you very much.

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2 (6:35 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,  
4 Jim Monteverde, Alison Hammer, Jason  
5 Marshall

6 CONSTANTINE ALEXANDER: The Chair will now call  
7 Case Number 89631 -- 58 Haskell Street. Anyone here wishing  
8 to be heard on this matter?

9 STEPHEN EDWARDS: Hello, this is Steven Edwards.

10 ELISSA HOBERT: And Alyssa Hobert. We're the  
11 owners of 58 Haskell.

12 CONSTANTINE ALEXANDER: Okay. The floor is yours.

13 STEPHEN EDWARDS: All right. So we've been living  
14 in North Cambridge since 2016 on Rindge Ave, and we both  
15 work in Kendall Square.

16 We bought the house on Haskell Street earlier this  
17 year, and we saw the opportunity to rehabilitate the house  
18 and make it a perfect home for our family to put down roots  
19 in Cambridge.

20 For the special permit application, it's modifying  
21 windows on an existing nonconforming wall. And if we can  
22 bring up the existing plans, the elevations, the most

1 significant part of the special permit is the relocation and  
2 reduction in size of the kitchen window. And we put a lot  
3 of thought into the layout and design of our kitchen to make  
4 sure it worked for our family and lifestyle.

5           So I think it's -- scroll down -- yeah, 4. Yeah,  
6 that's the updated one.

7           So the window labeled, "Window 1" is being  
8 relocated several feet to the left here. The window "W3" is  
9 going to be reduced in size, and that's a bathroom, but will  
10 otherwise stay in the same location.

11           And then the other three windows that are red are  
12 just being removed entirely.

13           So that's the extent of the changes we're making.

14           On September 7, we shared these plans with our  
15 neighbor to the north, who abuts the side of our house, and  
16 she's shared with us some privacy concerns that she had  
17 about the new kitchen window location. So we had several  
18 conversations in person and phone and e-mail, and --

19           CONSTANTINE ALEXANDER: I'm sorry, could you just  
20 speak up a little bit louder, or at least closer to the mic?

21           STEPHEN EDWARDS: Yeah, sure, sorry. So on  
22 September 7, we shared these plans with our neighbor, and

1 she shared with us some privacy concerns that she had  
2 regarding the type of window in the kitchen.

3 We believe we've reached a compromise on the type  
4 of window as of last Thursday, October 15. So we submitted  
5 an amendment to our plans to reflect the compromise, which  
6 is what you're viewing here.

7 So the kitchen window will have an awning, which  
8 will have privacy glass, pattern 62, if that's what our  
9 window supplier has, and then it will have a similar transom  
10 above it and clear glass. And that clear glass window will  
11 be at least 6 feet 11 inches above the ground.

12 And I think we shown an interior elevation, which  
13 shows the -- yes, that shows the height of the window on the  
14 inside. So the clear part of the window would be well above  
15 our head heights.

16 I believe our neighbor Amy had submitted a letter  
17 in opposition, but I hope she's here today to say that she  
18 agrees with these amended plans.

19 CONSTANTINE ALEXANDER: You're correct that she  
20 has submitted a letter of opposition, which I'll read into  
21 the file. As far as I know, it's still outstanding. I  
22 mean, I don't think she's withdrawn her opposition. Has she

1 indicated otherwise to you?

2 ALYSSA HOBERT: Yeah, she told us she had  
3 submitted a letter to Maria last Thursday over e-mail, e-  
4 mail.

5 AMY TIEN: Can you hear me?

6 CONSTANTINE ALEXANDER: I can hear you, yes. I'm  
7 trying to find out, we do have a letter in our file. If  
8 Maria got it, she would have put it in the files, and the  
9 only one I have is the one which I haven't read yet, but --  
10 I mean, I haven't read into the record, but it does continue  
11 to express opposition.

12 SEAN O'GRADY: Gus? Amy is here right now. Amy,  
13 go ahead.

14 AMY TIEN: Hi. This is Amy Tien. I'm the owner  
15 of 54 Haskell Street, also the abutter and neighbor. Yes,  
16 so I did have an initial opposition to the initial plans,  
17 but as the petitioners have mentioned, we have met and we  
18 have spoken, and I think we've come to a neutral solution.

19 So I do support this new window modification and  
20 these amended plans that were submitted I think for October  
21 19, 2020, showing the modified window.

22 As Stephen's, you know, described, the above head

1 clear [56:14 indiscernible fixed transom] with the obscure  
2 awning below. So I do support this plan.

3           CONSTANTINE ALEXANDER: Okay. First of all, I  
4 want to congratulate all three of you for sitting down and  
5 working these things out, which is often not the case. We  
6 have people at each other's throats.

7           But what we have before us, and what we would  
8 approve, should we approve it, are plans that the city  
9 received on October 19, prepared by Joe, the architect. Are  
10 those the ones you saw, Ms. -- Ma'am, are those the ones you  
11 saw? So you're okay with these plans?

12           AMY TIEN: Yes, for October 19 --

13           CONSTANTINE ALEXANDER: Okay, good.

14           AMY TIEN: -- 2020.

15           CONSTANTINE ALEXANDER: Good, thank you. Anything  
16 else you wish to add, or can we move on?

17           [Pause]

18           I take it as we can move on.

19           Anyone else wishes to speak? By the way, again,  
20 we joined as part of the presentation, but if there are  
21 others who wish to speak, you have to click the icon at the  
22 bottom of your Zoom screen that says, "Raise hand." If

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

3 I'll wait a second to see if Sean has anybody else  
4 on the line?

5 SEAN O'GRADY: Yeah, you have one more. A Greg  
6 Barrett is coming.

7 CONSTANTINE ALEXANDER: Okay. The person can now  
8 join the call, starting by identifying his or her name and  
9 address.

10 GREGORY BARRETT: Hi, this is Gregory Barrett.  
11 And I'm the owner of 60-62 Haskell Street with my wife, the  
12 property to the south, and I support the application by  
13 Steve and Alyssa, and I think they'll really improve the  
14 appearance of the house with their renovation and to the  
15 benefit of the neighborhood.

16 CONSTANTINE ALEXANDER: Okay, thank you. Thank  
17 you for taking the time to support a neighbor. Anyone  
18 wishes to speak? Apparently not. Sean?

19 SEAN O'GRADY: No.

20 CONSTANTINE ALEXANDER: I'm sorry?

21 SEAN O'GRADY: Nobody else.

22 CONSTANTINE ALEXANDER: Nobody else, okay. And we

1 have no correspondence in our files other than a letter from  
2 Ms. Amy Tien, who has spoken and basically withdrawn the  
3 letter, based on conversations and agreements she's reached  
4 with the petitioner.

5 So I will close public testimony. Members of the  
6 Board, we can have a discussion, or are people ready to take  
7 a vote?

8 BRENDAN SULLIVAN: Brendan Sullivan, no questions  
9 and ready for a vote.

10 JIM MONTEVERDE: Jim Monteverde, same. I'm ready.

11 ALISON HAMMER: Alison Hammer, ready for a vote.

12 JASON MARSHALL: Jason Marshall, ready for a vote.

13 CONSTANTINE ALEXANDER: Thank you. And the Chair  
14 is ready for a vote as well. All right. The Chair moves  
15 that we make the following findings with regard to the  
16 special permit that's being sought:

17 That the provisions of our ordinance cannot be  
18 satisfied unless we grant the special permit.

19 That traffic generated or patterns of access or  
20 egress resulting from what is being proposed will not cause  
21 congestion, hazard, or substantial change in established  
22 neighborhood character. In this regard, the changes are

1 minor in terms of impact to the neighborhood, and have met  
2 with -- now with the approval of the neighbors most directly  
3 affected.

4           That the continued operation of or development of  
5 adjacent uses, as permitted in the ordinance, will not be  
6 adversely affected by the nature of the proposed use.

7 Again, we're talking about modest modifications to a wall --  
8 windows and a wall, and it will not -- the Board moves, the  
9 Board determines that the development or operation of  
10 adjacent uses will not be adversely affected.

11           That no nuisance or hazard will be created to the  
12 detriment of the health, safety and/or welfare of the  
13 occupant of the proposed use -- that's the petitioners -- or  
14 the citizens of the city.

15           And generally, what is being proposed will not  
16 impair the integrity of the district or adjoining district,  
17 or otherwise derogate from the intent and purpose of this  
18 ordinance or otherwise derogate from the intent and purpose  
19 of the ordinance.

20           In fact, what is being proposed will actually  
21 improve the housing stock of the city by improving the  
22 structure that's the subject of this petition.

1           So on the basis of all of these findings, the  
2 Chair moves that we grant the special permit being requested  
3 on the condition that the work proceed in accordance with  
4 plans prepared by Joe the architect -- see if I have the  
5 date. I don't see a date on there, but they're date stamped  
6 by the Inspectional Services Department, which received the  
7 plans as of October 19.2020.

8           All those in favor? Brendan?

9           BRENDAN SULLIVAN: Brendan Sullivan, yes to  
10 granting the special permit.

11          JIM MONTEVERDE: Jim Monteverde, yes.

12          ALISON HAMMER: Alison Hammer, yes.

13          JASON MARSHALL: Jason Marshall, yes.

14          CONSTANTINE ALEXANDER: And the Chair votes yes as  
15 well.

16          [All vote YES]

17          Special permit granted. Good luck.

18          COLLECTIVE: Thank you very much.

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2 (6:45 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,  
4 Jim Monteverde, Alison Hammer, Jason  
5 Marshall

6 CONSTANTINE ALEXANDER: The Chair -- we're just at 6:45,  
7 good -- the Chair will now call Case Number 91563 -- 22  
8 Longfellow Road. Anyone here wishing to be heard on this  
9 matter?

10 COLLECTIVE: Yes.

11 WALTER POPPER: We are here. I am Walter Popper.

12 CONSTANTINE ALEXANDER: We are all ears, whoever'd  
13 like to be heard. Go ahead.

14 WALTER POPPER: I'm Walter Popper, and this is my  
15 wife, Fleet Hill. We are the owners of the property at 22  
16 Longfellow Road.

17 DOROTHY FLEET HILL: So I am officially Dorothy  
18 Fleet Hill, but go by my middle name, Fleet -- a little  
19 confusion sometimes about that. We've lived here since  
20 1985. It's a two-family home. We've lived on the second  
21 and third floor all this time and had a rental unit on the  
22 first floor.

1           And now that our children are grown and lived  
2 elsewhere, we have decided that it's time for us to move  
3 downstairs and live on one floor.

4           So, you know, we're both in our 70s. In fact,  
5 today I turned 74, so --

6           CONSTANTINE ALEXANDER: Congratulations. That's  
7 not going to influence our vote, I want to make that very  
8 clear.

9           DOROTHY FLEET HILL: Okay, okay. Anyway, so we  
10 want to make these modifications to really flip our living  
11 space to the ground level and have the second and third  
12 level as a rental. We have really enjoyed and plan to  
13 continue loving our neighborhood and this little dead-end  
14 street is a lovely spot.

15           So we hope you look favorably on our petition and,  
16 you know, we're extremely attached to Cambridge and this  
17 neighborhood, and hope that our plans meet with your  
18 approval.

19           CONSTANTINE ALEXANDER: Thank you. Do you want to  
20 just briefly -- just very briefly identify the nature of the  
21 changes you're proposing that require zoning relief, so the  
22 audience has the benefit of that?

1           DOROTHY WHITE HILL: I actually would like to ask  
2 Steve Hiserodt of the Boyes-Watson firm to speak on that.

3           STEPHEN HISERODT: Can everybody hear me?

4           CONSTANTINE ALEXANDER: Yes.

5           STEPHEN HISERODT: Okay. So I'll take you through  
6 the relief requested. We are -- oh, this is Steve Hiserodt  
7 from Boyes-Watson Architects.

8           So the basis of our petition is actually on Mass.  
9 General Laws Chapter 6, which allows certain protections for  
10 one- and two-family houses, and precedent for our petition  
11 is the Bellalta versus Brookline Zoning Board case, in which  
12 it was determined that the state law allows for increases in  
13 existing nonconforming structures -- one and two-family  
14 houses -- with the approval by the special permit granting  
15 Board.

16           CONSTANTINE ALEXANDER: And what does it stand --  
17 just for the record, again, I'm familiar with the statute  
18 your referring to, the changes you're referring to, but why  
19 don't you just quickly summarize it --

20           STEPHEN HISERODT: Okay.

21           CONSTANTINE ALEXANDER: -- for the other members  
22 of the Board and for anyone in the listening audience?

1           STEPHEN HISERODT:  Okay, the summary of changes:  
2  We have -- if we go to page A101, we can see the addition of  
3  three window wells -- two on the front and one on the left  
4  side.

5           Now, this results in basically a reduction in  
6  average grade around the perimeter of the house, which then  
7  in that turn increases the building height.

8           So while there is no actual change in the height  
9  of the ridge or the roof structure, there's a technical  
10 change of about two inches in the definition of building  
11 height.  That is the first change.

12          The second change is partial enclosure of the  
13 front-covered entry also can be seen on A101 on drawing  
14 Number 2.  So we are taking approximately I think eight  
15 square feet of the existing covered entry and enclosing that  
16 to allow for a larger landing at the bottom of the second-  
17 floor entry stair, or second-floor unit entry.

18          The third increase in nonconforming nature is a  
19 slight reduction in the overall open space due to or  
20 resulting from a deck being placed in the rear yard.  That  
21 deck, though, is only 30 inches -- though it's only 30  
22 inches off the ground, actually reduces the amount of 15 x

1 15 foot open space. So we -- while we maintain the amount  
2 of usable area in the back yard that is open to the sky, the  
3 definition of what can be considered 15 x 15 open space has  
4 slightly changed.

5           And then the fourth element requiring relief is  
6 the addition of a small covered entry on the right-hand  
7 side, which is going to form the entry or cover the entry to  
8 Walter and Fleet's new first-floor unit. So it provides a  
9 grade-level entry, which is much easier access to covered  
10 interior space from both garage and sidewalk. That increase  
11 is approximately 24 square feet total GFA increase.

12           CONSTANTINE ALEXANDER: Okay. Thank you.

13 Questions from members of the Board?

14           BRENDAN SULLIVAN: Brendan Sullivan, no questions.

15           JIM MONTEVERDE: Jim Monteverde, no questions.

16           ALISON HAMMER: Alison Hammer, no questions.

17           JASON MARSHALL: Jason Marshall, no questions.

18           CONSTANTINE ALEXANDER: And the Chair has no  
19 questions as well. I will open the matter up to public  
20 testimony. Any members of the public who wish to speak now  
21 should click the icon at the bottom of your Zoom screen that  
22 says, "Raise hand." If you're calling in by phone, you can

1 raise your hand by pressing \*9 and unmute by pressing \*6.

2 I'll wait a few minutes to see if anyone wishes to speak.

3 SEAN O'GRADY: You've got no speakers, Gus.

4 CONSTANTINE ALEXANDER: Thank you, Sean. The  
5 Chair will report that we have a number of letters in our  
6 file regarding the relief being sought. I think it looks  
7 like to me from just about every person who resides on the  
8 block, because it's a small street.

9 And I can report -- I don't propose to read all  
10 the letters, because they are all enthusiastically in  
11 support of the relief being sought. There seems to be no  
12 opposition.

13 So with that, I will close public testimony.  
14 Discussion, or are members -- the Board ready for a vote?

15 BRENDAN SULLIVAN: Brendan Sullivan, ready for a  
16 vote.

17 CONSTANTINE ALEXANDER: Jim?

18 JIM MONTEVERDE: This is Jim, ready for a vote.

19 ALISON HAMMER: Alison Hammer, ready for a vote.

20 JASON MARSHALL: Jason Marshall, ready for a vote.

21 CONSTANTINE ALEXANDER: And the Chair is ready for  
22 a vote as well. Okay. The Chair moves that we make the

1 following findings with regard to the special permit that's  
2 being sought: That the requirements of the ordinance cannot  
3 be met without the special permit.

4 That traffic generated or patterns of access or  
5 egress resulting from what is being proposed will not cause  
6 congestion, hazard, or substantial change in established  
7 neighborhood character.

8 In this regard, the changes are modest in nature  
9 to the exterior; will have no impact on the street or  
10 neighboring properties, as witnessed by the letters that I  
11 haven't read from the neighboring properties supporting the  
12 relief being sought.

13 That the continued operation of or development of  
14 adjacent uses, as permitted in the zoning ordinance, will  
15 not be adversely affected by what is being proposed. And  
16 again, the letters of support testify that no one will be  
17 affected, or can be affected, if it has any concerns about  
18 that.

19 No nuisance or hazard will be created to the  
20 detriment of the health, safety and/or welfare of the  
21 occupant of the structure, of the occupant of the proposed  
22 use -- I'm sorry -- or the citizens of the city.

1           And for other reasons, the proposed use will not  
2 impair the integrity of the district or adjoining districts,  
3 or otherwise derogate from the intent and purpose of this  
4 ordinance.

5           So on the basis of all of these findings, and  
6 pursuant to the birthday of one of the petitioners, the  
7 Chair moves that we grant the special permit on the  
8 condition that the work proceed in accordance with plans  
9 prepared by Boyes-Watson Architects -- let's see if I have a  
10 date -- yeah, the date is September 10,2020, and the cover  
11 page -- the first page of which has been initialed by the  
12 Chair.

13           Brendan?

14           BRENDAN SULLIVAN: Brendan Sullivan, yes to  
15 granting the special permit.

16           JIM MONTEVERDE: And Jim Monteverde, yes.

17           ALISON HAMMER: Alison Hammer, yes.

18           JASON MARSHALL: Jason Marshall, yes.

19           CONSTANTINE ALEXANDER: And the Chair makes it  
20 unanimous.

21           [All vote YES]

22           Special permit granted. Good luck.

1           BRENDAN SULLIVAN: And a happy birthday.

2           CONSTANTINE ALEXANDER: And a happy birthday  
3 again, right.

4           COLLECTIVE: Thank you, goodnight.

5           CONSTANTINE ALEXANDER: The Chair will call one  
6 more case before we take a recess from our regular agenda to  
7 consider continued cases. These are cases that started at  
8 an earlier date, but for one reason or another had to be  
9 continued until tonight, and those cases unfortunately were  
10 advertised to be continued at 7:00 p.m., not 6:00 as the  
11 regular agenda, which is why we haven't heard them so far.

12           So I'll just take one more case, and then we'll  
13 move on to the continued cases. And then when that's done,  
14 we'll return to our regular agenda.

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(6:57 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,  
Jim Monteverde, Alison Hammer, Jason  
Marshall, Slater Anderson

CONSTANTINE ALEXANDER: The Chair will now call  
Case Number 91577.

BRENDAN SULLIVAN: That's at 7:30.

CONSTANTINE ALEXANDER: Oh, that's not until 7:30,  
you're right. Thanks, Brendan.

JIM MONTEVERDE: Too early.

CONSTANTINE ALEXANDER: We can't hear -- we have  
to wait until 7:30 for that, so let's move on now to the  
continued agenda. And I will first call -- let me get my  
papers together -- I will first call Case Number 017294 --  
36 Montgomery Street. Anyone here wishing to be heard on  
this matter?

Mr. O'Grady?

SISIA DAGLIAN: Sean, we're going to do it out of  
order.

CONSTANTINE ALEXANDER: Well, actually, it's not  
even 7:00. We can't even hear that case as well.

1           BRENDAN SULLIVAN: I think we're waiting for

2   Matina to --

3           CONSTANTINE ALEXANDER: You know, if that -- she's

4   --

5           SISIA DAGLIAN: She's not on yet. Matina's --

6           CONSTANTINE ALEXANDER: Matina, okay.

7           SISIA DAGLIAN: Yeah.

8           CONSTANTINE ALEXANDER: That's why I'm calling

9   Montgomery Street, because she's not on that case. She's on

10   the Lopez Street case. So we can't hear even Montgomery

11   Street, because it's not 7:00 yet. So if everybody wants to

12   --

13           SEAN O'GRADY: I've got 7:00, Gus.

14           ANDREA HICKEY: I have 7:00.

15           CONSTANTINE ALEXANDER: You have 7:00?

16           ANDREA HICKEY: Yep.

17           JIM MONTEVERDE: Yep.

18           CONSTANTINE ALEXANDER: My clock -- we have -- in

19   the room we're in, we have two clocks. And each clock's got

20   different times. So --

21           JIM MONTEVERDE: Cupertino says it's 7:00.

22           CONSTANTINE ALEXANDER: I'm sorry?

1                   JIM MONTEVERDE:  Cupertino -- Apple phone -- says  
2  it's 7:00.

3                   CONSTANTINE ALEXANDER:  Yeah.  Okay.  All right.  
4  So now we can call the Montgomery Street case.

5                   JAMES RAFFERTY:  Thank you.  Should I proceed, Mr.  
6  Chair?

7                   CONSTANTINE ALEXANDER:  I'm sorry.

8                   JAMES RAFFERTY:  Should I proceed?

9                   CONSTANTINE ALEXANDER:  Yes, proceed.

10                  SEAN O'GRADY:  I'm sorry, this is Sean.  Can I  
11 interrupt?  I don't seem to --

12                  CONSTANTINE ALEXANDER:  Go ahead.

13                  [Pause] Yes.

14                  SEAN O'GRADY:  I'm sorry, Matina was supposed to  
15 sit on Lopez and we're doing Montgomery.  I'm very sorry.

16                  CONSTANTINE ALEXANDER:  Okay.  So we can move on  
17 with the Montgomery case.

18                  JAMES RAFFERTY:  Thank you.  Good evening, Mr.  
19 Chairman, members of the Board.  For the record, James  
20 Rafferty on behalf of the applicant.

21                  Board members may recall this is actually the  
22 third time the case has come before the Board.  The first

1 time it was continued as a case not heard, with good reason.  
2 The proposal, when initially filed, including a 26-foot-long  
3 dormer, and an increase in gross floor area of 338 square  
4 feet.

5 The plans were revised and filed for the last  
6 hearing, reducing the size of the GFA increase to only 119  
7 square feet, and with dormer-compliant guidelines.

8 Concern was expressed at the last hearing by an  
9 abutter across Francis Place about privacy issues associated  
10 with double windows in the dormer facing him, as well as the  
11 size of a proposed deck.

12 The plans were further modified to reduce the size  
13 -- reduce the number of windows in that dormer to a single  
14 window, two and a half feet by four and a half feet. That  
15 window and that dormer is designed exclusively to  
16 accommodate a stairwell. So it's not as if it's a window in  
17 a room, it's a floor plan that will reveal that it's a  
18 window in a stairwell.

19 And then on the opposite side is another dormer,  
20 the 15-foot dormer, that will allow for 75 additional square  
21 feet, but really will allow for this space, which is  
22 currently used as a bedroom, but it will become a more

1 functional bedroom, and also, will accommodate a bathroom.

2           This is the home of Thomas Cicero. Ms. Cicero has  
3 owned the home since 1999. She raised her two children  
4 there, one of whom continues to live with her, who is a  
5 teenager at the high school.

6           It's a small house. Her daughter has recently  
7 graduated from college and she has returned to Cambridge and  
8 is teaching at Cambridge Rindge and Latin as a science teacher.

9           Ms. Cicero's goal is to be able to have some  
10 expanded space to allow her now teenage son a little more  
11 room with remote learning and other issues. The space will  
12 work better if she's able to locate -- relocate her bedroom  
13 to the third floor.

14           It's a small house, it's located on a small lot,  
15 but comparatively speaking the increase now is quite modest.

16           I noted when I reviewed the application that the  
17 initial application failed to appreciate the fact that this  
18 is actually a corner lot. It abuts two streets --  
19 Montgomery is the street it fronts onto.

20           But Francis Place is a private way. So it's  
21 considered a street for zoning purposes. So some of the  
22 application sought a special permit to allow for the

1 enlargement of openings that would face onto Francis Place.

2           The thinking at that time in the application was  
3 filed with that, that wall was not conforming, and thus the  
4 special permit was needed. However, in the ordinance  
5 there's an exception for the enlargement or addition of  
6 windows on walls that face the street.

7           So in this case the area where there's an enlarged  
8 slider and a deck facing Francis Place is actually --  
9 doesn't rely on a special permit. There are some windows  
10 being added on the other side of the house that are within  
11 the setback, and those windows would require the special  
12 permit.

13           So the case involves GFA approval for the dormers,  
14 as well as some setback relief for some railings associated  
15 with a new, second means of egress for the lower level  
16 space. Happy to answer any questions. With me on the call  
17 is Ms. Cicero and our architect.

18           CONSTANTINE ALEXANDER: Procedural question for  
19 you, Mr. Rafferty. As you've pointed out, this case has  
20 been back and forth for a while. As I recall, this case  
21 until we continued it tonight was a case heard. And one of  
22 the five members was on the case before is not in attendance

1 tonight. She is not able to attend.

2 So we're going to be proceeding with only four  
3 members, if you wish to proceed tonight. It's your call.

4 But I would point out that Alison Hammer, who was  
5 one of the five members on the call, cannot participate  
6 tonight, I don't believe.

7 JAMES RAFFERTY: Yeah, no, I appreciate it. I was  
8 not aware of that. And you're right, it is consequential,  
9 and I would need to explain -- I know my client is eager to  
10 get a resolution, but I do need to, perhaps --

11 CONSTANTINE ALEXANDER: Excuse me, Jim, Mr.  
12 Rafferty --

13 JAMES RAFFERTY: I'm sorry?

14 CONSTANTINE ALEXANDER: I think maybe Andrea  
15 Hickey is on the call.

16 ANDREA HICKEY: I'm here.

17 CONSTANTINE ALEXANDER: Andrea?

18 ANDREA HICKEY: Yes, I'm here.

19 CONSTANTINE ALEXANDER: She's on the call. My  
20 apologies. I thought she was not on the call. We do have  
21 five members. Forget about what I just said.

22 JAMES RAFFERTY: Okay. So we have five members in

1 and they are five members that were present for the prior  
2 hearing?

3 CONSTANTINE ALEXANDER: Yes, that's correct.

4 JAMES RAFFERTY: Okay. Thank you. Then I would  
5 say I'm happy to show you the dormers. The dormers have not  
6 changed since the last hearing.

7 What has changed, as I described it, is the dormer  
8 -- the smaller of the two dormers facing onto Francis Place  
9 now has a single window. I'm trying to see what page that's  
10 in. It's a single window, since all it's intended to do is  
11 to accommodate egress to the third floor. The floor plan  
12 shows the single dormer in the stairway.

13 And as I said, I think the privacy impacts on that  
14 are modest. The square footage resulting from the two  
15 dormers, as I noted, is 44 square feet in one and 75 square  
16 feet in the other.

17 But the increased head height has significant  
18 impact and really allows the third floor to become quite  
19 livable. And it's for these reasons that the applicant is  
20 seeking approval to allow her family to continue to live in  
21 this house, as they have done for 20 years.

22 CONSTANTINE ALEXANDER: Thank you. Questions from

1 members of the Board?

2 BRENDAN SULLIVAN: Brendan Sullivan, no questions.

3 JIM MONTEVERDE: Jim Monteverde, no questions.

4 ANDREA HICKEY: Andrea Hickey, no questions.

5 MATINA WILLIAMS: Matina Williams, no questions.

6 SLATER ANDERSON: Slater Anderson, no questions.

7 CONSTANTINE ALEXANDER: I have no questions as  
8 well. I'll open the matter up to public testimony. And, as  
9 I've said before -- let me get the instructions out -- [too  
10 many papers here, thank you.]

11 Any members of the public who wish to speak should  
12 now click the button that says, "Participants" and then  
13 click the button that says, "Raise hand." If you're calling  
14 in by phone, you can raise your hand by pressing \*9 and  
15 unmute or mute by pressing \*6.

16 Give it a few moments to see if anyone wishes to  
17 speak from the audience.

18 SEAN O'GRADY: You've got a Philip.

19 CONSTANTINE ALEXANDER: I'm sorry, Sean?

20 SEAN O'GRADY: You've got a Philip Arsenault.

21 CONSTANTINE ALEXANDER: Okay.

22 SEAN O'GRADY: Philip, are you there?

1           CONSTANTINE ALEXANDER: Put the person on.

2           SEAN O'GRADY: They're --

3           PHILIP ARSENAULT: I'm here. This is Philip  
4 Arsenault. Okay to talk?

5           CONSTANTINE ALEXANDER: Yes.

6           PHILIP ARSENAULT: I'm Philip Arsenault. I live  
7 at 4 Francis Place in Cambridge. I'm against them getting  
8 permission to install that three panel sliding patio door.  
9 I understand why they're going for the variance. I did in  
10 2007 for hardship. I understand going up top for the two  
11 dormers makes sense, interior makes sense.

12           But I don't understand one bit what hardship it is  
13 that you have to install a three-panel side door in the  
14 alleyway and cause hardship for the residents in 1 to 4  
15 Francis Street and 30 Montgomery Street. It sets up for  
16 same.

17           There's paperwork I submitted before with three  
18 police reports that's going to set up the same incident we  
19 had in the summer of 2019.

20           What happened was they had a two panel door there  
21 previously. That was installed when they remodeled the  
22 kitchen about 10 years ago with no variance, no permit, no

1 inspection. Now, they decided to do the remodel the first  
2 floor, and they pulled the permit to remodel the first  
3 floor, gut the first floor, gut the basement and remodel the  
4 first floor with no new openings. That's what it said on  
5 the permit -- no new openings.

6 And what they did was, they framed -- took out the  
7 two-panel door and framed in for a three-panel door. Then  
8 they decided, "let's apply for the variance now."

9 And they applied for it, did all the paperwork,  
10 and on the meeting July 9, they went there to the meeting  
11 and did -- weren't too happy with their outcome -- told them  
12 they had to get different things and change different  
13 regulations -- they hadn't studied the law at all, and they  
14 have a licensed general contractor doing this project, which  
15 I find hard to believe.

16 And then what happened was after the July 9  
17 meeting, they said, "Well, forget the Board. Why do we have  
18 to listen to the Board? We're going to install that three-  
19 panel door, we're going to close it in, and then they won't  
20 be able to make us remove it," which I don't understand.

21 And then the September 10 meeting came along, and  
22 again they didn't have the right paperwork, they didn't have

1 the right regulations again.

2           So then, come yesterday, I happen to notice one of  
3 neighbors called me and said, "Hey, there's an inspector  
4 walking around the house and checking out the house."

5           So I wasn't home. I said, "Okay." I come home,  
6 and no sooner -- two hours after that inspector left  
7 yesterday, guess what they decided to do? Start building a  
8 deck that was never approved by the Board. So now they have  
9 the deck built yesterday and today that the Board never  
10 approved.

11           I think if the Board approves this three panel  
12 door, sliding doors: all you set up for all people I deal  
13 with in Cambridge, all fellow residents, all general  
14 contractors, is that the city says you can build whatever  
15 you want to build, you don't need a variance, you don't need  
16 a permit, you don't even need an inspector.

17           Just build it, hold the variance and just say,  
18 "Hey, I already have it installed. They can't make me  
19 remove it."

20           I think what happens is, it should be refused.  
21 The three-panel door should be refused tonight. A stop work  
22 order should be put on that project until they remove that

1 door. And that's it.

2 And plus --

3 CONSTANTINE ALEXANDER: Mr. Rafferty, you have any  
4 comment?

5 PHILIP ARSENAULT: Can I dah

6 CONSTANTINE ALEXANDER: Is there any reason a  
7 compromise can't be worked out over this door?

8

9 PHILIP ARSENAULT: Can I say one more thing?

10 CONSTANTINE ALEXANDER: Yes, go ahead.

11 PHILIP ARSENAULT: Mr. Rafferty never contacted  
12 me, and they never contacted the people at 30 Montgomery  
13 Street to ever, ever work this out. As far as I'm  
14 concerned, that three-panel door's going to just cause us to  
15 have to call the police next summer and have a whole  
16 different thing.

17 And I'll send you back the reports and show you  
18 what happens. But I'll tell you that's what's going to  
19 happen.

20 CONSTANTINE ALEXANDER: Thank you.

21 JAMES RAFFERTY: Mr. Chair, may I be permitted to  
22 address some of these issues?

1           CONSTANTINE ALEXANDER: I'm sorry?

2           JAMES RAFFERTY: May I be permitted to address Mr.  
3 Arsenault's comment?

4           CONSTANTINE ALEXANDER: Go ahead.

5           JAMES RAFFERTY: Okay, thank you. Just a couple  
6 of factual inaccuracies in what Mr. Arsenault has stated.

7           First of all, I have had communication with the  
8 owner of 30 Montgomery, and he sent a communication to the  
9 Board as recently as yesterday complimenting my  
10 participation in the case. I e-mailed with him several  
11 times because issues were made -- modifications to the  
12 building were made in response to concerns he expressed.

13           As far as this three panel door goes, that door  
14 doesn't require a variance; that door doesn't even require a  
15 special permit, frankly, because it fronts onto Francis  
16 Place.

17           And as I noted in my opening statement, and in my  
18 communication to the Board, walls that face streets are not  
19 limited to the addition or enlargement of openings. So  
20 there's nothing about that three-panel door that actually  
21 requires approval from the Board tonight.

22           So it's relevant to note, and I appreciate the

1 first thing Mr. Arsenault appears supportive of the dormers,  
2 because the dormers are in fact the subject of the hearing.  
3 The dormers require a variance because of the additional GFA  
4 that they contain.

5           The issue around activity and the like associated  
6 with the property -- unfortunately, there appears to be an  
7 unpleasant history between some of these neighbors. I think  
8 it's well beyond the purview of the Board.

9           The Board's attention is rightly focused on  
10 compliance with the zoning ordinance. This three panel door  
11 that is being described as very adverse in its effect upon  
12 the street and the neighborhood is something permitted as-  
13 of-right, and not being sought here.

14           Now, there is some confusion because the original  
15 application failed to understand that this was a former lot  
16 facing onto two streets. So contained in the petition's  
17 scope of work is a reference to the three panel door.

18           But as I became associated with the case, I  
19 reviewed these issues with the contractor, with the  
20 architect, and with the property owner, and was able to  
21 identify certain portions of the work that could proceed as-  
22 of-right, and other portions that would require zoning

1 relief.

2           CONSTANTINE ALEXANDER: Thank you, Mr. Rafferty.  
3 I must say that I think your comments are generally correct.  
4 I see this -- this is a very contentious neighborhood I've  
5 learned. This is now the third hearing about this project.  
6 And I suspect -- this is a gratuitous comment on my part --  
7 there's problems all around, including with your client.

8           But be that as it may, we're dealing with the case  
9 before us, the plans before us, and I for one don't see a  
10 reason why we would deny the variance based upon the  
11 objections we've just heard. But I'll welcome dissenting  
12 views or other members of the Board.

13           PHILIP ARSENAULT: Just one question

14           JAMES RAFFERTY: I would note as well that the  
15 deck has been reduced in size, in specific response to the  
16 concern expressed by the property owner across Francis  
17 Place. The deck also qualifies as open space. There was  
18 some commentary in earlier communication from Mr. Arsenault  
19 that the application would have a negative impact on open  
20 space. There is no reduction in open space present with  
21 this application.

22           And it's also the case that the deck is not

1 greater than four feet in height, and does not project more  
2 than 10 feet off the wall of the house, which is a setback  
3 exception allowed under the ordinance.

4 PHILIP ARSENAULT: Can I ask the Board a question?

5 CONSTANTINE ALEXANDER: Yes, go ahead.

6 PHILIP ARSENAULT: The alleyway is 16 feet wide.

7 A street is a lot wider. I don't see how that -- when I  
8 looked it up on the city website, that is not really  
9 considered a street they said. They have a name for a  
10 nonconforming street, but it's an alleyway, and 16 feet  
11 where the houses are closer together.

12 A street, they're way wider. They've got a  
13 sidewalk, they've got the street between them, and they have  
14 another -- you know, sidewalk. They have a different name  
15 for the alleyway, they don't really consider it a street,  
16 they said. So --

17 JAMES RAFFERTY: Mr. Chair, the photographs will  
18 show that that street, Francis Street, has a municipally  
19 crafted sign that calls it a, "Private Way." And the  
20 definition of street in the zoning ordinance in Article 2  
21 includes public ways and private ways. So if -- so this is  
22 very much a corner lot that is a street within the

1 definition of the zoning ordinance, and it is a Private Way  
2 by designation of the city, based on the sign that the city  
3 has placed there.

4 PHILIP ARSENAULT: I guess that'll be it for  
5 another day, then. I guess I'll have to go to the City  
6 Assessor's Office and get it, because they told me that it's  
7 not covered by any government grants, because it's not  
8 labeled as a street, they told me.

9 JAMES RAFFERTY: Yeah. You might want to go to  
10 the City Engineer and not the Assessor, but I'm speaking out  
11 of turn.

12 CONSTANTINE ALEXANDER: I'm going to bring a halt  
13 to this back and forth. I think the points have been made,  
14 both by the petitioner's counsel and by the neighbor who has  
15 problems.

16 And I -- as I said, I don't know -- I hear the  
17 concerns of this neighbor, but I don't know if it rises to  
18 the level that it requires us to deny the zoning relief  
19 that's being sought.

20 Again, I ask if other members of the Board have  
21 different views, let's hear them. Okay?

22 JIM MONTEVERDE: No. Jim Monteverde, I have no

1 comment.

2 CONSTANTINE ALEXANDER: Okay.

3 ANDREA HICKEY: Andrea Hickey. I have nothing to  
4 add.

5 SLATER ANDERSON: Slater, no comment.

6 CONSTANTINE ALEXANDER: Thank you all.

7 BRENDAN SULLIVAN: Brendan Sullivan, no comment.

8 CONSTANTINE ALEXANDER: And so, I will open the  
9 matter up.

10 FOLK-MAN WONG: May we speak?

11 CONSTANTINE ALEXANDER: I'm sorry? We have a  
12 person that wants to speak?

13 SEAN O'GRADY: Gus, I think you have another  
14 speaker.

15 CONSTANTINE ALEXANDER: Okay, thank you. I have  
16 it on -- I can't tell here. We have no screen, that lets us  
17 know who's in the queue. But okay, who is this person who  
18 wishes to speak? They may now speak, starting by  
19 identifying his or her name and address.

20 FOLK-MAN WONG: Thank you, sir. I'm Dr. Wong --  
21 Folk-man Wong, F-o-l-k-m-a-n. My wife is Dr. Monera Wong,  
22 it's M-o-n-e-r-a and I'm at 30 Montgomery Street. And a

1 couple of things that I want to raise. The first one is  
2 that thanks for putting this meeting together again. You've  
3 given another chance for the plaintiffs to put their case  
4 together. There were a lot of loose ends last time.

5 My submission yesterday afternoon gave praise to  
6 Mr. Rafferty, because he has transformed this previous  
7 submission into something which is coherent.

8 Let me be clear. I have not been in contact with  
9 Mr. Rafferty once. This is different from what he just  
10 said. We have had no negotiations. I have had no contact  
11 with him -- indeed, my wife has had no contact with him.  
12 Therefore, any settlement that he's proposing has not been  
13 mediated or agreed to by me or my wife.

14 The second thing is that it's a broader issue,  
15 which follows up from Mr. Arsenault's issue, which is that  
16 permits have been drawn -- have been put together, have been  
17 posted.

18 Some haven't -- have not been posted. Those that  
19 have been posted have not been abided to. And there's been  
20 retrospective approval of the work that's done on permits  
21 that have not been submitted.

22 Furthermore, several of these -- for example, the

1 enlargement of the two panel to three panel, which  
2 respectfully, Mr. Rafferty, meets a technical requirement  
3 for not being necessary to receive a variance -- that  
4 happened without any notification whatsoever. And there's a  
5 tremendous increase in line of sight to our property.

6           And then we can move on to the deck. Of course,  
7 the deck must be constructed to increase the size and to  
8 meet the size of the enlarged door. And again, there was no  
9 sign posted. Indeed, I'm not even sure there was a permit  
10 pulled.

11           Furthermore, another doorway is being proposed for  
12 south-facing. And this kind of repeated failure to submit  
13 requests and inspections, have review by the Board just  
14 reflects a general lack of restraint, lack of oversight and  
15 poor control.

16           And we really believe this forbodes the nature of  
17 future construction work on the property. It's going to be  
18 an escalation of invasion of privacy on all sights. So I do  
19 think that this is the nature of this type of contractor,  
20 and I hope you bear that as a contextual statement about  
21 what's going on.

22           CONSTANTINE ALEXANDER: Thank you.

1           PHILIP ARSENAULT: Can I just make one more for  
2 the record?

3           CONSTANTINE ALEXANDER: one more.

4           PHILIP ARSENAULT: Yeah. That Francis Place is  
5 the unaccepted street by the Mass State Code.

6           CONSTANTINE ALEXANDER: Okay.

7           PHILIP ARSENAULT: Okay, that's it. Thank you.

8           CONSTANTINE ALEXANDER: It will be part of the  
9 record. Anyone else wishes to speak?

10          FOLK-MAN WONG: Yes, I have another comment, sir.

11          CONSTANTINE ALEXANDER: Go ahead.

12          FOLK-MAN WONG: Just the final one -- and I  
13 apologize I may have missed the discussion initially. On  
14 page 77 of the application form, the requested use of  
15 occupancy is cited as a two-family, which is different from  
16 that that I have seen before. Indeed, it was raised in the  
17 first meeting that the occupancy wasn't clear.

18           I wonder if Mr. Rafferty or the Plaintiff have any  
19 comments about that, that they can elaborate on? Thank you  
20 very much for attention to this.

21          CONSTANTINE ALEXANDER: Mr. Rafferty, do you have  
22 anything you wish to say?

1           JAMES RAFFERTY: Well, if you -- I'm happy to  
2 respond. The issue was reviewed with the Building  
3 Commissioner. There are -- my understanding is copies of  
4 communications that I had with the Building Commissioner in  
5 the file noting the length of time that the lower level has  
6 been used as a dwelling unit.

7           It has always been since it was created an in-law  
8 style apartment, first housing a mother-in-law, then a  
9 nanny, and it will accommodate an older daughter now. But  
10 it is a preexisting nonconforming situation authorized by  
11 recent amendments to Chapter 40A Second 7.

12           There's a communication -- a correspondence from  
13 me that the Commissioner, as well as an affidavit from the  
14 property owner and I reviewed this matter with the  
15 Commissioner, and he concurs with the conclusion with regard  
16 to the preexisting status of the lower level.

17           CONSTANTINE ALEXANDER: Okay, thank you. Anyone  
18 wishes to speak on this matter?

19           SEAN O'GRADY: Yes, you have a Stuart. Stuart,  
20 you can go ahead.

21           CONSTANTINE ALEXANDER: Go ahead, sir.

22           SEAN O'GRADY: He's coming.

1           CONSTANTINE ALEXANDER:  Okay.

2           SEAN O'GRADY:  Stuart?

3           STUART GEDDEL:  Yes, this is Stuart Gedel.

4           CONSTANTINE ALEXANDER:  Could you -- I'm sorry, a  
5 little closer to the mic and could you repeat your name,  
6 please?

7           STUART GEDEL:  Sure, okay.

8           CONSTANTINE ALEXANDER:  And your address?

9           STUART GEDEL:  Sure, okay.  How is that, is it  
10 better?  Stuart Gedel, 72 Montgomery Street.  At the -- I  
11 was at the hearing during the summer, okay?  I believe the  
12 date was August.  And at that hearing, the Board seemed to  
13 put the matter aside, largely because of the question of the  
14 entrance to -- the new entrance to the basement.

15           There was an issue of using the basement as an  
16 apartment, and because of the separate -- the need for  
17 separate access and parking for another person and so forth,  
18 it was said there could not be a second dwelling in the  
19 property itself.

20           And I've noticed that after the hearing, the  
21 beginning of the access to the basement was filled in.  It  
22 was filled in with dirt, and it's gone.  And now we have it

1 appearing again -- you know, with a railing and so forth.

2           So I want to ask the Board, and I believe it was  
3 member Brendan Sullivan, who seemed the most concerned about  
4 this being two different units. And it doesn't appear that  
5 he's there tonight.

6           But it seems that that remains within the request,  
7 and I just don't understand -- see here in the plans, I'm  
8 looking at the plans, where is the bathroom for a second  
9 unit? Where is the kitchen for a second unit? I just don't  
10 see it. Thank you.

11           CONSTANTINE ALEXANDER: Thank you. Mr. Rafferty,  
12 you have -- it's in our files -- a letter, actually an  
13 affidavit. It's under the pains and penalty of perjury from  
14 Kama Cicero, who says that 36 Montgomery Street has  
15 contained two dwelling units since 1999 -- one in the  
16 basement and one on the remainder of the house.

17           Although before you joined this case, Mr.  
18 Rafferty, there was submission and we raised this question  
19 with the petitioner. We never got that answer. We were  
20 told, "Oh, no, no, this is only one dwelling unit in the  
21 structure."

22           So I'm a little troubled -- I've been troubled for

1 a while about the inconsistent record we have, where the  
2 answers seem to be driven by what seems to be -- was  
3 believed as necessary to say to get the relief being sought.

4 FOLK-MAN WONG: Thank you.

5 CONSTANTINE ALEXANDER: Just an observation.

6 JAMES RAFFERTY: Well, Mr. Chair, if I may  
7 respond? The issue here is established by changes in the  
8 law which allows for Section 6 protection -- the so-called  
9 preexisting nonconforming structures -- to apply to  
10 conditions that have existed for more than 10 years without  
11 any zoning compliant.

12 CONSTANTINE ALEXANDER: That's not my point, Mr.  
13 Rafferty. My point is that the petitioner testified to this  
14 Board that there was always one unit -- dwelling unit --  
15 there. Now we're told there are two dwelling unit --

16 FOLK-MAN WONG: Yeah.

17 CONSTANTINE ALEXANDER: And the 10-year provision  
18 that you referred to of course does apply. But when did it  
19 become two dwelling units, when we were told it was going to  
20 be -- there was only one dwelling unit for this period?

21 JAMES RAFFERTY: I think -- my understanding was  
22 the first case was continued without testimony. I'm not

1 sure when it's being suggested that statement was made. I  
2 don't, I don't, I don't recall that statement, but --

3           CONSTANTINE ALEXANDER: I think it's in the  
4 dimensional form. I forget which of the -- excuse me, I'm  
5 sorry to interrupt you. But one of the dimensional forms  
6 said that there was only one dwelling unit -- maybe more  
7 than one.

8           BRENDAN SULLIVAN: This is Brendan Sullivan. The  
9 Number 1 unit that's a single -- also that it is now a two-  
10 family, has been bantered about. Different forms have  
11 different numbers. Back in the beginning, the original  
12 dimensional form under, "Number of Units" had "N/A."  
13 Proposed: "N/A." Zoning requirement: "N/A."

14           KAMA CICERO: That's right.

15           BRENDAN SULLIVAN: We asked -- I asked -- that  
16 that be filled in; that it just can't be not applicable.

17           KAMA CICERO: Right.

18           BRENDAN SULLIVAN: Then it came back, and then it  
19 was -- she said that it was only one unit; that there were  
20 two kitchens. Now, two kitchens does not necessarily make a  
21 separate unit.

22           KAMA CICERO: Right.

1           BRENDAN SULLIVAN:  However, the plan that was  
2 shown showed that there was a separation from the rest of  
3 the house and the basement.  The presentation has been mixed  
4 and confusing at the time.

5           KAMA CICERO:  Right.

6           BRENDAN SULLIVAN:  And I think you may have pulled  
7 a rabbit out of the hat with this one, because I think what  
8 you are trying to say, Mr. Rafferty, is that if there is a  
9 violation -- if that unit in the basement may have been  
10 created out of ordinance without permit and so on and so  
11 forth, in a word, it is now self-correcting, because it has  
12 lasted for more than 10 years.

13           JAMES RAFFERTY:  That is essentially correct, Mr.  
14 Sullivan; that the -- I think candidly the application was  
15 prepared, with all due respect, by an architect who I don't  
16 think had a full understanding of the zoning ordinance.

17           I think it was filled out as a single because  
18 there was -- since there was no evidence of zoning approval  
19 for that unit, it was of in his view dubious legality.

20           I've discussed this matter with him.  We have  
21 modified the application to reflect the conclusions of the  
22 Building Commissioner, based upon the information that we

1 provided. And I went through this with the applicant  
2 directly in terms of the names of the people that lived in  
3 the basement unit. I do recall talking about --

4 KAMA CICERO: Also the --

5 JAMES RAFFERTY: You've got to stop talking,  
6 please. I apologize, Mr. Chair. So the record was  
7 corrected, and I think there was misinformation earlier in  
8 the record based on a lack of understanding of the legal  
9 status of the basement unit.

10 BRENDAN SULLIVAN: Right. And what touched the  
11 nerve in me was the fact that it was not filled in. It was  
12 almost like they were trying to not answer the question as  
13 to the number of units, and -- I don't want to characterize  
14 anybody, their intent or whatever.

15 But then I go to the property database. And for  
16 at least the last 10 years, the Assessor have always  
17 assessed this as a single-family home. So there's some  
18 inconsistency here, and that raises questions I think with  
19 me and possibly other members of the Board. And that some  
20 of the documents have different numbers regarding to the  
21 number of units. So --

22 But I think that your latest letter clarifies the

1 legal issue of it. And again, it is probably self-  
2 correcting at this point.

3 JAMES RAFFERTY: Well, Mr. Sullivan, I appreciate  
4 that, but I do want to point out I too looked at the  
5 Assessor's records. And the description, the floor-by-floor  
6 description of each floor does make mention of a kitchen in  
7 the basement.

8 I agree it calls it a single-family. But it does  
9 -- in the basement description, there's a reference to the  
10 kitchen in the Assessor's records.

11 BRENDAN SULLIVAN: I rest for the rest of the  
12 night on this issue.

13 CONSTANTINE ALEXANDER: I think, Mr. Rafferty,  
14 what you're hearing is that there's a -- we have a very bad  
15 record here with the petitioner, who talks out of both sides  
16 of her mouth in terms of the number of dwelling units in the  
17 structure.

18 And I think all that we're getting is an answer  
19 that was believed that's the answer we want to hear, not  
20 what the facts are, and that's troubling -- troubling to me,  
21 at least.

22 JAMES RAFFERTY: Well all, Mr. Chair, I don't

1 think that's what's happening here. I think as we  
2 acknowledged, there was some concern on the part of the  
3 applicant about whether -- no one has lived there for more  
4 than a year, and there was a question of whether it was  
5 lawful.

6           So I do think -- I don't recall the statement, I'm  
7 not sure I was representing the applicant at the time, but  
8 it has always been -- it has been there physically, and I  
9 think whether it was an accessory -- there was a lot of talk  
10 about whether it's an accessory apartment, whether it fit  
11 within that exception, whether it would qualify for a  
12 special permit.

13           As the Board probably knows, the ordinance around  
14 accessory units has changed to the point where this unit  
15 would qualify, given its size -- less than 900 square feet.  
16 It could qualify for a special permit as an accessory  
17 dwelling unit, and there was some back and forth and, you  
18 know, a lack of understanding.

19           I think the application initially makes reference  
20 to the dwelling unit. I think it was the intent by the  
21 architect who prepared the application to resolve any  
22 uncertainty about the status of the unit by including it in

1 the application.

2           It was only after I became involved that I  
3 reviewed with the Commission the history of the use, the  
4 absence of any zoning complaint in more than 10 years, and  
5 the legal consequence of that fact.

6           But I don't -- I think it's quite understandable  
7 that the -- I don't think the property owner has changed her  
8 statements to accommodate what the Board would like to hear;  
9 I think it was the selection of an uncertainty as to what  
10 the legal status of that space was.

11           ANDREA HICKEY: Could I ask a question, Counselor?  
12 This is Andrea Hickey.

13           CONSTANTINE ALEXANDER: Yeah, please.

14           ANDREA HICKEY: How -- what sort of evidence do  
15 you have to show us that this unit has been there for 10  
16 years?

17           JAMES RAFFERTY: The affidavit of the property  
18 owner.

19           ANDREA HICKEY: Okay. And do we know whether that  
20 unit was there when she first acquired the property? Or is  
21 that a unit that she or someone associated with the  
22 ownership of the property built out?

1           JAMES RAFFERTY: It -- based on the affidavit and  
2 my discussion with her, it occurred within a year after her  
3 acquisition of the property.

4           ANDREA HICKEY: Okay. Thank you. That's helpful  
5 to me.

6           JAMES RAFFERTY: And my understanding was there  
7 was always living space in the basement. There was a  
8 bathroom, and at some point, there were cooking facilities  
9 created to accommodate a mother-in-law.

10          ANDREA HICKEY: Okay. Was there a bathroom before  
11 your client acquired the property?

12          JAMES RAFFERTY: My understanding is yes, but I  
13 know she's on the call. Maybe she could address that.

14          KAMA CICERO: Of course she'll say yes.

15          JAMES RAFFERTY: She won't, no.

16          ANDREA HICKEY: Excuse me, if I could ask Mr.  
17 Gedel to let the petitioner respond?

18          KAMA CICERO: Hi, can you hear me?

19          ANDREA HICKEY: Yes.

20          KAMA CICERO: Hi, this is Kama Cicero, and just to  
21 clarify I was not speaking earlier, I just unmuted. Yes,  
22 there was a bathroom when we first purchased the home.

1           ANDREA HICKEY: In the basement?

2           KAMA CICERO: Correct.

3           ANDREA HICKEY: Thank you. That was my specific  
4 question. Thank you, Councillor Rafferty.

5           JAMES RAFFERTY: Thank you. My apologies to my  
6 client, I thought you were speaking, Kama.

7           CONSTANTINE ALEXANDER: Any other members of the  
8 Board have any questions or comments they wish to make at  
9 this point?

10          JIM MONTEVERDE: Jim Monteverde, no questions.

11          CONSTANTINE ALEXANDER: Okay. I will close public  
12 testimony. We've already read into the -- we've -- let me  
13 see if I have any written stuff that we haven't covered --  
14 written stuff being letters in our files or otherwise. I  
15 think the persons who have spoken have raised the issues  
16 that are covered in their written communications -- at least  
17 as best I can tell.

18          So I'll close public testimony, and it's time for  
19 Mr. Rafferty -- do you have any final comments you wish to  
20 make?

21          JAMES RAFFERTY: Just briefly, my understanding is  
22 there are letters of support in the file I reviewed today.

1 I don't know if --

2           CONSTANTINE ALEXANDER: There are letters of  
3 support. That is correct. Do you want me to read them into  
4 the file, into the record?

5           JAMES RAFFERTY: Just briefly, just so Board  
6 members can be mindful of that?

7           CONSTANTINE ALEXANDER: I'm sorry, again I didn't  
8 catch what you just said.

9           JAMES RAFFERTY: I said yes, I think it would be  
10 helpful just to briefly identify who has --

11           CONSTANTINE ALEXANDER: Sure.

12           JAMES RAFFERTY: -- who has commented in favor of  
13 the application.

14           CONSTANTINE ALEXANDER: Okay. We do have a letter  
15 in support from a Jason Taylor, who lives at 1 Francis  
16 Place; another letter from Michael Reynolds, who resides at  
17 60 Montgomery Street, which is a good bit down the road,  
18 it's down the street.

19           We, of course, have letters from Drs. Folk-man and  
20 Monera Wong. We have a letter that -- and they've spoken  
21 already tonight, so.

22           We have a letter of commenting on the -- we've

1 heard this already tonight -- we have a letter commenting on  
2 the -- we've heard this already tonight -- about  
3 construction continuing on the property while the case is  
4 pending before us.

5           And I don't think there's anything else. I think  
6 -- unless you're aware of something else, Mr. Rafferty, that  
7 I've missed --

8           KAMA CICERO: Yes -- I'm sorry, there are several  
9 other letters of support.

10           CONSTANTINE ALEXANDER: I'm sorry?

11           KAMA CICERO: There are several other letters of  
12 support. They were submitted.

13           CONSTANTINE ALEXANDER: I don't know if I have it  
14 in my file. I'm not saying they're not; they haven't been  
15 submitted, but I don't I have them, or I've seen them.

16           JAMES RAFFERTY: Would we be permitted to identify  
17 the authors of those letters? Because I know they were  
18 submitted electronically.

19           CONSTANTINE ALEXANDER: Sure! No, you could  
20 identify the authors of those letters, and you're saying  
21 that the letters that we don't have -- or at least I don't  
22 have in my file -- are what you say they are. In other

1 words, they are in support of the relief being sought.

2 Well, go ahead, Mr. Rafferty.

3 JAMES RAFFERTY: Yeah. Kama, could you just  
4 identify the letters of support that you sent in, and who  
5 authored them?

6 KAMA CICERO: Yeah, Bill Donaldson (phonetic) sent  
7 a letter of support, and --

8 JAMES RAFFERTY: Where does Mr. Donaldson live?

9 CONSTANTINE ALEXANDER: Right.

10 KAMA CICERO: He lives right next door to Folk-Man  
11 and Monera, I'm not sure of the exact number. I have it if  
12 you give me one moment.

13 JAMES RAFFERTY: Is he on Montgomery --

14 KAMA CICERO: Yeah.

15 JAMES RAFFERTY: -- or Francis Place?

16 KAMA CICERO: Montgomery.

17 JAMES RAFFERTY: Okay. Two houses --

18 KAMA CICERO: And Lilian is on Francis Place.

19 JAMES RAFFERTY: What's Lilian's last name?

20 KAMA CICERO: I have to look it up, I have the  
21 letter. And then I also spoke to Chester, who lives right  
22 next door to us on Montgomery, and he's also in support --

1 Chester Wang.

2 JAMES RAFFERTY: Thank you, Mr. Chair.

3 CONSTANTINE ALEXANDER: Okay.

4 JAMES RAFFERTY: In conclusion, I would just note  
5 that this -- I understand this has had a difficult history,  
6 but at the end of the day, this represents a GFA increase of  
7 119 square feet that will allow for the use of a third floor  
8 in a constructive way for this family.

9 And I would urge the Board to recognize the  
10 Board's long-standing practice of recognizing that expanding  
11 families wishing to remain in Cambridge, as in this case  
12 where Ms. Cicero's daughter is teaching in the Cambridge  
13 public school system, this modest increase will allow her to  
14 continue to live in Cambridge and in this neighborhood. I  
15 hope the Board is cognizant of that fact. Thank you.

16 CONSTANTINE ALEXANDER: Thank you. I can make  
17 some comments in response to that, and let's get on with the  
18 night. So I will now, again, close the case to public  
19 comment and open the matter up to discussion by members of  
20 the Board. Do we wish to have discussion, or we just want  
21 to take a vote?

22 JIM MONTEVERDE: Jim Monteverde, ready for a vote.

1 SLATER ANDERSON: Ready for a vote -- Slater.

2 ANDREA HICKEY: Andrea Hickey, ready.

3 CONSTANTINE ALEXANDER: Brendan?

4 BRENDAN SULLIVAN: Brendan Sullivan, yes, I --

5 CONSTANTINE ALEXANDER: Okay. First off, Brendan?

6 How do you vote?

7 BRENDAN SULLIVAN: I would support the variance.

8 CONSTANTINE ALEXANDER: You vote in favor?

9 BRENDAN SULLIVAN: Yes.

10 CONSTANTINE ALEXANDER: Okay, Jim?

11 JIM MONTEVERDE: Jim Monteverde, I vote in favor  
12 of the variance.

13 CONSTANTINE ALEXANDER: Andrea?

14 ANDREA HICKEY: Andrea Hickey, I vote in favor.

15 CONSTANTINE ALEXANDER: Slater?

16 SLATER ANDERSON: Slater Anderson votes in favor  
17 of the variance.

18 CONSTANTINE ALEXANDER: The Chair is going to  
19 abstain on this. I just don't -- the record is so messed  
20 up, and I find so much inconsistencies, I'm not sure with  
21 the facts really are. And in any event, it's four votes  
22 already so the relief will be granted; the variance has been

1 granted.

2 Ah, no, we haven't taken the actual vote. We  
3 haven't -- we have to go through the formality of our  
4 ordinance. So, the Chair moves that we make the following  
5 findings with regard to the variance being sought:

6 That a literal enforcement of the provisions of  
7 the ordinance would involve a substantial hardship, such  
8 hardship being as that the petitioner is a longtime owner  
9 and occupant of the structure, and needs -- and it's a small  
10 structure, and is in need of additional living space, and  
11 that would apply not only to the current  
12 occupant/petitioner, but anyone else who might acquire the  
13 property in the future.

14 That the hardship is owing to -- it's the shape of  
15 the lot and the size of the lot and the topography of the  
16 lot that especially affects this lot.

17 And that relief may be granted without substantial  
18 detriment to the public good, or nullifying or substantially  
19 derogating from the intent and purpose of the ordinance. In  
20 this regard, the Chair would note that the petitioner has  
21 come a long way in terms of modifying the plans that are the  
22 subject of this hearing, and the relief now has been scaled

1 back significantly from what we've initially proposed.

2           So on the basis of all these plans -- all these  
3 findings -- the Chair moves that we grant the variance being  
4 sought -- I'm looking for the plan -- on the condition that  
5 the work proceed in accordance with plans [Oh, where are  
6 they? I have the old ones, I have -- here we go] -- plans  
7 prepared by C. Matthews; no, I guess KWH Design, the first  
8 page of which, or the cover page of which, has been  
9 initialed by the Chair. I guess we've already taken the  
10 vote, unless people want to change their mind. We have four  
11 votes in favor and one abstention.

12           ANDREA HICKEY: I think we need --

13           CONSTANTINE ALEXANDER: Is that correct?

14           ANDREA HICKEY: -- I think we need to do the vote  
15 again, after you've read the motion.

16           CONSTANTINE ALEXANDER: Okay, we'll repeat the  
17 vote. Brendan?

18           BRENDAN SULLIVAN: Brendan Sullivan, yes to  
19 granting the variance.

20           JIM MONTEVERDE: Jim Monteverde, yes for the  
21 variance.

22           ANDREA HICKEY: Andrea Hickey, yes for the

1 variance.

2 SLATER ANDERSON: Slater Anderson, yes for the  
3 variance.

4 CONSTANTINE ALEXANDER: And the Chair abstains  
5 with regard to the variance on the basis of comments I've  
6 made earlier.

7 [FOUR VOTES YES, ONE ABSTAINS]

8 Variance granted.

9 JAMES RAFFERTY: Mr. Chair?

10 CONSTANTINE ALEXANDER: Yes.

11 JAMES RAFFERTY: Excuse me, the application  
12 includes a special permit request to allow for new windows  
13 on the nonconforming wall, the north elevation. They're  
14 depicted at page A202 of the plan. They're identified as  
15 new windows. They are on the first floor.

16 CONSTANTINE ALEXANDER: Yeah, I'm pullup out the  
17 plans now. A202, yes?

18 JAMES RAFFERTY: A202, yes. Proposed north  
19 elevation. Right there.

20 CONSTANTINE ALEXANDER: Yep. We've approved --  
21 I'm sorry, I'm missing your comment, Mr. Rafferty. We  
22 approved these plans, and with the window treatment that's

1 on here. What's your concern now, or question?

2 JAMES RAFFERTY: My concern is the variance sought  
3 GFA relief for the dormers and the setback relief for the  
4 railing; that these windows are being added onto a  
5 nonconforming wall.

6 And since the wall is existing and not going to be  
7 newly created, I think the special permit requirement  
8 applies in this situation.

9 BRENDAN SULLIVAN: It's not being applied for.

10 CONSTANTINE ALEXANDER: It's not a question, it's  
11 not advertised.

12 JAMES RAFFERTY: I disagree. It's in the  
13 application. I'm looking at the cover sheet of the  
14 application. The application asks for a special permit and  
15 a variance.

16 CONSTANTINE ALEXANDER: The advertisement for the  
17 case tonight -- a continued case -- is just a variance.  
18 There's nothing in here about a special permit.

19 JAMES RAFFERTY: Well, Mr. Chair, if -- I don't  
20 know if you have a copy of the application in the file.

21 CONSTANTINE ALEXANDER: We have it. We're trying  
22 to pull up the application. The only question is whether

1 there -- yeah.

2 BRENDAN SULLIVAN: What was the application date?

3 CONSTANTINE ALEXANDER: June 9, 2020.

4 BRENDAN SULLIVAN: Okay.

5 ANDREA HICKEY: June or July 9?

6 JAMES RAFFERTY: June.

7 CONSTANTINE ALEXANDER: June. June was the stamp,  
8 date stamped. One more complication and problem with this  
9 case -- we've had many.

10 JAMES RAFFERTY: Well, in fairness to the  
11 petitioner, the relevant section of Article 8 is cited,  
12 8.22.3 and there's also a --

13 BRENDAN SULLIVAN: That wouldn't cover the  
14 opening.

15 CONSTANTINE ALEXANDER: I don't know how to handle  
16 it. There's nothing in here about the special permit in the  
17 application. But it was never -- I don't see any  
18 advertisement for the special permit. Now, that's not your  
19 fault or your client's fault, but maybe a problem with the  
20 Building Department.

21 ANDREA HICKEY: Mr. Chair, I also didn't see  
22 anything other than the variance on our case list, which is

1 part of the public record, so.

2           CONSTANTINE ALEXANDER: I know. That's my  
3 comment as well. I mean --

4           ANDREA HICKEY: Right.

5           CONSTANTINE ALEXANDER: -- see it.

6           ANDREA HICKEY: Right.

7           CONSTANTINE ALEXANDER: I don't know how we can  
8 act on that special permit.

9           SISIA DAGLIAN: Jim?

10          JAMES RAFFERTY: Well, Mr. Chair --

11          SISIA DAGLIAN: I'm sorry.

12          JAMES RAFFERTY: -- in light of the fact that  
13 you're approving a set of plans, and on those plans contains  
14 a window, and a variance is a broader form of zoning relief  
15 than a special permit, would it not be the case that with  
16 the relief condition on the plans, that these two windows  
17 would be covered by the variance on this wall by the  
18 variance, as it applies to these two windows?

19          BRENDAN SULLIVAN: Well, technically -- Brendan  
20 Sullivan -- technically, I think, Jim, that if the wall in  
21 question was the subject of a variance, then any openings in  
22 that wall would then be covered by the variance --

1           CONSTANTINE ALEXANDER:  -- absolutely --

2           BRENDAN SULLIVAN:  -- and not necessarily having  
3 to have a separate application for a separate permit.  That  
4 wall is not --

5           JAMES RAFFERTY:  As is often the case, Mr.  
6 Sullivan is correct, and I had stated that earlier, but I  
7 was trying to think of the efficiency of having to  
8 readvertise and have a separate hearing on these windows.  
9 But I certainly respect and understand and probably  
10 grudgingly will have to agree with the analysis.

11           So I think we've taken enough of your time.  
12 Unless there's any --

13           BRENDAN SULLIVAN:  Brendan Sullivan.  For the  
14 record, in my voting for the variance I included the  
15 entrance down into the basement and the subsequent -- in the  
16 adjoining door and the windows -- the windows above.

17           CONSTANTINE ALEXANDER:  I think that's -- I mean,  
18 it's true.  If anyone who voted in favor voted in favor of  
19 these plans, which would include the windows and the area  
20 downstairs, I don't think there's a basis or a need for a  
21 special permit in view of the variance vote we took.

22           JAMES RAFFERTY:  Well, in that case --

1           BRENDAN SULLIVAN: I'm comfortable -- Brendan  
2 Sullivan --

3           JAMES RAFFERTY: -- in that case --

4           BRENDAN SULLIVAN: -- I'm comfortable to include  
5 that as part of the variance.

6           CONSTANTINE ALEXANDER: I think that's right.

7           JAMES RAFFERTY: Okay. Well, thank you.

8           CONSTANTINE ALEXANDER: And if it's -- I guess  
9 I'll leave it to Mr. Rafferty. If you are uncomfortable  
10 with that, I think the only solution is to bring that  
11 special -- that separate petition --

12          JAMES RAFFERTY: -- No.

13          CONSTANTINE ALEXANDER: -- that you referred to; a  
14 separate hearing.

15          JAMES RAFFERTY: I am extremely comfortable with  
16 that, Mr. Chair. Thank you for inquiring, but I don't want  
17 to take up any more of your time in light of the  
18 interpretation attached to the variance.

19                 And I'm pleased to learn that the relief about  
20 improving the plans -- I just want to confirm, Mr. Chair,  
21 that the date of the plans -- there were multiple plans --  
22 the current plans are dated 10/ 19/20, just in case --

1           CONSTANTINE ALEXANDER: Let me just check.

2           JAMES RAFFERTY: Right. This --

3           CONSTANTINE ALEXANDER: I've got to pull up the  
4 file. One second.

5           JAMES RAFFERTY: Right.

6           CONSTANTINE ALEXANDER: Let's see. 10/19/20,  
7 that's correct.

8           JAMES RAFFERTY: Yeah, thank you. Thank you.

9           ANDREA HICKEY: Mr. Chair, if I can just ask a  
10 question. Do you think you need to reconsider how the  
11 motion was framed, or are you comfortable with the original  
12 motion to cover these additional matters shown on the plan?

13           CONSTANTINE ALEXANDER: I'm comfortable with the  
14 original motion. But I guess at the end of the day, the  
15 question is whether Mr. Rafferty is comfortable as well.  
16 Because if the decision is challenged, that will be an  
17 issue. I don't see a problem, though.

18           JAMES RAFFERTY: Thank you for inquiring. I don't  
19 see --

20           BRENDAN SULLIVAN: The latest submission  
21 supporting statement is only for a variance, and is not --

22           CONSTANTINE ALEXANDER: Yeah. There's nothing in

1 here about a special permit. So I don't see how we can take  
2 a vote, or we can -- on a special permit. You rise and fall  
3 with the variance you got tonight, or you file a further  
4 application to get the special permit.

5 JAMES RAFFERTY: Right. No, no, I'm happy to rely  
6 upon the granting of the variance to include plans that  
7 depict windows on that elevation. Thank you very much for  
8 your time.

9 CONSTANTINE ALEXANDER: Thank you.

10 ANDREA HICKEY: Thank you, goodnight.

11 COLLECTIVE: Goodnight.

12 CONSTANTINE ALEXANDER: Sean, are you on?

13 SEAN O'GRADY: Yes. I'm here.

14 CONSTANTINE ALEXANDER: Okay. I want to know is  
15 Matina on the call, so we can hear 11 Lopez Street.

16 SEAN O'GRADY: Matina is here.

17 MATINA WILLIAMS: Yes, I'm here.

18 CONSTANTINE ALEXANDER: Oh, you're on. Good.

19 BRENDAN SULLIVAN: Mr. Chair, just --

20 CONSTANTINE ALEXANDER: Yeah.

21 BRENDAN SULLIVAN: -- Brendan Sullivan -- just  
22 wondering if it might be advisable to inform the people of

1 the people of the 7:30, the 7:45, the 8:00 and the 8:15 that  
2 their cases will be delayed because we are working on the  
3 continued agenda?

4           CONSTANTINE ALEXANDER: I think you've just done  
5 it, which is true, we --

6           BRENDAN SULLIVAN: They may not have been  
7 informed. They may be --

8           CONSTANTINE ALEXANDER: Well, at the beginning I  
9 did advise that we're going to recess the regular agenda to  
10 consider our continued cases. Now, they may be disappointed  
11 it's taken as long as it has, but I think they're informed.

12           BRENDAN SULLIVAN: Okay.

13           CONSTANTINE ALEXANDER: And I wouldn't worry --

14           BRENDAN SULLIVAN: They're informed now. Yeah.  
15 Good.

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2 (7:54 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,  
4 Andrea Hickey, Jim Monteverde, and Matina  
5 Williams

6 CONSTANTINE ALEXANDER: Okay. The Chair will now  
7 call Case Number 017315 -- 11 Lopez Street. Anyone here  
8 wishing to be heard on this matter?

9 SEAN O'GRADY: All right, hang on one second.  
10 Sarah, I'm going to put you forward. You've got Sarah  
11 Rhatigan, and --

12 CONSTANTINE ALEXANDER: Sarah, are you on?

13 BRENDAN SULLIVAN: Sarah?

14 SARAH RHATIGAN: Yes, I am. Thank you. Sorry, I  
15 was fidgeting with my mute button. Good evening.

16 CONSTANTINE ALEXANDER: Good evening.

17 SARAH RHATIGAN: Sarah Rhatigan from Trilogy Law,  
18 and I am here representing Maciej Gadamski, who is also here  
19 on the call with me with his mother, Daniela Gadamski.  
20 Thank you very much for taking this continuance.

21 Just a brief reminder of the information in this  
22 case. So 11 Lopez Street is a two-family home on Lopez

1 Street in Cambridgeport, and it's a two-story home -- and  
2 I'm sorry, I'm going to interrupt myself. Sisia, were you  
3 able to pull up my presentation slides? And if not --

4 SISIA DAGLIAN: Oh, are those the last ones that  
5 you sent? I --

6 SARAH RHATIGAN: Yes. That's all right.

7 SISIA DAGLIAN: -- could not get that in time.

8 SARAH RHATIGAN: Would you be able to pull up the  
9 plan?

10 SISIA DAGLIAN: Yeah, just a second.

11 SARAH RHATIGAN: And if not, I can also share my  
12 screen, if that's allowed. That is definitely the house. It  
13 looks like this may be the original. The photos help just  
14 remind the Board of which application you're looking at,  
15 because I know you look at a lot.

16 So it's a two-story structure, and the first time  
17 that we were before the Board, Mr. Maciej had proposed both  
18 building a third floor as well as essentially flattening the  
19 front of the house, pushing the front of the house out...

20 And also, bringing the entrance to the basement  
21 apartment closer to the street line, so essentially creating  
22 almost a -- well, it is a zero-lot line now, but essentially

1 bringing the house forward to the street.

2           And the Board was concerned about that as well as  
3 just the overall ask in terms of this is a variance -- just  
4 as a reminder, a variance request.

5           Mr. Maciej went back to the drawing board with his  
6 architect and with his mother and took a very hard look at  
7 what their -- essentially their kind of minimum needs were.

8           And just a reminder, Mr. Maciej would like to just  
9 speak briefly at some point tonight to describe the personal  
10 familial reasons for the expansion of the house. But they  
11 took a hard look at what they needed -- just, again, as a  
12 bare minimum.

13           And so, the plans that we have on the revised set,  
14 hopefully we -- Sisia, you're able to pull up our revised  
15 submission -- I'll just wait for a minute for that to --

16           SISIA DAGLIAN: Yeah, just a second.

17           SARAH RHATIGAN: Thank you. Thank you, that's  
18 great. So if you don't mind, if you could go to page 4, and  
19 then we'll advance through the slides, just so I have a  
20 visual as I describe what we've done.

21           So on page 4, this is just showing the front and  
22 the back of the house as they exist today. Are you able to

1 advance that, Sisia? Sorry.

2           SISIA DAGLIAN: Okay. What page do you want to be  
3 on?

4           SARAH RHATIGAN: Page 4.

5           SISIA DAGLIAN: I did. It is on 4. Are you  
6 seeing it?

7           SARAH RHATIGAN: I am not. No, I'm seeing the  
8 first, the application page.

9           SISIA DAGLIAN: Okay, let's see. How about that?

10          SARAH RHATIGAN: That's great, thank you. So page  
11 4, again this is just showing the existing home.

12          Next page, please?

13          The next page -- this is what the submission looks  
14 like the last time we were before the Board.

15          Next page, please?

16          This is now the front view of the house. It's a  
17 little hard to see the perspective here. But again, we're  
18 not touching the basement, first floor and second floor  
19 front façade of the house.

20          And then at the third level, there's a sloping  
21 roof in the front and then a small -- essentially an  
22 extension up of the front bump out of the house. And inside

1 that space is the proposed bathroom at the third floor.

2 Next page, please?

3 So again, this is just to show you the existing  
4 rear.

5 Now the next slide, please?

6 This is what was proposed at the last hearing.

7 Next slide?

8 And this is the third floor addition at the back.

9 This allows for -- the middle windows simply are the space  
10 that will be the stairwell that brings you from the second  
11 to the third floor.

12 And then on the third floor the plan is that this  
13 would be where Mr. Gadamski would have his living space, so  
14 a bedroom and an office and a bathroom.

15 Next slide, please?

16 Just to briefly bring you through what the changes  
17 look like on the side, so this is existing.

18 Next slide, please? This is what was proposed  
19 last time.

20 Next slide, please? And this is the diminished  
21 view of the side extension. I'm sorry, we're going to bring  
22 you through the other side just so you get another view of

1 what the changes look like.

2 Next slide?

3 This is what we proposed last time. Again, now  
4 this is what the revised proposal is. So you get a sense.  
5 It's not, you know, fancy renderings, but you get a sense of  
6 the volume is much more de minimis, and then -- again, we're  
7 really bringing back from the front of the street, which was  
8 one of the concerns of the Board.

9 Just in terms of numbers, the original proposal  
10 was asking for 956 square feet additional GFA, and bringing  
11 it to a 0.96 FAR. And the new proposal is a request of 552  
12 square feet.

13 Those additional square feet are all on the third  
14 level, and for reasons of both practicality of needing  
15 enough space to be able to create a stairwell up to the  
16 third floor, needing a bathroom on the third floor, and then  
17 two smaller rooms of a bedroom and an office space.

18 Mr. Gadamski works at home -- I know all of us  
19 work at home now, but - he's a consultant and he really does  
20 have his office space at home.

21 And this allows for his mother to live on the  
22 second floor. Unfortunately, Daniela is having some health

1 issues, and she probably will need some -- at least daytime  
2 health care assistance. So it provides enough space for her  
3 to have a living space, and then also have a space for  
4 someone who may actually stay the night if Mr. Gadamski is  
5 traveling.

6           This is all within a variance request. And we  
7 spent some time last time describing how the previous  
8 request, which obviously was a lot more expansive than what  
9 we're requesting now, but how the previous request would be  
10 in keeping with the size and density on that street. It was  
11 -- you know, the Board did mention that, "Well, that doesn't  
12 mean that you should be granted a variance." Which of course  
13 we understand.

14           But especially with the revised plans, the hope is  
15 that the Board can understand a balance of interests here.  
16 The changes we don't believe will have negative impacts on  
17 neighbors, and the very positive benefit both to the  
18 neighborhood and allowing for an older house to be renovated  
19 and maintained by the existing owners, but also for this  
20 family in particular being able to stay in Cambridge, which  
21 is otherwise going to be a very difficult thing for them to  
22 do.

1           I mentioned also last time, if you remember, there  
2 is a basement apartment, which is an important source of  
3 income for the family. If the variance can't be granted,  
4 one might suggest that Ms. Gadamski could live in the  
5 basement space.

6           But both for reasons of financial -- you know,  
7 we'd lose an apartment in the city, we'd -- well, I suppose  
8 they could keep it as an apartment, but they would lose the  
9 ability to rent to be able to support the family and the  
10 space in the basement is not going to be ideal for Ms.  
11 Gadamski with mobility issues as well.

12           One last thing that I'm sorry that I forgot to  
13 mention. There's a two-foot extension out of the rear deck,  
14 which you can see in this slide. And that was requested the  
15 first time, and we kept that request this time.

16           And it is important from the point of view of  
17 having a useable space on the back. The existing deck is  
18 pretty narrow, so that when you open the screen door to get  
19 out onto the deck. There's not a lot of room to maneuver  
20 around the door to get out the back stairs. So this just --  
21 you know, extends it out a bit.

22           And the back yard space is relatively ample, so

1 that modest extension shouldn't have much impact on anyone  
2 in the rear.

3 I did want to just give Mr. Gadamski a brief  
4 moment to speak. I'm sorry, I want to keep this as brief as  
5 we can be, but Maciej would you unmute yourself?

6 MACIEJ GADAMSKI: Okay, I think I have.

7 SARAH RHATIGAN: You have, yup.

8 MACIEJ GADAMSKI: The floor is mine right now?

9 SARAH RHATIGAN: Yes, yes, it is.

10 MACIEJ GADAMSKI: Hello everyone. Thank you for  
11 having us again and hearing our case. Thank you, Sarah. My  
12 name is Maciej Gadamski and here is my mother, Daniela. I'd  
13 like to take a minute or two to summarize our familial  
14 situation and why we are asking the Board to allow us to  
15 expand the living space at 11 Lopez.

16 So in short, I just need to move my Mom back to  
17 Cambridge, and also, have room possibly for someone to be  
18 around to help her. So my mother is turning 81 in 2 days.  
19 Recently, she needs more ongoing care and attention.

20 In particular, she has certainly underlying  
21 medical conditions -- one of them being vision loss and the  
22 other two: hearing and vertigo, which are -- you know, side

1 effects after fairly aggressive chemo that she received a  
2 while ago.

3           She's also getting a little bit more fragile.  
4 Just to give you an example, the end of August she fell down  
5 from a small stepladder. No broken bones, but she could  
6 hardly walk for three weeks.

7           And at that point, I de facto became an almost  
8 fulltime caretaker. And so, my having to be around my  
9 mother and possibly having someone else to assist her on a  
10 daily basis will only increase as we go forward.

11           And from another practical point of view -- and  
12 so, since the onset of COVID here in March, and especially  
13 the past seven weeks or so, I have been going back and forth  
14 between my place at Lopez and hers.

15           From -- personally for me, it's been difficult and  
16 in the long term, it's just not sustainable from the point  
17 of view of my work and practical reasons. As I mentioned, I  
18 have a home office, and I've had that home office for around  
19 20 years now at this location, so even this situation or the  
20 needs, which I just described, we believe that our ask for  
21 the next phase is reasonable and justifiable.

22           But -- so, that's all I wanted to add. And, you

1 know, thank you for your attention. Thank you for listening  
2 to me, and I will -- I guess I will have to disconnect,  
3 right? Or mute?

4 SARAH RHATIGAN: That's okay. So, thank you, we  
5 don't want to take up more of your time but obviously, are  
6 here to answer any questions that the Board may have.

7 CONSTANTINE ALEXANDER: Brendan?

8 BRENDAN SULLIVAN: Brendan Sullivan, no questions.

9 CONSTANTINE ALEXANDER: Jim?

10 JIM MONTEVERDE: Jim Monteverde. I just -- I have  
11 a couple, please. Thank you to the revision to the front of  
12 the house. I appreciate pulling all of that back. Sisia,  
13 if you can just Sheet A1.1, this is the third floor plan.  
14 And if you could just confirm for me the plan, it's just an  
15 inconsistency between the plan and the elevation.

16 The plan at the third floor level in that new  
17 bathroom is showing a window right in the middle of that  
18 extension, and I think the elevation is showing a pair of  
19 windows. Do you know which it is you propose to actually  
20 install?

21 SARAH RHATIGAN: Thank you for noticing that.  
22 That was an error with -- the architect didn't carry through

1 the two windows. It is proposed to have two windows, and if  
2 the Board agrees that this is acceptable, if there could be  
3 a hand-drawn note on that page, just to indicate two  
4 windows.

5 JIM MONTEVERDE: Yeah.

6 SARAH RHATIGAN: If that's sufficient that's  
7 great. Otherwise, we could -- you know --

8 JIM MONTEVERDE: But the elevation governs in this  
9 case, right?

10 SARAH RHATIGAN: The elevation governs, exactly,  
11 yeah.

12 JIM MONTEVERDE: Okay.

13 SARAH RHATIGAN: And, you know, the -- you'll  
14 notice that there is some drawing of fixtures in the inside  
15 there.

16 JIM MONTEVERDE: Right. I can see those, yeah.

17 SARAH RHATIGAN: So --

18 JIM MONTEVERDE: Okay, but it's two? It's two,  
19 not one?

20 SARAH RHATIGAN: It should be two, yeah.

21 JIM MONTEVERDE: Okay. And then Sisia, on the --  
22 if you're on that plan, it's A1.1. My question is, and I --

1 it took me a while looking at the drawings to figure out  
2 what was going on -- no, if you go one more -- I think it's  
3 A-1.1, it shows the third floor and the proposed first  
4 floor.

5 [I think I'm looking at the most recent drawings.]

6 SISIA DAGLIAN: So I'm showing a different concise  
7 set.

8 JIM MONTEVERDE: Oh, okay.

9 SARAH RHATIGAN: Which -- are you looking for the  
10 floor plan for the proposed third floor?

11 JIM MONTEVERDE: Well it's -- yeah, it's the attic  
12 plan, and it's --

13 JAMES RAFFERTY: Yep.

14 JIM MONTEVERDE: -- juxtaposed with the first-  
15 floor plan. And it's where I finally figured out what -- I  
16 never understood the back of the building, and I finally  
17 did. Well, let me use this plan. This is fine.

18 SARAH RHATIGAN: Okay.

19 JIM MONTEVERDE: My question is, what I can  
20 understand from the drawing now and I didn't before is that  
21 the third floor -- this is in the back of the building --  
22 where the two bays are in the existing plan, and the

1 proposed plan, when you get to the third floor, that  
2 building line squares that off. I'm using a cursor on the  
3 plan, which you can't see.

4 In other words, you project over those two bays  
5 over the second floor.

6 SARAH RHATIGAN: That is correct.

7 JIM MONTEVERDE: That is correct?

8 SARAH RHATIGAN: Yep.

9 JIM MONTEVERDE: And then on the elevation, that's  
10 why the elevation -- there are some lines on the elevation  
11 that just don't connect, and on the side elevation. I'm  
12 assuming that's what it all means? Yeah, Sisia, if you go  
13 to that?

14 SISIA DAGLIAN: Oh, like this side elevation.

15 JIM MONTEVERDE: No, no, that's good. Where you  
16 were is fine. So if you start on the left-hand side on the  
17 third floor, that first window, that material is actually in  
18 plane with the projecting bow?

19 SARAH RHATIGAN: Correct.

20 JIM MONTEVERDE: The bay window?

21 SARAH RHATIGAN: Correct. Yep, correct, yup.

22 JIM MONTEVERDE: Same on the opposite side.

1 SARAH RHATIGAN: Mm-hm.

2 JIM MONTEVERDE: And then it's actually recessed  
3 in the bay window.

4 SARAH RHATIGAN: Correct.

5 JIM MONTEVERDE: And looking at the plan -- so it  
6 just struck me as really overbearing, ungainly, and not in  
7 context with anything else I could see in the other -- in  
8 the photos of everything around it.

9 And looking at the plan, I can't figure out what  
10 that additional -- those additional overhangs get you, as  
11 opposed to bringing the bays straight up.

12 So it's really just a question of being able to  
13 shave a couple more square feet off of this thing so the ask  
14 isn't quite as large as it is, and it also potentially being  
15 more in context with what else happens in the neighborhood.

16 So my question is really, what is it that drives  
17 that very simple, squared off shape on the third floor, as  
18 opposed to following that back profile up to the third  
19 floor? Am I making myself clear?

20 SARAH RHATIGAN: You are making yourself clear to  
21 me. What I am wondering: Maciej, was Mike available to  
22 attend?

1           MACIEJ GADAMSKI: No, I don't think he is on.

2           SARAH RHATIGAN: Okay. So the architect isn't  
3 here to explain.

4           JIM MONTEVERDE: Well, that's fine but I'm looking  
5 at this -- the plan that's on the screen, the A1.1 --

6           SARAH RHATIGAN: Yep.

7           JIM MONTEVERDE: -- if you look behind the stair,  
8 that's a space that's one foot 11 inches wide.

9           SARAH RHATIGAN: Mm-hm.

10          JIM MONTEVERDE: You -- I can't even walk through  
11 there. As opposed to -- and so, the line of the staircase  
12 is really down below the line of the outside wall of the  
13 building.

14          So I just do not see why -- if there's an  
15 opportunity for it to sculpt itself a little bit, follow the  
16 lines of the building below, not quite be so overbearing ad  
17 more in context.

18          SARAH RHATIGAN: Yeah. I wasn't sure.

19          JIM MONTEVERDE: Sorry, it's a long question, but  
20 that was my queue.

21          SARAH RHATIGAN: Maciej, did you have a -- did you  
22 discuss this, do you have an answer?

1           MACIEJ GADAMSKI: Yes, we basically carried the  
2 rear design over from the previously submitted and proposed.

3           JIM MONTEVERDE: Yeah, no, I see that.

4           MACIEJ GADAMSKI: That's why we just -- it was a  
5 race against time, we wanted to make sure we --

6           SARAH RHATIGAN: Right.

7           MACIEJ GADAMSKI: -- made the deadline, and so, --  
8 and also, meet their expectations or address the comments.  
9 So that's the only reason, it's --

10          JIM MONTEVERDE: Okay. Thank you. Yep, thank  
11 you.

12          CONSTANTINE ALEXANDER: So Slater, do you have any  
13 questions? Slater?

14          JIM MONTEVERDE: I don't see him on the screen,  
15 Mr. Chair.

16          CONSTANTINE ALEXANDER: No. I don't either.

17          JIM MONTEVERDE: And I don't think he's on this  
18 one.

19          CONSTANTINE ALEXANDER: Well, no, I'm sorry,  
20 you're right. Matina? I should have asked for Matina.

21          JIM MONTEVERDE: Right, Matina.

22          MATINA WILLIAMS: I don't have any questions at

1 this time. Did you hear me?

2           BRENDAN SULLIVAN: Brendan Sullivan, I have no  
3 questions.

4           CONSTANTINE ALEXANDER: Yep. Okay. I will open  
5 the matter up to public comment. We have no letters in our  
6 file. But if anyone wishes to speak with regard to this  
7 matter, you have to click the icon at the bottom of your  
8 Zoom screen that says, "Raise hand." If you're calling in  
9 by phone, you can raise your hand by pressing \*9 and unmute  
10 or mute by pressing \*6.

11           I'll wait a few minutes to see if anyone wishes to  
12 speak.

13           [Pause]

14           CONSTANTINE ALEXANDER: Sean, hearing anything?

15           SEAN O'GRADY: No. I'm not seeing anybody.

16           CONSTANTINE ALEXANDER: Okay. Then I'll close  
17 public testimony. There are no letters in our file with  
18 regard to -- since the initial filing. Ready for a vote? I  
19 think -- you know, my observation is that the problem the  
20 last time around for most Board members was the  
21 architecture, really, of the structure of bringing the sides  
22 out the street level flush with the front. And that's been

1 corrected by the petitioner, and as the petitioner has  
2 pointed -- petitioner's counsel has pointed out, there's  
3 other changes that scale back what was initially proposed in  
4 order to remove all additions shown on the front of the  
5 building and significantly reducing the gross floor area of  
6 the third addition -- third-floor addition, in an effort to  
7 minimize the variance relief being requested.

8 Vote, or are we ready to have a further  
9 discussion?

10 ANDREA HICKEY: Vote.

11 BRENDAN SULLIVAN: Brendan Sullivan, ready for a  
12 vote.

13 ANDREA HICKEY: Andrea Hickey, I'm ready for a  
14 vote.

15 MATINA WILLIAMS: Matina Williams, ready for a  
16 vote.

17 CONSTANTINE ALEXANDER: Okay.

18 JIM MONTEVERDE: This is Jim, ready for a vote.

19 CONSTANTINE ALEXANDER: And how do you vote, going  
20 back around? I'm ready for a very as well. Brendan, how do  
21 you vote?

22 ANDREA HICKEY: I think you have to post the

1 motion.

2           CONSTANTINE ALEXANDER: Thank you, thank you  
3 Andrea. Okay. The Chair moves that -- it's been a long  
4 night. The Chair moves that we make the following findings  
5 with regard to the variance being sought:

6           That a literal enforcement of the provisions of  
7 the ordinance would involve a substantial hardship, such  
8 hardship being that this is an older structure that's  
9 undersized for most residential uses, particularly uses that  
10 involve use of the home for business purposes.

11           That the hardship is owing to the shape of the  
12 structure and the topography of the land, and that the  
13 relief may be granted without substantial detriment to the  
14 public good, or nullifying or substantially derogating from  
15 the intent and purpose of the ordinance.

16           And again, the revisions reflect that, and are --  
17 make compliance with this requirement for a variance more  
18 acceptable.

19           So on the basis of all of this, the Chair moves  
20 that we grant the variance requested on the condition that  
21 the work proceed in accordance with plans submitted by the  
22 petitioner, prepared by Phung, P-h-u-n-g /Porzio, P-o-r-z-i-

1 o Inc. dated October 18, the first page of which has been  
2 initialed by the Chair. All those in favor?

3 BRENDAN SULLIVAN: Brendan Sullivan yes to  
4 granting the variance.

5 ANDREA HICKEY: Andrea Hickey, yes to granting the  
6 variance.

7 MATINA WILLIAMS: Matina Williams yes to granting  
8 the variance.

9 JIM MONTEVERDE: Jim Monteverde no.

10 CONSTANTINE ALEXANDER: And the Chair votes yes,  
11 and so, the variance is granted. Four votes to one. Case  
12 over. Thank you.

13 COLLECTIVE: Thank you very much.

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2 (8:20 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,  
4 Andrea Hickey, Jim Monteverde

5 CONSTANTINE ALEXANDER: The Chair will now call  
6 Case Number 017246 -- 17 Cushing Street. I believe it's  
7 going to be continued again. Is there anyone here wishing  
8 to be heard however on this case?

9 SEAN O'GRADY: I don't see Rich Von Turbuvitch,  
10 and he was the one that was listed for this case.

11 CONSTANTINE ALEXANDER: Okay. When did we  
12 continue the -- what I'm going to call, "the companion  
13 case"? We're going to pick a date to continue this case, and  
14 it's got to be a date I think after the other case, which I  
15 think is in early January, if my memory is correct?

16 SISIA DAGLIAN: No, it's December 10.

17 CONSTANTINE ALEXANDER: It's -- I'm sorry, again  
18 Sisia?

19 SISIA DAGLIAN: December 10.

20 CONSTANTINE ALEXANDER: December 10?

21 SISIA DAGLIAN: Yeah. So we have January 14, and

22 --

1           CONSTANTINE ALEXANDER: Why don't I propose we  
2 continue this case until January 14?

3           ANDREA HICKEY: How do we get the petitioner to  
4 sign the waiver?

5           CONSTANTINE ALEXANDER: We have a waiver already.

6           ANDREA HICKEY: Oh, we do, okay.

7           CONSTANTINE ALEXANDER: Yeah. I think just we  
8 just need to do the rest of the vote, however. The Chair  
9 moves that this case be continued as a case heard, until  
10 7:00 p.m. on January 14, on the condition that the  
11 petitioner sign a waiver of time for decision -- and that  
12 has already been done -- that the new posting sign be  
13 erected and maintained for the 14 days prior to January 14,  
14 and that to the extent there are going to be new plans or  
15 specifications or the like, they must be in our file no  
16 later than 7:00 p.m. -- 5:00 p.m., no later than 5:00 p.m.  
17 -- on the Monday before.

18                   All those in favor?

19           BRENDAN SULLIVAN: Brendan Sullivan, yes to the  
20 continuance.

21           ANDREA HICKEY: Andrea Hickey, yes to the  
22 continuance.

1                   JIM MONTEVERDE:  Jim Monteverde, yes to the  
2  continuance.

3                   CONSTANTINE ALEXANDER:  The Chair votes yes in  
4  favor of the continuance as well.

5                   [All vote YES]

6                   ANDREA HICKEY:  Did we miss one person?

7                   SISIA DAGLIAN:  Well, it was originally Laura.

8                   JIM MONTEVERDE:  Yeah.

9                   CONSTANTINE ALEXANDER:  Even if we don't --

10                  JIM MONTEVERDE:  LW.

11                  ANDREA HICKEY:  Oh, okay.

12                  CONSTANTINE ALEXANDER:  -- we have enough votes.

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2 (8:22 p.m.)

3 Sitting Members: Constantine Alexander, Jim Monteverde,  
4 Alison Hammer and Jason Marshall

5 CONSTANTINE ALEXANDER: Moving on, the Chair will  
6 now call Case Number -- this is the last of the continued  
7 cases, so once we finish this case, for those who are  
8 waiting to hear their cases on the regular agenda, we will  
9 turn to the regular agenda and move forward.

10 ANDREA HICKEY: Excuse me, but --

11 CONSTANTINE ALEXANDER: The Chair will now Case  
12 Number --

13 ANDREA HICKEY: Excuse me --

14 CONSTANTINE ALEXANDER: -- 017 --

15 ANDREA HICKEY: Mr. Chair --

16 CONSTANTINE ALEXANDER: -- 279 -- yes?

17 ANDREA HICKEY: It's Andrea Hickey here. I had  
18 only scheduled to sit for the continued cases that I was on  
19 previously.

20 CONSTANTINE ALEXANDER: Right.

21 ANDREA HICKEY: So if I could ask Sisia or Sean is  
22 there someone who is available to hear this next continued?

1           SISIA DAGLIAN:  Yeah, Alison.  Alison can hear it.

2           ANDREA HICKEY:  Okay.  And then I also --

3           CONSTANTINE ALEXANDER:  Yeah, obviously on the  
4 case before --

5           ANDREA HICKEY:  -- I have another meeting, so I'm  
6 also not on the regular case list.  So --

7           SISIA DAGLIAN:  Correct.

8           CONSTANTINE ALEXANDER:  Right.  We know that.  
9 Thank you.

10          ANDREA HICKEY:  Very good.  Thank you all.

11          JIM MONTEVERDE:  Okay, bye-bye.

12          CONSTANTINE ALEXANDER:  Okay.  I have called Case  
13 Number 017279 -- 370-372 Windsor Street.  Anyone here  
14 wishing to be heard on this matter?

15          JOSE COSTA:  What do I do?

16          JIM MONTEVERDE:  Say yes.

17          JOSE COSTA:  Yes.

18          CONSTANTINE ALEXANDER:  The floor is yours.

19          JOSE COSTA:  Hello?  Can you guys hear me?

20          CONSTANTINE ALEXANDER:  Yes.  I can hear you, yes.  
21 Go ahead.  Can you hear us?

22          JOSE COSTA:  Yeah, I can hear you.  This is Jose

1 Costa. We own the property over at 372-370 Windsor Street.  
2 We built a deck in the back yard for, you know, our family  
3 to hang out and after the deck was built, I was told I had  
4 to remove it.

5 I'm still not sure why I've got to remove it. I  
6 thought I -- you know, I got my certified plot plan.

7 CONSTANTINE ALEXANDER: Let me ask you a question,  
8 sir. Did you -- when you decided to build a deck initially,  
9 did you get a building permit?

10 JOSE COSTA: Yes, I did.

11 CONSTANTINE ALEXANDER: You did? And I went to  
12 the Zoning Office and submitted the plans and you -- what  
13 you built was consistent with the plans that you got that --  
14 for the building permit, is that right?

15 JOSE COSTA: Yes. The plan I submitted was a  
16 hand-sketched drawing which I was told to submit to begin  
17 with, which clearly defines the existing deck and, the new  
18 deck, the new stairs, which was all presented at the  
19 Building Department. And I was told my permit was ready. I  
20 picked up the permit, started building the deck.

21 During the course of building the deck, two  
22 Building Inspectors came to my house, which I asked them is

1 there a reason why they're here? And they're like, "Well,  
2 one of the neighbors called with a concern about the deck  
3 you're building."

4 And I personally asked him, "Is there something  
5 wrong with what I'm building?" I was told, "No, you're in  
6 compliance, keep building build the deck." And so, I kept on  
7 building.

8 And then I went back to the Building Department to  
9 pull a permit for a different deck that I'm building in  
10 Cambridge -- I do a lot of work for the city of Cambridge --  
11 so I went to pick up a different permit, which I was told  
12 was ready, and while I was there, I was told that we have an  
13 issue with the permit.

14 Me, I was thinking of the permit I just pulled.  
15 And then they told me no, it was the permit that was at 372  
16 Windsor Street, which is my family residence. And I was  
17 told that it's got to come down.

18 And I asked them, well, if there was an issue with  
19 the deck being built, why wasn't I told prior to building  
20 it, because you guys were there three times while I was  
21 building it, while it was just framing.

22 And I was told yeah, fine, keep building. Now the

1 deck's completely built, I'm told I've got to tear it down.

2           CONSTANTINE ALEXANDER: So I think what I -- and I  
3 wasn't present, but I think I'm hearing that the Building  
4 Department determined that the build -- what you built --  
5 was not the plans, was not the deck that had been presented  
6 to the Inspectional Services Department, and therefore you  
7 can't use that deck, you can't have that deck.

8           I think didn't you put a cover on the deck of some  
9 sort, too?

10           JOSE COSTA: No, I didn't put a cover. There's --  
11 well, the second -- the deck is built on the second floor.  
12 So it covered the first-floor deck, which is -- again, it's  
13 under four feet so it's technically a patio. I don't know  
14 if that makes a difference, in what I can put open.

15           But anyhow, again, I supplied them everything they  
16 asked me for. I went and got a plot plan of the property.  
17 I got a -- you know, a sketched drawing of what they asked  
18 for. I gave them every paper that they needed for this  
19 deck.

20           And again, if something was being withdrawn or  
21 beyond me knowing, I should have been told this prior to me  
22 finishing the deck. I spent about \$23,000 building this

1 deck.

2           And while they came here plenty of time when I was  
3 building the deck, and I asked them over and over again, "Am  
4 I building something wrong, is something going wrong?" I was  
5 told more than once, "You are fine, you're within -- you've  
6 got your permit, you keep building."

7           So wait until the deck is done and then tell me,  
8 "Listen, your neighbors are complaining, it's got to come  
9 down." I think it's very unfair.

10           I mean, if I was doing something wrong, which I  
11 don't think I was, because I submitted every plan that they  
12 asked me for -- every paper they asked me I submitted them"  
13 and basically was told after the deck was completely --  
14 well, 95 percent finished -- that I've got to remove it.

15           CONSTANTINE ALEXANDER: Something doesn't make  
16 sense to me here. The Inspectional Services Department just  
17 on a whim said, "Oh no, we don't -- you can't go ahead with  
18 this deck"?

19           You must have modified the deck from what the  
20 plans that they approved and gave you the building permit  
21 for.

22           JOSE COSTA: Well, I only -- I supplied the one

1 plan. I have a copy of the plan on me, what I gave them.

2 And this is what I submitted when I applied for my permit.

3 I didn't -- the measurements on the existing deck  
4 and the new deck that was added, it's all there in black and  
5 white. So the 10-foot addition to the deck, which I  
6 submitted, which I was asked to submit -- and I did -- I  
7 complied to everything they asked me for.

8 I didn't change the size of the deck. I mean, I  
9 didn't -- I'm sorry, I did change the size of the deck, I  
10 didn't change the size of the plan that it was -- the way  
11 that it was planned to be built.

12 Again, the deck is built. I'm not saying, you  
13 know, you know, "Whatever, it's built, let it go." That's  
14 not what I'm saying. But it's still within the setbacks of  
15 the property of what I built.

16 So my issue is that I don't know if I'm -- I want  
17 to -- first thing I want to know, what code have I broken to  
18 begin with? If I'm within my setbacks, and the only excuse  
19 that was given is I covered the first-floor deck, that in  
20 the future that could be closed.

21 SISIA DAGLIAN: Gus, can I just explain from the  
22 Inspectional Services --

1           CONSTANTINE ALEXANDER: Yeah, I was going to ask  
2 you at some point.

3           SISIA DAGLIAN: Yeah.

4           CONSTANTINE ALEXANDER: Sisia, if you could do it  
5 now?

6           SISIA DAGLIAN: Yeah, definitely. I just want to  
7 share my screen.

8           JIM MONTEVERDE: Yes.

9           SISIA DAGLIAN: Okay, can you see that? This is  
10 the building permit that we got, that said the scope of work  
11 was replacing the deck and railing on the existing deck.

12                    This is the site plan that only shows kind of a  
13 first-floor deck outline, nothing about the second-floor  
14 deck.

15                    Then this is the -- you know, sketch we got, very  
16 difficult to understand. It shows, I guess, kind of this  
17 first-floor deck that looks to be in line with what the site  
18 plan showed.

19                    This is an aerial shot from previously 2014, and  
20 then I think we have another aerial shot. Well, there's  
21 photos in the submission where the second-floor deck here  
22 came and cantilevered way out on top of the first-floor

1 deck. And, you know, we explained that this was a zoning  
2 violation, and it couldn't project out this far.

3           It's a very misleading application. There was  
4 nothing saying that the deck is being expanded by -- you  
5 know, like 10 feet or something. And we had explained this  
6 to the builder when he came, and when the neighbors  
7 complained and he came to the office.

8           CONSTANTINE ALEXANDER: Okay. So in a word, the  
9 plans that were submitted to the building --

10           SISIA DAGLIAN: The plans and the description were  
11 really misleading. It just says --

12           CONSTANTINE ALEXANDER: Right.

13           SISIA DAGLIAN: -- "Replace decking and railing on  
14 existing deck." Whereas it was --

15           CONSTANTINE ALEXANDER: What was built is  
16 different than what was applied for?

17           SISIA DAGLIAN: That's correct.

18           CONSTANTINE ALEXANDER: Okay. Mr. Costa?

19           JOSE COSTA: Yes?

20           CONSTANTINE ALEXANDER: I mean, it seems to be  
21 quite clear.

22           JOSE COSTA: Well --

1           CONSTANTINE ALEXANDER: You showed one set of  
2 plans, and then you decided to do something else, and you  
3 then went to go back and get your permit changed or get a  
4 new permit for the -- what you now decided to do.

5           JOSE COSTA: Well, I disagree with that. Because  
6 I mean, well let me just start from the beginning how this  
7 all started, so we're on the same page, as long as our deck  
8 is built.

9           Originally, I did -- I was replacing just the  
10 decking on the existing deck, which is 10 feet within the  
11 guidelines. I'm not sure that I mentioned it. But I was  
12 replacing the existing deck and on that deck, because it was  
13 all rotted and falling apart.

14           During the course of doing that, Brendan came to  
15 the house and said, "Listen, you've got to pull a permit for  
16 that replacing the deck, replacing the railing of the deck."  
17 I'm like, "Fine." I went to the Building Department,  
18 applied for a permit to replace the railing on the deck.

19           While I was there, I have asked them, "What do I  
20 need, because I want to move the stairs over to the side of  
21 the deck instead of in front of it, because it's really  
22 uncomfortable for the people that live on the second floor

1 to come down the stairs. It's kind of narrow, it's really  
2 steep.

3 So I was told in order to do that, I had to get a  
4 plot plan. So I'm like, "All right, if I'm going to get a  
5 plot plan for the whole property, which cost me over \$2000  
6 to get, I'm going to apply for -- I want to apply for a  
7 permit to extend the deck."

8 And when I applied for the permit to extend the  
9 deck, they told me -- I was told by a person by the Building  
10 Inspector to put it on paper and bring it in. I asked them,  
11 "Do I need an architectural plan for this?" I was told,  
12 "No. All you need is to put it on paper so I can see what  
13 you're building."

14 So the paperwork I have -- and finally, right now  
15 it describes the existing deck that was there before and  
16 what I proposed to build. And that's what I submitted to  
17 them.

18 If there was an issue with the paper I submitted,  
19 before giving me a permit, I should have been told the  
20 paperwork was -- not just give me a permit, then tell me  
21 that it's -- "We don't understand what you was trying to  
22 do."

1           The paperwork I gave them, they showed a copy of  
2 the paperwork that I gave them. If there was not an  
3 understanding to their -- what they needed to build it, I  
4 should have been told from there and not wait until the deck  
5 was built, and then tell me, "Well, you build it wrong." I  
6 didn't build it wrong, I built it to the plan that I  
7 submitted to the Building Department.

8           So them saying that it was -- the plan was not  
9 submitted, it was submitted and I got it right here on  
10 paper, same paper they showed you, it's 10 feet out. It's  
11 all in there.

12           So for somebody to say that I built something that  
13 wasn't in my plan, that's completely wrong. What was on my  
14 plan is what I built. It's the exact size of what I put,  
15 what I supplied to the Building Department. So I'm not sure  
16 where they're getting -- it wasn't clear enough.

17           And again, if it wasn't clear, it should have been  
18 presented to me, "Hey, Mr. Costa, listen, this proposal/plan  
19 you gave me needs more details into what you're building."  
20 Not give me a permit, have me build this deck that -- again,  
21 it's not a cheap deck, it's a very expensive deck I built --  
22 and again, if I was told from the beginning on that, I

1 wouldn't have spent all this money building this deck,  
2 knowing I had to tear it down.

3 I do a lot of work in Cambridge, I own my own  
4 construction company, I do a lot of work for Just-A-Start,  
5 pull permits from the Building Department on a monthly basis  
6 -- I'm trying to pull a permit, so I'm not here to build  
7 something to say that, "Well, I will build without a plan."  
8 It's a big deck, I can't hide it. I'm not trying to hide  
9 anything from anybody, it's there.

10 So for me to say, "Let me build it bigger and hope  
11 the building permit (sic) doesn't see it" That's not  
12 something that I do. I do -- I mean, you can check -- I do  
13 a lot, you can ask the Building Department. I know  
14 everyone -- all of them on a first-name basis, I'm there all  
15 the time pulling a permit.

16 I don't work without a permit. I've never worked  
17 without a permit. I've been in business for 20 years,  
18 worked in Cambridge for the last seven years, lived in  
19 Cambridge since 1980. So if I'm not a person that's going  
20 to build something just because I'm going to build it and  
21 say, "Well, I'll build it and deal with it later." I build  
22 --

1           CONSTANTINE ALEXANDER: Let me just stop you right  
2 here.

3           JOSE COSTA: Okay.

4           CONSTANTINE ALEXANDER: No one questions that you  
5 -- it's clear that -- and you got a building permit,  
6 initially.

7           JOSE COSTA: Mm-hm.

8           CONSTANTINE ALEXANDER: But what you ended up  
9 doing is not what was on the building permit. And you --  
10 and I think all I've heard, if I've got it all, is you have  
11 some casual conversations with an inspector, who said -- you  
12 know, you've got to bring some plans down or do something.  
13 But you didn't do it.

14          JOSE COSTA: But I did, though.

15          CONSTANTINE ALEXANDER: What you did -- let me  
16 finish -- is not what you got a building permit for.

17          JOSE COSTA: Well, if you go back to the previous  
18 page that I think Sarah showed you, you would see that why I  
19 gave them did say I'm putting a 10-foot deck in front of it.  
20 If you bring it back --

21          SISIA DAGLIAN: But the approved description on  
22 the permit card said, "Replace decking and replace railing

1 on existing deck."

2 JOSE COSTA: Well, again, what I --

3 BRENDAN SULLIVAN: This is Brendan Sullivan. So  
4 basically, it was repair job?

5 SISIA DAGLIAN: Correct.

6 JOSE COSTA: When I applied for the permit, yes.  
7 I applied for the permit to repair the decking. So when I  
8 went there and I told them I want to extend the deck, I  
9 asked them personally, "Do I got to change the permit around  
10 to extend the deck?" They're like, "No, it's just an add-on  
11 to the permit." And that's what I was told, and that's what  
12 I went by.

13 SISIA DAGLIAN: Well --

14 JOSE COSTA: If I was told I had to redo a new  
15 permit, I was there, I was more than happy to rebuy a new  
16 permit. I'm not in the business to build something I got to  
17 tear down.

18 Like I say, I've worked in Cambridge for years.  
19 I know it's -- I mean, my neighbors have lived right next  
20 door to me. It's not something I can just build this deck  
21 and say, "You know what, I'm going to build it, and deal  
22 with the consequences." It's not the way I work.

1           So if there's -- what I built was what I proposed  
2 to build, and that's what I built.

3           Again, the reason we built this deck is we have a  
4 -- it's a four-family owned house, a big family lives here.  
5 We just needed somewhere for our family to get together and  
6 enjoy weekends, and that's all we use it for.

7           As far as the back yard, we can't go back there  
8 anymore before nighttime because all the rodents run out  
9 night back yard, and we just use that deck just for a family  
10 gathering. And its within the setbacks of the property,  
11 it's 20 feet from the back of the property, and seven and a  
12 half feet away from my neighbor's property.

13           JIM MONTEVERDE: Mr. Chair, one of the drawings  
14 that's submitted --

15           CONSTANTINE ALEXANDER: Yep.

16           JIM MONTEVERDE: -- I think it's prepared by --  
17 Sisia, if you have it, it's the one by Christopher Howe  
18 dated 03/01/20. I'm not sure it agrees with what you just -  
19 - what the proponent just said. So it basically calls out -  
20 - it's the zoning summary.

21           And it basically shows -- if this is correct, it  
22 shows that the existing deck and then the extended deck is

1 located -- and I think that number is five foot from the  
2 property line -- and the zoning summary says that the  
3 minimum side yard is seven and a half feet. So in fact, the  
4 extension is over the setback line -- side setback line.

5           It also -- if you look at the zoning summary, it  
6 also says that the rear yard setback is 20 feet, and if you  
7 look at the drawing -- again, it's short by, like, you know,  
8 one and three-quarter, one foot nine inches. It says the  
9 corner of the deck, the extension is 18.23 to the property  
10 line, as opposed to 20.

11           So really, unfortunately by a foot and a half on  
12 both sides it's -- or two and a half feet on the side yard  
13 and a foot and a half on the back, it's too close to the  
14 property line.

15           And there's another statement that basically says  
16 -- talks about the roofing membrane, which I don't quite  
17 understand where that falls in, but that -- making the area  
18 count, and therefore you'd be over the FAR. You'd be over  
19 the nonconforming FAR.

20           So I think there are a couple -- there are a  
21 couple technical zoning issues at hand here. I don't think  
22 the addition, from what this says, is really absolutely

1 compliant with setbacks, et cetera.

2 ALISON HAMMER: This is Alison Hammer, if I can  
3 add on to what Jim is saying. The side setback required is  
4 actually a function of the height and the length of the  
5 building. Seven foot six is a minimum but what would be  
6 required on the slot, as they say, is approximately 12 feet.

7 JIM MONTEVERDE: 12. Yeah. So it's -- again,  
8 it's just not in -- it's not in compliance either in the  
9 side yard or the rear yard, and it seems that installing the  
10 roof membrane also makes it noncompliant or it adds some  
11 additional square footage to an already nonconforming FAR.

12 So --

13 BRENDAN SULLIVAN: Well this is Brendan Sullivan.  
14 The area under the deck would be considered FAR also?

15 ALISON HAMMER: Correct.

16 BRENDAN SULLIVAN: Right.

17 JIM MONTEVERDE: Yeah, that's probably what he was  
18 talking about. So yeah, it has a couple zoning issue here  
19 as well, besides as some complication.

20 CONSTANTINE ALEXANDER: So in short, you had a  
21 building permit, the work got modified, that created zoning  
22 issues, and you never applied to get zoning relief to do

1 what you were doing. And that's why we're here tonight.

2 And I don't see how there's any resolution. You don't  
3 comply -- this deck as it was built does not comply with our  
4 zoning laws, in a number of respects.

5 JOSE COSTA: Okay.

6 CONSTANTINE ALEXANDER: So you have to -- it seems  
7 to me this petition tonight will be -- should be denied, and  
8 then you, Mr. Costa, can decide to -- if you wish -- to file  
9 a petition for zoning relief for the ways in which your deck  
10 as it got built doesn't create zoning issues. And that will  
11 be a different case at a different time, and we'll make our  
12 decision based on the facts of that case.

13 JOSE COSTA: Okay. I thought this was the reason  
14 why we're here? I thought this is the reason, because of  
15 the zoning issue that we're here at this meeting today.

16 CONSTANTINE ALEXANDER: You can't -- no, you  
17 didn't think a -- you didn't give any information. You said  
18 you want a variance to legalize a second-floor deck --

19 JOSE COSTA: Mm-hm.

20 CONSTANTINE ALEXANDER: -- which was built due to  
21 a misunderstanding regarding the scope of construction.  
22 That's not what we're talking about tonight.

1           JOSE COSTA: Okay. So my next step is to apply  
2 for a new zoning meeting? I mean, I --

3           CONSTANTINE ALEXANDER: I think you have to file a  
4 new app -- you have to file a new -- a petition for zoning  
5 relief.

6           BRENDAN SULLIVAN: Dimensional form?

7           CONSTANTINE ALEXANDER: Dimensional, I don't --  
8 one second, the --

9           JOSE COSTA: I thought that's what this was?  
10 That's what I'm asking.

11          CONSTANTINE ALEXANDER: What I would suggest is  
12 this case be continued as a case heard, only because I don't  
13 want to have -- if we deny relief tonight, it might create  
14 issues with regard to a new petition for zoning relief, as  
15 to whether it is a repetitive petition. Because you're not  
16 going to be looking to modify what we would turn down  
17 tonight, and you just want to get -- now you want relief  
18 that you didn't seek before.

19          SISIA DAGLIAN: If you look at the general  
20 information --

21          JIM MONTEVERDE: Yeah, I think if I can -- if in  
22 the application in looking at Attachment B, Page 2.

1           SISIA DAGLIAN:  Yeah.

2           JIM MONTEVERDE:  The BZA application form?

3           SISIA DAGLIAN:  I'm projecting it.

4           JIM MONTEVERDE:  It basically reads -- it lists  
5 the section of the zoning ordinance you need relief from.  
6 It's exactly what we talked about that's on that other  
7 drawing.  It's the FAR, side yard setback, rear yard  
8 setback...  It just doesn't have a dimensional form that tells  
9 you what the existing condition is, what the proposed  
10 condition is --

11          BRENDAN SULLIVAN:  Right.

12          JIM MONTEVERDE:  -- et cetera.  So you missed one  
13 -- you missed a step.

14          JOSE COSTA:  And what page is that?  Is that the  
15 page you're showing on the front?

16          SISIA DAGLIAN:  Yeah.

17          JIM MONTEVERDE:  I'm looking at -- it's the one  
18 that Sisia has on the screen.  It's the application form.

19          JOSE COSTA:  Uh-huh.

20          JIM MONTEVERDE:  And if you see sections "Zoning  
21 ordinance cited, Article 5, there's the FAR, Article 5, 5.  
22 30 there's the side yard setback.

1 JOSE COSTA: Yeah.

2 JIM MONTEVERDE: 5.30, there's the rear yard  
3 setback.

4 JOSE COSTA: Uh-huh.

5 JIM MONTEVERDE: And then for the applicant,  
6 complete pages 1-5. There's just -- you're missing some  
7 information in here that I think its what Brendan referred  
8 to before, that looking for the dimensional form, where you  
9 would have had to fill in what's the existing -- you know,  
10 what is the -- what does the zoning ordinance require?

11 What's the existing condition, and what's the  
12 proposed condition? You're missing that piece.

13 BRENDAN SULLIVAN: Well -- Brendan Sullivan --  
14 there is a dimensional form in the file.

15 JOSE COSTA: Oh, okay.

16 BRENDAN SULLIVAN: If you can pull that up, Sisia?

17 SISIA DAGLIAN: Ah...

18 JIM MONTEVERDE: Oh, there it is, from the  
19 original, from the original.

20 SISIA DAGLIAN: Let's see. I have to go to  
21 another -- sorry.

22 JIM MONTEVERDE: Yeah, it's in the file for the

1 original hearing. Yeah, I'm in the original file, and it  
2 basically -- yes, it says the FAR goes up from 1.16 to 1.25.  
3 Allowed is 0.75. It shows the left-side setback existing is  
4 5, requested is 5, ordinance is 12. And then it says the  
5 rear is 18.23. Requested is 18.23, and the ordinance is 20.

6 SISIA DAGLIAN: Okay. Here --

7 JIM MONTEVERDE: But is that the case? Is that  
8 the existing deck, or is that the -- is the existing, the  
9 new deck on the second floor -- I'm still confused. Is the  
10 deck on the second floor exactly the same outline as the  
11 existing deck that was on the first floor?

12 SISIA DAGLIAN: No. I mean, I'm sorry --

13 JOSE COSTA: It's the same as the first floor.  
14 The only difference is, is the second floor goes in two feet  
15 in on the back side of the deck. It isn't --

16 JIM MONTEVERDE: Yeah.

17 JOSE COSTA: -- much.

18 JIM MONTEVERDE: So the existing condition was  
19 nonconforming as well, so it was basically too close to the  
20 rear setback?

21 JOSE COSTA: That was permanent 30 years ago when  
22 I built it.

1           JIM MONTEVERDE: Yeah, yeah, no, I understand.

2           JOSE COSTA: I mean, that deck was -- well, when I  
3 built that deck it was considered a patio. And it being  
4 under four feet, that's what I was explaining when I applied  
5 for a permit, that it would be under four feet. I can  
6 exceed the property line, because it's under four feet.  
7 It's considered a patio.

8           That's what I was -- I pulled a -- we pulled a  
9 permit on that, and that's why we got a permit for it. So  
10 that first-floor deck was permitted because it's under four  
11 feet, and they considered it a patio. I don't know if that  
12 makes a difference.

13           Like I said, you know, I'm a builder. I build  
14 houses, I build decks, I go by what I'm told as far as  
15 setbacks and property lines. If I apply for a permit, a  
16 building permit they said, "You're in, build it." I build  
17 it. And that's basically what I was told.

18           So that first-floor deck is all permitted, built.  
19 Even the second-floor deck without the 10-foot addition is  
20 also permitted deck. So that's been there -- again, since I  
21 want to say early '80s. The only new part of the deck is  
22 the 10 feet that I went out on the second-floor deck, which

1 is two feet in from the first-floor deck. And it's actually  
2 a foot in from the first-floor deck on the 10 feet addition.  
3 It's actually -- the deck went out 10 feet and 12 feet wide.

4 The original deck, the existing deck that's there,  
5 this deck is about a foot in from the original deck. I  
6 mean, I don't know if you guys can see my point. I'm  
7 pointing to the deck, the original that was there.

8 So the only -- what we've fighting for right now  
9 is just a 10-feet by 12-feet deck; extended the deck. But  
10 as far as the rest of the deck that's there, that's all  
11 existing. First-floor deck's existing. So the -- you know,  
12 which was permitted I'm going to say back maybe early  
13 '90,'93. Again, I don't remember exactly how we built that,  
14 it's been a while.

15 So the new proposal that we're dealing with is  
16 just a 12 x 10 over the existing first-floor pattern.

17 CONSTANTINE ALEXANDER: Most of the discussion  
18 we're having right now is not at all relevant to the case  
19 you filed.

20 JOSE COSTA: Okay.

21 CONSTANTINE ALEXANDER: You need to file -- and  
22 this case has got to be continued.

1           JOSE COSTA:  Okay.

2           CONSTANTINE ALEXANDER:  You've got to file an  
3 application that deals with the zoning issues, and you've  
4 got to justify why you're entitled to zoning relief.  None  
5 of that is in this file that we have right now.  You have --  
6 the only thing we know from the file is the deck that got  
7 built.  But it's a deck that creates zoning issues that you  
8 don't have solved.

9           So I suggest this case be continued as a case  
10 heard, and you get your act together sir, with counsel or  
11 not to deal with the zoning issues that have been created by  
12 the deck that's been built.

13           And we may grant, we will decide whether to grant  
14 the zoning relief.  If we don't, then the deck's got a big  
15 problem.  They have to come down, or they can't be used -- I  
16 don't know what the solution would be.  You got it?

17           JOSE COSTA:  I get it.  I'm hearing what you -- I  
18 agree with -- I'm hearing what you're saying.  But my only --  
19 -- this zoning relief, I was based -- I thought this was the  
20 meeting that we're here for today.  That's all.  I'm not  
21 trying to -- saying that -- I just thought that's what we're  
22 here for today.  If I have to apply for zoning relief,

1 that's my next step. I'm compliant to it, and I will  
2 definitely do that.

3 But I thought that's what we're here for today.  
4 That's my assessment of the meeting, that this is why we're  
5 here. You know what I mean, that's -- so it just got me a  
6 little -- you know, a little --

7 CONSTANTINE ALEXANDER: Do other members of the  
8 Board disagree with me as to what we should do right now, or  
9 not? If you do, speak up. Because I'm proposing do we  
10 continue this case as a case heard? I think it'll be in the  
11 early part of next year, or maybe in December there might be  
12 some room.

13 BRENDAN SULLIVAN: This is Brendan Sullivan.  
14 Well, I think that there is an application. I just question  
15 the numbers. And if there is an application to -- for a  
16 variance to allow what was built after the fact.

17 You should have gotten zoning relief before you  
18 built the deck, and how it was permitted and what was  
19 permitted is a question that I cannot answer. I don't know  
20 without going back to the building card and what have you.

21 If this is -- Sisia had pulled it up earlier, if  
22 that's all we have for a record and that the permit was --

1 the building permit was issued on that, it's kind of  
2 sketchy.

3 And unfortunately, I did not go back through the  
4 Building Department's record regarding this particular  
5 thing. I only focused on the request for the relief. But I  
6 think that there is a request for relief before us for the  
7 variance. The numbers I am not too sure about. So that's  
8 my take on it.

9 CONSTANTINE ALEXANDER: I would also point out,  
10 though, however the advertisers for this case doesn't deal  
11 with the issues that we're discussing tonight. And some --  
12 if I were a citizen of the city, seeing that advertisement I  
13 would not know what this case is about. The advertisement  
14 focuses on a disagreement.

15 BRENDAN SULLIVAN: Yeah.

16 CONSTANTINE ALEXANDER: And that's not the issue.

17 BRENDAN SULLIVAN: Yeah, the wording is difficult,  
18 I felt. The wording is difficult.

19 JIM MONTEVERDE: Jim Monteverde. Yeah. This is  
20 Jim Monteverde, I would agree that the posting -- that's the  
21 one I'm reading the flyer for -- doesn't speak to the and  
22 list as it typically would the three items that are being

1 requested.

2 BRENDAN SULLIVAN: Right.

3 JIM MONTEVERDE: -- so that anyone who had a  
4 concern would understand that and come forward. So yeah, I  
5 think you have to do it -- you have to basically apply for  
6 it and be very clear in the posting what it's for.

7 CONSTANTINE ALEXANDER: And in the application  
8 itself, including why you're entitled -- or the petitioner  
9 is entitled to the zoning relief you're seeking. You don't  
10 get that in what's before us tonight.

11 JIM MONTEVERDE: Yeah. And the --

12 CONSTANTINE ALEXANDER: And I think the citizens  
13 in the city deserve more.

14 JIM MONTEVERDE: Yeah. And the outreach to the  
15 neighbors, and --

16 BRENDAN SULLIVAN: What really compounds the issue  
17 is that there is very valid opposition from an abutter.

18 CONSTANTINE ALEXANDER: Right.

19 CONSTANTINE ALEXANDER: Sisia, when is our next  
20 vac -- well, first of all, when's the next date available?  
21 And then we've going to find out whether the five members  
22 who are sitting tonight are available on that date.

1           SISIA DAGLIAN:  December 10, we only have two  
2 continued cases, so that could be the first one.

3           CONSTANTINE ALEXANDER:  December 10?

4           SISIA DAGLIAN:  Correct.

5           CONSTANTINE ALEXANDER:  On the -- let me talk to  
6 members of the Board.  Brendan, are you available on  
7 December 10?

8           BRENDAN SULLIVAN:  Brendan Sullivan, yes,  
9 available.

10          CONSTANTINE ALEXANDER:  He's available.  Okay,  
11 Jim?

12          JIM MONTEVERDE:  Yes, I'm available.

13          CONSTANTINE ALEXANDER:  Okay.

14          SISIA DAGLIAN:  Jason?

15          CONSTANTINE ALEXANDER:  Alison?

16          ALISON HAMMER:  Yeah, I'm available.

17          BRENDAN SULLIVAN:  [Jason.]

18          CONSTANTINE ALEXANDER:  Jason?

19          JASON MARSHALL:  Mr. Chair --

20          CONSTANTINE ALEXANDER:  Jason?

21          JASON MARSHALL:  -- I am available.  I didn't  
22 understand that I was on this case.  I didn't know that I was

1 on any continued cases, but I am available.

2 JIM MONTEVERDE: Yeah, it wasn't heard before, so.

3 JASON MARSHALL: Okay, yeah. I am available. In  
4 fact, I think I'm hearing I'm on another continued case that  
5 night, so yes.

6 CONSTANTINE ALEXANDER: Okay. And I'm available  
7 as well. So I'll make a motion to continue this case. The  
8 Chair moves that we continue this case as a case heard until  
9 7:00 p.m. on December 10, subject to the following  
10 conditions:

11 First, that the petitioner sign a waiver of time  
12 for decision, and if that is not done by one week from  
13 tonight, the cases will be -- this case will be  
14 automatically dismissed and relief will not be available.

15 So you understand first, it's a very simple form,  
16 Mr. Costa, that just extends the time for a decision,  
17 because of the inadequate information we have before us.  
18 And you can speak to -- go to the Building Department and  
19 get that form and sign it.

20 But if you don't sign it within a week from today,  
21 the case is automatically dismissed. Your case --

22 JOSE COSTA: Can you repeat that form again?

1 Sorry, can you repeat that form? Again, I didn't get it.

2 What was the name of that form again?

3 CONSTANTINE ALEXANDER: I'm sorry, I can't hear  
4 you.

5 JOSE COSTA: What was the name of that form I need  
6 to fill out?

7 CONSTANTINE ALEXANDER: The what?

8 JOSE COSTA: The form.

9 SISIA DAGLIAN: This form.

10 JIM MONTEVERDE: What form.

11 JOSE COSTA: Yes.

12 JIM MONTEVERDE: Yeah.

13 CONSTANTINE ALEXANDER: It's a waiver of time for  
14 decision.

15 JOSE COSTA: Okay.

16 CONSTANTINE ALEXANDER: It's a printed form that  
17 the Building Department has.

18 JOSE COSTA: Okay. Yeah. I can go by tomorrow  
19 and fill it out. I mean, that's not a problem. I can  
20 definitely do that.

21 CONSTANTINE ALEXANDER: That's the first  
22 condition. The second is that a new posting sign reflecting

1 the date -- new date, December 10, and the new time, 7:00  
2 p.m. --

3 JOSE COSTA: Okay.

4 CONSTANTINE ALEXANDER: -- be obtained from the  
5 Building Department and maintained for the 14 days before  
6 December 10, as required by our ordinance. And you've done  
7 that with regard to tonight's case. But you need a new sign  
8 which discloses the new relief that's being sought. And  
9 again, it must be maintained for 14 days.

10 And lastly, to the extent -- and I think this will  
11 be applicable -- you want to submit new plans, revised plans  
12 with additional dimensional forms -- and the dimensional  
13 form you submitted with this one by the way is totally  
14 inadequate -- you're going to have to maybe talk to the  
15 Building Department, but find out what you've got to put in  
16 their form.

17 And they must be in our files no later than 5:00  
18 p.m. on the Monday before December 10. And if not done, if  
19 you show up with these revised plans for specs or what have  
20 you after that date, we're not going to hear the case on  
21 December 10.

22 We need to see them in advance. Citizens of the

1 city have a right to see them in advance, and to consider  
2 them before we have the hearing. All those in --

3 JOSE COSTA: So the --

4 CONSTANTINE ALEXANDER: I'm sorry?

5 JOSE COSTA: I've just got one more question.

6 Then for the plan that my architect built me, how would --  
7 that plan is no good, I got to have him do another one?

8 CONSTANTINE ALEXANDER: I'm not going to -- I  
9 don't want to advise as to what plans are good or no good  
10 now? You will have to sit down with your architect with the  
11 application you -- and a lawyer if need be -- the  
12 application you're going to file and decide what we need.

13 But we need -- as you know from tonight's case,  
14 there was information that we need and that we must get that  
15 by 5:00 p.m. on the Monday before December 10.

16 JOSE COSTA: Okay.

17 CONSTANTINE ALEXANDER: And again, maybe the  
18 Building Department can give you some assistance on that as  
19 well.

20 JOSE COSTA: I'll go --

21 CONSTANTINE ALEXANDER: But that you have until  
22 December -- well, the Monday before December 10, to get that

1 together.

2 JOSE COSTA: All right. Sounds good. So I'll go  
3 there tomorrow and try to deal with this.

4 CONSTANTINE ALEXANDER: Vote? Brendan?

5 BRENDAN SULLIVAN: Brendan Sullivan, yes to the  
6 continuance.

7 CONSTANTINE ALEXANDER: Jim?

8 JIM MONTEVERDE: Jim Monteverde, yes to the  
9 continuance.

10 ALISON HAMMER: Alison Hammer, yes to the  
11 continuance.

12 JASON MARSHALL: Jason Marshall, yes.

13 CONSTANTINE ALEXANDER: And the Chair votes yes as  
14 well.

15 [All vote YES]

16 Case continued. We'll see you on December -- or  
17 hear you -- on December 10. Thank you.

18 JOSE COSTA: Thank you. Thank you very much for  
19 listening to my case, and we'll talk to you guys on December  
20 10.

21 CONSTANTINE ALEXANDER: We're going to take a  
22 five-minute recess. It's now 8:57. We'll reconvene at 9:05.

1 Thank you.

2 [BREAK]

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2 (9:05 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,  
4 Jim Monteverde, Alison Hammer, and Jason  
5 Marshall

6 CONSTANTINE ALEXANDER: My mic was off, let me  
7 repeat. The -- we were going to reconvene our meeting of  
8 the Board. Let me just be sure that all five members of the  
9 Board are back on the fall. Mr. Sullivan is sitting next to  
10 me and he's on the call and so am I. Jim, are you on?

11 JIM MONTEVERDE: Jim Monteverde is here.

12 CONSTANTINE ALEXANDER: Okay. Andrea?

13 ANDREA HICKEY: Alison.

14 JIM MONTEVERDE: Alison.

15 ALISON HAMMER: I'm here.

16 CONSTANTINE ALEXANDER: Oh, I'm sorry.

17 JASON MARSHALL: Alison.

18 ALISON HAMMER: Yeah, here.

19 CONSTANTINE ALEXANDER: And Jason.

20 JASON MARSHALL: And yeah, Jason's here. Okay.

21 So let's go.

22

1 \* \* \* \* \*

2 (9:06 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,  
4 Jim Monteverde, Alison Hammer, Jason  
5 Marshall, and Matina Williams

6 CONSTANTINE ALEXANDER: Okay, so let's go. The  
7 Chair will now call Case Number 91577 -- 104 Normandy  
8 Avenue. Anyone here wishing to be heard on this matter?  
9 Petitioner on the call?

10 JIM MONTEVERDE: I see the name --

11 CONSTANTINE ALEXANDER: Hello?

12 JIM MONTEVERDE: -- but I do not see them talking.

13 CONSTANTINE ALEXANDER: You can see them? I don't

14 --

15 JIM MONTEVERDE: They should be able to talk.

16 CONSTANTINE ALEXANDER: I can't even see them. On  
17 our screen, it just has --

18 JIM MONTEVERDE: You're on the screen. Can you  
19 talk? Can you hear us?

20 SISIA DAGLIAN: They don't have audio listed.

21 CONSTANTINE ALEXANDER: Try again, or we can move  
22 onto the next case and come back to this case.

1 JIM MONTEVERDE: Laurie Fitts is on now.

2 LAURIE FITTS: I am here.

3 CONSTANTINE ALEXANDER: Okay. The floor is yours.

4 LAURIE FITTS: Okay. I'm requesting a change to  
5 an existing code, an addition of a new wall on -- my name is  
6 Laurie Fitts, 104 Normandy Ave in Cambridge. I'm just  
7 requesting a change to change the portico.

8 CONSTANTINE ALEXANDER: Yep. You're seeking a  
9 variance to change an existing -- or add the existing  
10 portico and addition of a small awning?

11 LAURIE FITTS: Correct.

12 CONSTANTINE ALEXANDER: Now I'm -- and you're  
13 seeking a variance to it. You have to -- just so -- let me  
14 explain what's involved in getting a variance, so you can  
15 address that in your comments.

16 To obtain a variance by law -- state law -- you  
17 have to demonstrate that a literal enforcement of the  
18 provisions of the ordinance would involve a substantial  
19 hardship, financial or otherwise to you; number 1.

20 The hardship is owing to circumstances relating to  
21 the soil conditions, shape or topography of such land or  
22 structures, and especially -- well, let us stop there.

1           And lastly, which is a more softer (sic)  
2 requirement, that relief may be granted without either  
3 substantial detriment to the public good, or nullifying or  
4 substantially derogating from the intent or purpose of the  
5 ordinance. It's the first two that are more meaningful and  
6 more specific than the last.

7           So with that fine background, you can tell us a  
8 little bit why you wish to add the portico and the addition  
9 of a small awning? We have the plans in front of us, and  
10 then we'll take it from there. So that's it. Up to you.

11           LAURIE FITTS: Okay, I think my architect, Julio,  
12 is going to speak on my behalf as well. Let me see, Julio  
13 are you there?

14           CONSTANTINE ALEXANDER: Yep.

15           [Pause]

16           LAURIE FITTS: Nope. He's not speaking. Okay.  
17 Basically, we're just looking to -- the portico is just --  
18 is a little bit small, and we're just trying to accommodate,  
19 you know, a doorway that was just slightly wider. I mean,  
20 it's a very tiny house.

21           You know, we have -- you know, a mother-in-law  
22 that is with us -- you know, lives with us as well. And so,

1 in order for her to get in with -- you know, her walker,  
2 it's just -- would be better to have this entrance way just  
3 a little tiny bit better.

4 And then for the awning that we were requesting on  
5 the side, it was just really to keep it covered, so when we  
6 come in and out from the street, then it's just an easier  
7 access for us to get into the house, covered from the  
8 elements.

9 JULIO TORRES SANTANA: Hi, everyone. This is  
10 Julio, the designer. Laurie, I believe I am not being able  
11 to be heard, is that correct?

12 LAURIE FITTS: Okay, yes. Thank you.

13 CONSTANTINE ALEXANDER: Well, the relief you're  
14 seeking is very modest, as you point out correctly. So,  
15 it's very modest in nature.

16 And the only reason you have to come back our  
17 Board is because the portico and awning is going to protrude  
18 into a setback. But it's not, the structure is going to be  
19 too big for the lot or anything of that sort?

20 JULIO TORRES SANTANA: Correct, correct.

21 CONSTANTINE ALEXANDER: I'm just looking for the -  
22 - we have the plans before us, so I'm looking for the person

1 who prepared the plans. I don't see any --

2 LAURIE FITTS: Oh, I believe that was --

3 CONSTANTINE ALEXANDER: -- identification.

4 LAURIE FITTS: -- Paul Howard.

5 JIM MONTEVERDE: It's up on the upper right-hand  
6 corner of the plan that says, "Design, Julio Torres." Is  
7 the gentleman on the phone? Do you see that, Mr. Chair?

8 CONSTANTINE ALEXANDER: Yeah. I have it on the  
9 last page, yep.

10 JIM MONTEVERDE: Okay.

11 CONSTANTINE ALEXANDER: Mr. Santana -- Torres  
12 Santana?

13 JULIO TORRES SANTANA: Yep?

14 CONSTANTINE ALEXANDER: You're on the call, right?

15 JULIO TORRES SANTANA: I am.

16 CONSTANTINE ALEXANDER: Okay. Thank you. I'm not  
17 sure what else he can say, the petitioner. I mean, the  
18 relief speaks for itself, it seems to me. And as I  
19 indicated, to my opinion, the relief is exceedingly modest.  
20 It's a technical problem you've got, which is why you had to  
21 waste your evening this evening sitting with us.

22 But unless other members of the Board feel

1 otherwise, I'll see if they won't have any questions.

2 Brendan?

3 BRENDAN SULLIVAN: No, I have no questions. I  
4 think that the relief that's being requested is actually a  
5 very practical one for protection from the elements.  
6 Literally almost all four seasons. And it's -- to me, it's  
7 quite warranted and a fair and reasonable request.

8 CONSTANTINE ALEXANDER: Okay. Jim? Jim  
9 Monteverde?

10 JIM MONTEVERDE: I was muted, sorry. I'm here.

11 CONSTANTINE ALEXANDER: Okay.

12 JIM MONTEVERDE: The only question I have -- is  
13 the only place the awning shows up, at least on the drawings  
14 I'm looking at -- is in this perspective view. So it's not  
15 on the -- I don't see it on the plans.

16 I don't see it on the floor plan, I don't see it  
17 on the elevation. I'm looking at sheets A0.1 and A0.2. So  
18 it's not that I have an objection to it, I just don't see it  
19 documented here.

20 JULIO TORRES SANTANA: The reason is the awning is  
21 actually perfectly aligned with the landing. I could --  
22 yes, I could have added a dotted line, a little offset it

1 towards the outside to show, but --

2 JIM MONTEVERDE: Yeah, but there isn't anything  
3 that says that there's an awning there?

4 JULIO TORRES SANTANA: Correct.

5 JIM MONTEVERDE: Yeah, okay. So just to note.

6 JULIO TORRES SANTANA: The only place actually  
7 that you might see it is on the --

8 JULIO TORRES SANTANA: It's a 3D view that was  
9 just on the screen.

10 JULIO TORRES SANTANA: 0.01, which shows the plot  
11 plan where I --

12 JIM MONTEVERDE: Yeah, okay.

13 JULIO TORRES SANTANA: -- signal a proposed  
14 awning.

15 JIM MONTEVERDE: So anyway, except for that little  
16 wrinkle -- and you see it on Sheet A3.0, the perspective  
17 rendering that we're looking at --

18 JULIO TORRES SANTANA: Correct.

19 JIM MONTEVERDE: -- so that's one. My second  
20 question is I notice in your demo and the new construction,  
21 you modify what you call the dormer. You widen it.

22 JULIO TORRES SANTANA: Correct.

1           JIM MONTEVERDE: Right? And you're not seeking  
2 any relief in terms of the dormer guidelines or anything?

3           JULIO TORRES SANTANA: We were under the  
4 impression that we were within our zoning regulation. We  
5 were following the existing structure. So we believed it  
6 was only for --

7           JIM MONTEVERDE: So there's no variance or any  
8 other request relief needed for the new dormer that you're -  
9 - because you're widening both dormers, correct?

10          JULIO TORRES SANTANA: We're extending about a  
11 foot from each side, correct.

12          JIM MONTEVERDE: Ah, it looks like more than that.

13          JULIO TORRES SANTANA: And to align with the  
14 existing exterior wall.

15          JIM MONTEVERDE: No, no, I understand.

16          SEAN O'GRADY: Jim? So it's Sean.

17          JIM MONTEVERDE: Yeah.

18          SEAN O'GRADY: Those are in fact as-of-right  
19 dormers.

20          JASON MARSHALL: What's proposed?

21          SEAN O'GRADY: What he's showing, yes.

22          JIM MONTEVERDE: Yeah, okay. Thank you.

1 SEAN O'GRADY: Yep.

2 JIM MONTEVERDE: Those are my questions. Thank  
3 you.

4 CONSTANTINE ALEXANDER: Alison?

5 ALISON HAMMER: I don't have any questions, thank  
6 you.

7 CONSTANTINE ALEXANDER: And Jason?

8 JASON MARSHALL: Jason Marshall, no questions to  
9 add.

10 CONSTANTINE ALEXANDER: All right. I'll see if  
11 anyone wishes to speak in the audience, I'll give the  
12 instructions if I can find them. There we go.

13 Any members of the public who wish to speak should  
14 now click the icon at the bottom of your Zoom screen that  
15 says, "Raise hand." If you're calling in by phone, you can  
16 raise your hand by pressing \*9 and unmute or mute by  
17 pressing \*6.

18 I'll wait a few moments to see if anyone calls in  
19 or wishes to speak.

20 SEAN O'GRADY: I'm seeing no one.

21 CONSTANTINE ALEXANDER: No one, okay. Then I will  
22 close public testimony, as I think I mentioned. We have no

1 letters or any other communications in our file.

2 Discussion, or ready for a vote?

3 BRENDAN SULLIVAN: Brendan Sullivan, ready for a  
4 vote.

5 CONSTANTINE ALEXANDER: Jim?

6 JIM MONTEVERDE: Jim Monteverde, ready for a vote.

7 CONSTANTINE ALEXANDER: Alison?

8 ALISON HAMMER: Yep, ready for a vote.

9 CONSTANTINE ALEXANDER: Okay.

10 JASON MARSHALL: Jason Marshall, ready for a vote.

11 CONSTANTINE ALEXANDER: And the Chair certainly is  
12 ready for a vote as well. Okay. The Chair moves that we  
13 make the following findings with regard to the variance  
14 being sought:

15 That a literal enforcement of the provisions of  
16 the ordinance would involve a substantial hardship, such  
17 hardship being as that the petitioner needs a little bit  
18 more space and protection from the elements, and the portico  
19 and awning will provide that.

20 That the hardship is owing to the location of the  
21 structure on the lot. It's an older structure.

22 And that relief may be granted without substantial

1 detriment to the public good, or nullifying or substantially  
2 derogating from the intent or purpose of the ordinance.

3           So on the basis of all of these findings, the  
4 Chair moves that we grant the variance proposed on the  
5 condition that the work proceed in accordance with plans  
6 prepared by Julio Torres Santana. I'm not seeing any --  
7 dated August 24, 2020. All those in favor, please say,  
8 "Aye."

9           BRENDAN SULLIVAN: Brendan Sullivan, yes to  
10 granting the variance.

11           JIM MONTEVERDE: Jim Monteverde, yes.

12           ALISON HAMMER: Alison Hammer, yes.

13           JASON MARSHALL: Jason Marshall, yes.

14           CONSTANTINE ALEXANDER: The Chair votes yes as  
15 well.

16           [All vote YES]

17           Variance granted. Good luck.

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1 \* \* \* \* \*

2 (9:17 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,  
4 Jim Monteverde, Alison Hammer and Jason  
5 Marshall

6 CONSTANTINE ALEXANDER: The Chair will now call  
7 Case Number 91768 -- 70-7 Kirkland Street. Anyone here  
8 wishing to be heard on this matter? Is anyone -- is the  
9 petitioner there?

10 GRADY RAGSDALE: Gary Ragsdale, representing the  
11 owners.

12 CONSTANTINE ALEXANDER: Okay. The floor is yours.

13 GRADY RAGSDALE: For this petition, we have  
14 actually a variance and a special permit. The variance is  
15 for -- hold on one second here -- variance --

16 CONSTANTINE ALEXANDER: Expanding the existing  
17 deck with a side yard setback.

18 GRADY RAGSDALE: Yes. The variance is for  
19 expanding the existing deck in the back that has, you know,  
20 dimensional requirements. It's into a setback and the  
21 special permit is to enlarge a kitchen window that's within

22 --

1           CONSTANTINE ALEXANDER: Right.

2           GRADY RAGSDALE: -- back on --

3           CONSTANTINE ALEXANDER: Now in our files, there  
4 was a letter, or there was a communication from a neighbor  
5 opposing the variance. And the --

6           GRADY RAGSDALE: The deck.

7           CONSTANTINE ALEXANDER: -- expanding the existing  
8 deck.

9           GRADY RAGSDALE: Right.

10          CONSTANTINE ALEXANDER: But then it looks like a  
11 compromise was worked out, which is good.

12          GRADY RAGSDALE: Yes. We --

13          CONSTANTINE ALEXANDER: I just want to make sure  
14 that the plans that are in our files right now are the plans  
15 that reflect this compromise --

16          GRADY RAGSDALE: Mm-hm, okay.

17          CONSTANTINE ALEXANDER: -- and are the final  
18 plans.

19          GRADY RAGSDALE: They are. The neighbor contacted  
20 us and we discussed it, and he was concerned about the size  
21 of the expansion, we were expanding it four feet, so we  
22 compromised and made it just two feet. We're just trying to

1 make it big enough. We're going to rebuild it because it's  
2 in poor condition.

3 But it's not even big enough at this point to get  
4 a table and chairs out there. So even with two feet, I  
5 think the owners feel that that'll --

6 CONSTANTINE ALEXANDER: Good. That's wise of you.

7 GRADY RAGSDALE: That'll satisfy, you know, enough  
8 to get them to be able to use it. And the drawings you have  
9 should reflect that change. And I did send these drawings  
10 to the neighbor, Mr. Forte, and he e-mailed back that he was  
11 okay with that.

12 CONSTANTINE ALEXANDER: Okay.

13 GRADY RAGSDALE: I don't know if --

14 JIM MONTEVERDE: Sisia? --

15 GRADY RAGSDALE: -- he has followed up with the  
16 Board or not.

17 JIM MONTEVERDE: Yeah. Excuse me, Sisia? Could  
18 you go to sheet T0.2, two more sheets in? Okay, yeah,  
19 that's been modified. Sorry, the one I have still shows the  
20 four feet.

21 GRADY RAGSDALE: Yeah, these were dropped.

22 JIM MONTEVERDE: Okay.

1 GRADY RAGSDALE: Just --

2 JIM MONTEVERDE: Okay.

3 GRADY RAGSDALE: -- just Monday, yeah.

4 JIM MONTEVERDE: Thanks.

5 CONSTANTINE ALEXANDER: We have it in our files.

6 GRADY RAGSDALE: So that's the deck. You can see  
7 the extension is pretty minimal, two feet.

8 For the special permit on the other side, we're  
9 doing a renovation of the kitchen and we're trying to create  
10 a -- you know, a good working kitchen. Right now it's an  
11 old kitchen that needs to be fixed and accommodated to what  
12 the new owners want.

13 So that wall is just six inches within that  
14 setback, and we're removing one window. If you go to, I  
15 think sheet -- I forget which sheet -- that one, yes.

16 JIM MONTEVERDE: Sheet 3.2.

17 GRADY RAGSDALE: You can see where the two  
18 existing windows are, and we're going to remove one and fill  
19 that in. We don't really need a special permit for that,  
20 but to expand that second window to be located with the  
21 kitchen, that needs the special permit.

22 CONSTANTINE ALEXANDER: With windows, we often get

1 cases like yours -- people wishing to enlarge the kitchen  
2 window or bedroom window, and --

3 JIM MONTEVERDE: Mr. Chair, I don't know that we  
4 can all hear you.

5 CONSTANTINE ALEXANDER: Sorry. Let me start  
6 again. I didn't realize I pushed the mute button.

7 JIM MONTEVERDE: There you go.

8 CONSTANTINE ALEXANDER: I was saying that we have  
9 -- often get cases like yours, where you're looking to  
10 enlarge windows in a setback. And the issue -- at least for  
11 me, and I think for other members of the Board -- the key  
12 issue is what's the impact on the neighbor facing that  
13 window that's going to be modified?

14 GRADY RAGSDALE: Mm-hm.

15 CONSTANTINE ALEXANDER: Because there could be  
16 privacy issues, for example. Have you spoken to the  
17 neighbor who would be affected by the window change?

18 GRADY RAGSDALE: I haven't spoken directly. There  
19 are -- somebody else who's on this call, Aaron Newell, who  
20 also works in our office, I believe he has spoken to  
21 neighbors and has not gotten any kind of negative feedback.

22 This window doesn't look directly onto another

1 property, it looks onto a parking space. The -- you know,  
2 if you can look at the site plan, it's -- this is the last  
3 house of a series of row homes. The site plan is on the  
4 first sheet.

5 And directly across from this is just a driveway,  
6 and there's no houses or -- you know, residents directly  
7 across.

8 CONSTANTINE ALEXANDER: And we did not receive any  
9 communication from any neighbor, or anyone other than the  
10 person whom you made your deal with regarding the deck --

11 GRADY RAGSDALE: Right.

12 CONSTANTINE ALEXANDER: -- that would oppose the  
13 relief you're seeking. I just want to put that in the  
14 record. Questions? Brendan, do you have any questions?

15 BRENDAN SULLIVAN: No questions.

16 CONSTANTINE ALEXANDER: Jim?

17 JIM MONTEVERDE: Jim Monteverde, no questions.

18 CONSTANTINE ALEXANDER: Alison?

19 ALISON HAMMER: Alison Hammer, no questions.

20 CONSTANTINE ALEXANDER: And then -- and Jason?

21 JASON MARSHALL: Jason Marshall, no questions.

22 CONSTANTINE ALEXANDER: And the Chair has no

1 question as well. So I think we should the vote up with  
2 regard -- well, we can take both votes up, one at a time.  
3 Well, sorry, let's open the matter up to public testimony.

4 Any member of the public who wishes to speak  
5 should now click the icon at the bottom of your Zoom screen  
6 that says, "Raise hand." If you are calling in by phone,  
7 you can raise your hand by pressing \*9 and unmute or mute by  
8 pressing \*6. So I'll take a few moments to see if anyone  
9 wishes to call in and comment on this petition.

10 [Pause]

11 Ready?

12 SEAN O'GRADY: We have someone coming.

13 CONSTANTINE ALEXANDER: Someone's coming?

14 SEAN O'GRADY: Yep, Donald Forte. Let's see --

15 CONSTANTINE ALEXANDER: Okay.

16 SEAN O'GRADY: -- Donald, unmute yourself?

17 [Pause]

18 CONSTANTINE ALEXANDER: Waiting. Anybody here?

19 SEAN O'GRADY: I'm not sure. He's in, but he's  
20 not unmuted.

21 CONSTANTINE ALEXANDER: Well, he presumably can  
22 hear us, so, we would ask --

1 DONALD FORTE: Yes.

2 CONSTANTINE ALEXANDER: -- the person who wishes  
3 to speak --

4 DONALD FORTE: Can you hear me all right now?

5 CONSTANTINE ALEXANDER: I'm sorry?

6 DONALD FORTE: Can you hear me all right?

7 CONSTANTINE ALEXANDER: Yes, I, can.

8 DONALD FORTE: Okay. This is Donald Forte, and I  
9 just want to confirm what Mr. Ragsdale said about the  
10 reduction to the proposed extension to the deck. We're okay  
11 with the new revised plan.

12 CONSTANTINE ALEXANDER: Thank you for the taking  
13 the time to advise us that. We had a copy of your e-mail,  
14 where you said that as well. So we are aware that what we  
15 heard is the accurate. Thanks for your comment.

16 DONALD FORTE: Thank you.

17 CONSTANTINE ALEXANDER: Sean, I assume there's no  
18 one else?

19 SEAN O'GRADY: Nope. Nobody else.

20 CONSTANTINE ALEXANDER: Okay. So I'll close  
21 public testimony. There are no -- nothing in the writing of  
22 our file that bears disclosure. So with that, I will take

1 the votes one at a time. Let's start with the vote for the  
2 variance. Discussion, or are we ready for a vote?

3 BRENDAN SULLIVAN: Brendan Sullivan, ready for a  
4 vote.

5 JIM MONTEVERDE: Ready for a vote, Jim Monteverde.

6 CONSTANTINE ALEXANDER: Brendan, how do you vote?

7 ALISON HAMMER: Ready for a vote, Alison Hammer.

8 JASON MARSHALL: Jason Marshall, ready for a vote.

9 BRENDAN SULLIVAN: I would support -- Brendan  
10 Sullivan -- I would support the granting of the variance as  
11 per the revised dimension of the reduced deck.

12 JIM MONTEVERDE: Jim Monteverde. I would support  
13 the variance.

14 CONSTANTINE ALEXANDER: Alison?

15 ALISON HAMMER: Yeah. I would support the  
16 variance as well. Do we need to read the thing first,  
17 though?

18 DONALD FORTE: Yeah. That's what I assumed you  
19 would do, Mr. Chair, you'd recite the standard?

20 BRENDAN SULLIVAN: Make a motion.

21 CONSTANTINE ALEXANDER: Yeah, I haven't heard from  
22 Jason. Jason?

1           JASON MARSHALL:  Sorry, I thought it was off mute  
2  at that point.  I had the same understanding as Alison; that  
3  you would recite the standard before you would take the  
4  vote.

5           CONSTANTINE ALEXANDER:  All right.  I'm going to  
6  talk about make a motion with regard to the granting of a  
7  variance.  The Chair moves that we that -- let me find the  
8  statute -- the Chair moves that a literal enforcement of the  
9  provisions of the ordinance would involve a substantial  
10 hardship, such hardship being that the nature of this --  
11 it's really a development area or the number of units --  
12 very tight, it's close to each other, and there's a little  
13 need for additional outdoor space, which is being proposed.

14           The hardship is owing to the shape of the  
15 development, or the area, which requires -- again -- relief,  
16 because you can't, there's no big yards to put additions  
17 into, you have to stick them into a side yard, as being  
18 proposed.

19           And that relief may be granted without substantial  
20 detriment to the public good, or nullifying or substantially  
21 derogating from the intent or purpose of the ordinance.

22           So on the basis of all of these findings, the

1 Chair moves that we grant the variance requested on the  
2 condition that the work proceed in accordance with plans  
3 prepared by N -- N as in Nick -- E as in Evan -- D as in  
4 District -- C as in Constantine -- NEDC, the first page of  
5 which has been initialed by the Chair.

6 The issue date for these plans as revised is  
7 October 19, 2020.

8 BRENDAN SULLIVAN: Brendan Sullivan, yes to  
9 granting the variance.

10 JIM MONTEVERDE: And Jim Monteverde, yes for the  
11 variance.

12 ALISON HAMMER: Alison Hammer, yes.

13 JASON MARSHALL: Jason Marshall, yes to the  
14 variance.

15 CONSTANTINE ALEXANDER: And the Chair votes yes as  
16 well.

17 [All vote YES]

18 Variance granted.

19 Turning to the special permit, let's see, one:

20 The Chair moves that we make the following findings: That  
21 the requirements of the ordinance cannot be met with regard  
22 to the proposed enlargement of the kitchen window.

1           That traffic generated or patterns of access or  
2 egress resulting from what is being proposed will not cause  
3 congestion, hazard, or substantial change in established  
4 neighborhood character -- talking again, just the  
5 modification of one window.

6           That the continued operation of or development of  
7 adjacent uses, as permitted in the ordinance, will not be  
8 adversely affected, and that could be a concern, except that  
9 we have heard no opposition from the neighbors or the like,  
10 that would suggest that there will be no impact on the  
11 development or use of adjacent uses.

12           That no nuisance or hazard will be created to the  
13 detriment of the health, safety and/or welfare of the  
14 occupant of the proposed use, or the citizens of the city.  
15 And that generally, what is being proposed will not impair  
16 the integrity of the district or adjoining district, or  
17 otherwise derogate from the intent and purpose of this  
18 ordinance.

19           So on the basis of these findings, the Chair moves  
20 that we grant the special permit being requested to enlarge  
21 the kitchen window within setbacks -- again on the condition  
22 that the work proceed in accordance with plans referred to

1 with regard to the variance we just granted.

2           BRENDAN SULLIVAN: Brendan Sullivan, yes to  
3 granting the special permit.

4           JIM MONTEVERDE: And Jim Monteverde, yes for the  
5 special permit.

6           ALISON HAMMER: Alison Hammer, yes.

7           JASON MARSHALL: Jason Marshall, yes in favor of  
8 the special permit.

9           CONSTANTINE ALEXANDER: The Chairman votes yes as  
10 well, making a unanimous vote.

11           [All vote YES]

12           Special permit granted. Good luck.

13           DONALD FORTE: Thank you very much.

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2 (9:30 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,  
4 Jim Monteverde, Alison Hammer and Jason  
5 Marshall

6 CONSTANTINE ALEXANDER: The Chair will next call  
7 Case Number case 91137 -- 57 Pleasant Street. Anyone here  
8 wishing to be heard on this matter?

9 MONTE FRENCH: Good evening.

10 CONSTANTINE ALEXANDER: Hello.

11 MONTE FRENCH: This is Monte French, the  
12 architect.

13 CONSTANTINE ALEXANDER: Yes. You may proceed, but  
14 speak up a little bit because it's very faint.

15 MONTE FRENCH: Is this better?

16 CONSTANTINE ALEXANDER: That's much better.

17 MONTE FRENCH: Good evening. Thank you for taking  
18 the time. We are seeking a variance for windows on the side  
19 wall that are over the setback line.

20 BRENDAN SULLIVAN: Mr. French, if you could just  
21 introduce yourself for the record and your address.

22 MONTE FRENCH: Monte French, the architect for the

1 project.

2           CONSTANTINE ALEXANDER: Okay. And what you're  
3 seeking is not a variance, but a special permit, according  
4 to the application.

5           MONTE FRENCH: My apologies; yes, the special  
6 permit.

7           CONSTANTINE ALEXANDER: Okay.

8           MONTE FRENCH: The special permit is for windows  
9 located along the side yard and rear of the property, and  
10 the nonconforming part of the building that's over the  
11 property line.

12           And then the addition that we're proposing on the  
13 right side is over the allowance of 10 percent by -- two  
14 percent, we're showing 12 percent volume.

15           The volume that's on the -- I'll start with the  
16 volume that's on the right. The volume on the right is  
17 designed to meet the front yard and rear yard setbacks.

18           The side yard we did do the calculation, but I  
19 think through iterations of redesign it grew, and we didn't  
20 keep track of it. So it landed at 12 percent. We were  
21 hoping to keep it. It fits the interior layout and volume  
22 of the building nicely. So we're asking for a special

1 permit on that.

2           And then on the left side of the building and the  
3 rear of the building, there were very little windows in the  
4 house originally, and to bring more daylight into the house,  
5 we added some windows and are asking for a special permit on  
6 those as well.

7           CONSTANTINE ALEXANDER: And the proposed addition,  
8 it's actually between the garage and the residential  
9 structure, is that right?

10           MONTE FRENCH: There is no garage. It's on the  
11 right side of the house.

12           CONSTANTINE ALEXANDER: Yep.

13           MONTE FRENCH: It's --

14           CONSTANTINE ALEXANDER: This is a driveway, I'm  
15 sorry.

16           MONTE FRENCH: Yeah, the driveway.

17           CONSTANTINE ALEXANDER: The driveway -- I  
18 apologize.

19           MONTE FRENCH: Correct. Yes, between the --  
20 correct, between the driveway or the surface parking and the  
21 existing house.

22           CONSTANTINE ALEXANDER: And the purpose for the

1 additional space?

2 MONTE FRENCH: Is to create an entry and kitchen  
3 space and more bedroom space upstairs.

4 CONSTANTINE ALEXANDER: Okay.

5 MONTE FRENCH: We're converting this from a multi-  
6 unit house to a single-family house.

7 CONSTANTINE ALEXANDER: All right. Anything else  
8 you wish to add?

9 MONTE FRENCH: No. I think that the client has  
10 spoken to all the abutters, and I think that they're all  
11 agreeable to the proposal. I don't think that there was any  
12 opposition to the --

13 CONSTANTINE ALEXANDER: We have one letter in our  
14 file.

15 MONTE FRENCH: Okay.

16 CONSTANTINE ALEXANDER: We have two letters -- I'm  
17 sorry, two letters -- which I will read into the record.  
18 They're in support, as you said. But I'll read them into  
19 the record in due course.

20 MONTE FRENCH: Okay. If you want to zoom in on  
21 the first floor plan there on the right. So the addition  
22 part on the right there is where the kitchen is at. It



1 not applicable. Is that meant to be not applicable?

2 MONTE FRENCH: On which questions?

3 JASON MARSHALL: It appears on most of the answers  
4 it lists "N/A" before, then providing an answer. Just  
5 wanted to get a -- put some clarity in the record around  
6 that.

7 MONTE FRENCH: I believe my client filled out the  
8 form you're talking about, so I'm not familiar with --

9 JASON MARSHALL: Okay.

10 MONTE FRENCH: -- the answers that you're  
11 mentioning.

12 JASON MARSHALL: All right. I would just note --  
13 I would understand these responses to be response to the  
14 answers, and not -- not responding that they're not  
15 applicable, just in the interest of creating a more clear  
16 record.

17 CONSTANTINE ALEXANDER: Okay, I'm not sure if I'm  
18 following your --

19 BRENDAN SULLIVAN: Brendan Sullivan. No, I think  
20 Jason your point is well taken; is that those questions need  
21 to elicit a response, and potentially maybe that the  
22 applicant either didn't understand the question and/or the

1 seriousness or the need to provide an answer. I think your  
2 point is well taken on the application form.

3 CONSTANTINE ALEXANDER: Yeah. This is a special  
4 permit request; this is not a --

5 BRENDAN SULLIVAN: Right, right.

6 MONTE FRENCH: Yeah, and Mr. Chair, to be clear, I  
7 mean I'm inclined towards support this, so obviously there's  
8 a bias in the ordinance toward granting special permits.

9 I just want to note I understand the answers here  
10 to be responsive to the questions, given that the applicant  
11 has the burden and maybe there was a misunderstanding or a  
12 typographical error listing, "N/A" at the beginning. That's  
13 all. Just trying to provide a little clarity to the record.

14 CONSTANTINE ALEXANDER: No, I see what you're  
15 saying. I had -- when I read it, I had -- those two  
16 sentences are inconsistent -- "N/A" and of course they have  
17 to be applicable, but then they do give an answer or a  
18 response. So -- in my mind, I just disregarded the, "N/A."  
19 That's how I analyzed what was submitted.

20 But you're absolutely correct, and you can't say,  
21 "N/A" because if you don't -- before you meet these  
22 requirements, you don't get the special permit.

1 All right with that, I have no comments beyond  
2 what I just said, in response to Jason's very valid point.  
3 I'll open the matter up to public testimony.

4 Any member of the public who wishes to speak  
5 should now click the icon at the bottom of your Zoom screen  
6 that says, "Raise hand." If you are calling in by phone,  
7 you can raise your hand by pressing \*9 and unmute or mute by  
8 pressing \*6.

9 I'll wait a few moments to see if anyone does wish  
10 to give a comment.

11 SEAN O'GRADY: L.S. Johnson, did you want to talk?

12 LLOYD SHELDON JOHNSON: Yes, I did.

13 SEAN O'GRADY: Go ahead.

14 CONSTANTINE ALEXANDER: I'm sorry, who?

15 LLOYD SHELDON JOHNSON: Okay, you can hear me. My  
16 property abuts what's being proposed here on Pleasant  
17 Street. I have been -- yes, my name is Dr. Lloyd Sheldon  
18 Johnson, and I'm at 148 River Street. My property abuts the  
19 property on Pleasant Street.

20 I have not been duly -- I have a document here  
21 which is why I have waited so patiently here until this came  
22 up on this hearing. I have not -- other than what I am

1 holding in my hand from the city of Cambridge Board of  
2 Zoning Appeal, I have not been directly or indirectly  
3 contacted about what is taking place at this property, which  
4 annoys me.

5 The property has been vacant for many years since  
6 Mrs. Toner passed away. I have owned my property for close  
7 to 15 years, maybe over 15 years -- Cambridge homeowner and  
8 taxpayer.

9 Since that property has been vacant, my property  
10 has been invaded with, you know, expensive interventions  
11 from me regarding the rodents that have been invading my  
12 property, the racoons and all of those things because that  
13 property was not attended to for three years.

14 So I have photos to document that. There were  
15 neighborhood groups that came over there to clean up all of  
16 the debris that was in the yard, all of the overgrown hedges  
17 that were harboring this vermin, and nobody paid any  
18 attention to it until one day I see a big sign, I come home,  
19 they're doing construction on River Street and someone tells  
20 me, "A man came by and left a card in your mailbox."

21 You know, I never contacted him because I thought  
22 it was a rather crude way to be in touch with someone who's

1 been living in the neighborhood and has been committed to  
2 having a neighborhood voice in terms of how, you know, we  
3 manage these changes in our neighborhood.

4           You know, I live in an area where there are a lot  
5 of college students, who certainly have no respect for the  
6 properties of homeowners, and it seems that that was the  
7 same thing that was happening behind me.

8           You know, and so, I just have some questions about  
9 what is being proposed, how it's going to impact my property  
10 and my property line, because we directly abut each other.

11           I don't know -- I have not heard anything other  
12 than what I'm seeing here tonight. I've seen nothing else.  
13 Nothing has been proposed to me. There is no bid, because  
14 there has not been any kind of olive branch or any civil  
15 extension of neighborhoodliness or warmth in terms of what  
16 was going on there. And I would certainly -- you know,  
17 support those things that are going to improve the  
18 neighborhood.

19           And you know when I'm wedged in between what used  
20 to be Keezer's and then I have this property behind me, and  
21 then I have the property next door to me. And I'm going to  
22 say this publicly: As an African-American male and

1 homeowner, I have felt so discarded by what's happening  
2 around me.

3           So I am just curious about how this property is  
4 going to impact the back side of my property, what's going  
5 on to happen in terms of how -- you know, the digging up  
6 that's happening there, all the things that's going on right  
7 now, and all the rats that I'm seeing around my property.

8           I'm going to have to shell out \$3000 to get rid  
9 of all of this crap that has been invading my property as a  
10 result of what's been digged (sic) up around me.

11           And even next door I had to send two letters to  
12 the owners of the Keezer's property because there were  
13 bottles out there from the homeless people coming, changing  
14 their clothes in the lot there. There were syringes there,  
15 condoms, stolen bikes -- all of these things there.

16           And I wrote a letter to the guy who lives in  
17 Weston and I said, "I'm certain that your properties, that  
18 your home in Weston and your properties in Wellesley do not  
19 have to put up with this kind of crap." People see trash on  
20 the street and they think it's a garbage pit, and they  
21 continue to throw liquor bottles, all of these things there.

22           My concern is how is this going to impact my property,

1 my property line, and what guarantees are there going to be  
2 that I'm going to be protected. And I would raise hell here  
3 and at City Hall if I don't see something positive here.  
4 And I mean it.

5           CONSTANTINE ALEXANDER: Let me try --

6           LLOYD SHELDON JOHNSON: And you can put that on  
7 the record, publicly.

8           CONSTANTINE ALEXANDER: Well, it is on the record.  
9 We make a record of the hearing. We have a  
10 transcriptionist, and every word you've just spoken is on  
11 the record and will be as part of our file.

12           Let me just step back for a second, and I can  
13 understand your exasperation from what you described. First  
14 of all, I guess I'm puzzled why if you have the rat problems  
15 and the abuse of the property, why -- did you contact city  
16 officials --

17           LLOYD SHELDON JOHNSON: Of course I did.

18           CONSTANTINE ALEXANDER: -- to take some action?

19           LLOYD SHELDON JOHNSON: Inspectional Services came  
20 out and looked at the property on Pleasant Street.  
21 Inspectional Services came out and looked at the property  
22 where Keezer's used to be, which is now Analog Studio. The

1 Inspectional Properties have come out twice over the past  
2 year. I spoke to them personally. And yes, they are aware  
3 of all of what's going on.

4 But I think for me, that the frustration for me is  
5 that, you know, you're in a property for a while -- I didn't  
6 have all these problems.

7 And then all of a sudden, I take my dog out, there  
8 are rats -- I mean rats, not mice -- rats running around the  
9 property. I have a dog, I'm concerned about the dog being  
10 bitten, I'm concerned about my own safety.

11 And then I look out, and I see what's happening  
12 around me. You know, when you start digging, I don't have  
13 to tell you guys -- you know, we start digging, the rats  
14 come out. You know, the restaurants are closed, they have  
15 no place to eat.

16 The junkies are next door. I've taken photographs  
17 of the junkies next door shooting up in the lot. The guy  
18 did come over and kind of cleaned -- had someone to clean up  
19 all the debris there, but I hadn't seen any of that happen  
20 at 57 for years -- for years. Nothing was done, and now we  
21 get this glorified plan to gentrify the neighborhood and  
22 everything all of a sudden is going to change.

1           The same thing is true for the other property next  
2 door to me that I'm going to complain about too at some  
3 other point in time. People who rent properties don't care  
4 about the properties.

5           It's people like me, the property owners, the  
6 people across the street from me who keep our properties  
7 nice, who love being in the neighborhood -- the people  
8 across the street from me on the corner, who have people  
9 come to keep our properties groomed, who are proud residents  
10 of living in Cambridge.

11           But when we have people come in who are making  
12 these radical changes, a lot of these places are not owner-  
13 occupied, and then we have to manage all this crap and spend  
14 all this money to improve things that were not a problem  
15 before. I mean, I'm really -- that's why I waited so long  
16 since 7:00 to hear all this, because I wanted my voice to be  
17 heard.

18           CONSTANTINE ALEXANDER: But you've got to  
19 understand, sir, that we are a Zoning Board. We're talking  
20 about modifications to the structure involved, and whether  
21 we should grant the relief.

22           LLOYD SHELDON JOHNSON: I understand. I

1 understand that sir.

2           CONSTANTINE ALEXANDER: Let me finish, please.

3 Please. I know you're worked up about it, and I understand  
4 it.

5           But the purpose of this would process is with  
6 notice in the mail to abutters and abutters of abutters that  
7 the relief being sought, a sign is required to be posted on  
8 the property for 14 days.

9           And all of that is for the purpose when we have a  
10 public hearing is to allow citizens of the city,  
11 particularly neighbors, to comment -- to give us their views  
12 whether they support the relief or not.

13           I mean, we're not the vehicle for dealing with  
14 people who have been, like yourself, who have been abused by  
15 the prior owner of the structure, by lacking of maintaining  
16 the property.

17           Although I do think you should have contacted the  
18 public health officials, rather than Inspectional Services  
19 Department. They're the ones who will deal with rat  
20 problems, I would hope, deal with rat problems and also if  
21 you complain to the police, I think they would deal with the  
22 homeless people or using the property next door to the

1 detriment of your property.

2           Tonight we're talking about --

3           LLOYD SHELDON JOHNSON: Mr. Chairman, in all due  
4 respect, I hear everything you're saying, I've complied. I  
5 just wanted to voice my opinion.

6           I know this is a Board -- Zoning Board issue --  
7 which is why my primary question and concern was about -- if  
8 you look at what I said earlier, yes, I've been a little  
9 assertive in terms of what I'm saying is my concern.

10           My concern primarily with the zoning issue is how  
11 the lines that abut my property will affect my property  
12 given those other kinds of concerns about distance, about  
13 access, about those other things. That's my concern. And  
14 for the most part, I would certainly -- you know, had things  
15 been different -- support something positive and great  
16 coming into the neighborhood. I welcome that.

17           BRENDAN SULLIVAN: This is Brendan.

18           LLOYD SHELDON JOHNSON: So my other venting was me  
19 venting, but I do understand it's a hearing about zoning and  
20 not about public health, and not about Inspectional  
21 Services. I'm clear about that. Thank you very much.

22           BRENDAN SULLIVAN: This is Brendan Sullivan. I

1 hear you and I respect your comments. I also think that you  
2 are due at least some courtesy in some respects for the  
3 applicant to have reached out to you and have shared their  
4 plans with you prior to tonight. And we -- or at least I --  
5 feel you are at least due that.

6 And I would actually vote for, or be in favor of  
7 continuing this matter to allow the petitioner to reach out  
8 to you and to have a discussion with you.

9 LLOYD SHELDON JOHNSON: Thank you so much. I  
10 really appreciate your indulgence. It means a lot to me.

11 CONSTANTINE ALEXANDER: Okay, well, and I support  
12 what Brendan said about continuing the case to allow you to  
13 learn more and to -- well, to vent your spleen about what's  
14 gone on in the past and to get assurance that it will not  
15 happen going forward.

16 But we have to continue this case to another  
17 night. The five of us who are here tonight have to be on  
18 the case the next time, because of the way the law works.  
19 And I'm not sure how long we have before we have space for  
20 this case to be reheard.

21 I know December 10 -- I think I got it right,  
22 Sisia -- tenth is maybe -- do we have any space in that

1 time; any -- yeah, space on that date, because I don't know  
2 the five that are on the call tonight can make that date.  
3 Sisia?

4 BRENDAN SULLIVAN: There were two, and now I think  
5 there are three continued cases.

6 SISIA DAGLIAN: Sorry. There are -- yes, there  
7 are already three continued cases for that date, I think.

8 CONSTANTINE ALEXANDER: No, I think we can make  
9 this a fourth continued case for that night. I think this  
10 gentleman has raised some very important issues.

11 I think it's a matter of -- I don't think we'll  
12 have to spend a lot of time on this case on December 10. I  
13 think it's a matter of communication between the parties and  
14 questions asked and answered.

15 The concern -- in my view at least, the relief  
16 being sought is modest in nature. So I think at the end of  
17 the day, I think there will not be objection to the relief.

18 But there is certainly objection to the way this  
19 gentleman has been treated by the neighboring owners. And I  
20 think it's time for the now owner to sit down with this  
21 gentleman and talk this thing through, make it understood  
22 what the impact is going to be on him.

1           So at the end of that speech, I'm going to propose  
2 that we continue this case -- first of all, sir, are you  
3 available December 10?

4           LLOYD SHELDON JOHNSON: What day of the week is  
5 that?

6           BRENDAN SULLIVAN: It's a Thursday. Always a  
7 Thursday.

8           LLOYD SHELDON JOHNSON: Absolutely, because where  
9 am I going with COVID?

10          CONSTANTINE ALEXANDER: Ha! I don't know. If you  
11 know where to go, let me know.

12          LLOYD SHELDON JOHNSON: I will -- believe me, I'm  
13 here with my dog. So yes, I'm available.

14          CONSTANTINE ALEXANDER: Okay. The Chair will move  
15 that we continue this case as a case heard -- and I'll  
16 explain what that means, even for the petitioner -- until  
17 7:00 p.m. on December 10 subject to the following  
18 conditions.

19                 First, the petitioner must sign a waiver of time  
20 for decision. Otherwise, the case would be granted  
21 automatically. That waiver, which is prepared by the city,  
22 it's a very simple document, it just agrees to -- if you

1 will -- extend the time for a decision until December 10.

2           If the petitioner does not sign this waiver by one  
3 week from tonight, then the case will be automatically  
4 dismissed, and no relief will be granted. As I said, the  
5 petitioner should go to the -- contact Inspectional Services  
6 Department and obtain a copy of the waiver of time for  
7 decision.

8           It is simply that, it's a one-page document; not  
9 controversial, it would just mean the case would not be  
10 decided until December 10.

11           Second, that a new posting sign has to be put up,  
12 reflecting the new date, December 10; the new time, 7:00  
13 p.m. And that sign must be maintained for the 14 days, just  
14 as the sign for tonight's hearing was maintained for 14  
15 days.

16           And then lastly, to the extent it's a result of  
17 discussions or whatever, new or modified plans, drawings,  
18 dimensional forms, are going to be presented on December 10,  
19 those must be in our files no later than 7:00 p.m. on  
20 December 10. I'm sorry -- no later than 5:00 p.m. on the  
21 Monday before December 10.

22           And I will suggest that if any of those are done,

1 a copy be given to the gentleman who's been speaking  
2 tonight. So he has an ability to look at them and ask  
3 questions or in advance of that date or at the hearing on  
4 December 10.

5 All those in favor?

6 BRENDAN SULLIVAN: Brendan Sullivan, yes to the  
7 continuance.

8 JIM MONTEVERDE: Jim Monteverde, yes for the  
9 continuance.

10 ALISON HAMMER: Alison Hammer, yes for the  
11 continuance.

12 JASON MARSHALL: Jason Marshall, yes for the  
13 continuance.

14 CONSTANTINE ALEXANDER: And the Chair votes yes  
15 for the continuance as well. So this case has been  
16 continued until December 10, 7:00 p.m., subject to the  
17 conditions I've just recited. Thank you.

18 BRENDAN SULLIVAN: Mr. French, are you still on  
19 the line?

20 MONTE FRENCH: Yes, I am.

21 BRENDAN SULLIVAN: This is Brendan Sullivan. As  
22 far as that form to be filled out, if you call Maria at the

1 Inspectional Services in the morning, she can probably send  
2 one over to you, to your client to sign and get back. She  
3 will have it.

4           CONSTANTINE ALEXANDER: But again, make sure you  
5 do it within the next week, because if not, the case is  
6 over.

7           MONTE FRENCH: Yes.

8           CONSTANTINE ALEXANDER: I'm sure you'll do it, but  
9 I just want to be sure it just doesn't get lost in the  
10 shuffle.

11          MONTE FRENCH: Yes, I'll --

12          BRENDAN SULLIVAN: Do you have any other  
13 questions, Mr. French, at all?

14          MONTE FRENCH: Nope. I have my notes the way the  
15 form needs to be signed within the week.

16          BRENDAN SULLIVAN: Right. And the important thing  
17 is the outreach to Dr. Johnson.

18          CONSTANTINE ALEXANDER: Yes.

19          MONTE FRENCH: Correct.

20          BRENDAN SULLIVAN: Yeah, okay, thank you.

21          LLOYD SHELDON JOHNSON: Thank you.

22          MONTE FRENCH: If I could, could I interrupt for a

1 second? Dr. Johnson, is there an e-mail that we can connect  
2 after this through --

3 LLOYD SHELDON JOHNSON: Yeah.

4 MONTE FRENCH: -- and set something up?

5 LLOYD SHELDON JOHNSON: Yes. My address is 148  
6 River Street. My e-mail is all one word, all lower case  
7 lloydsheldonjohnson@gmail.com.

8 CONSTANTINE ALEXANDER: Okay.

9 LLOYD SHELDON JOHNSON: And Lloyd is L-l-o-y-d.  
10 And thank you so much. I'm a proud Cantabridgian --  
11 originally from Detroit, and I'm about to leave, but thank  
12 you guys for all the good work, and I really enjoyed  
13 listening to the cases prior. Thank you so much.

14 CONSTANTINE ALEXANDER: Okay, well thank you for  
15 taking the time and bringing these things to our attention.

16 MONTE FRENCH: I'm sorry, can I interrupt? I just  
17 want to confirm the e-mail, I don't want to get this wrong.  
18 lloydsheldonjohnson at - Gmail?

19 LLOYD SHELDON JOHNSON: gmail.com.

20 MONTE FRENCH: Okay. Thank you very much.

21 LLOYD SHELDON JOHNSON: Thank you.

22

1 \* \* \* \* \*

2 (9:55 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,  
4 Jim Monteverde, Alison Hammer and Jason  
5 Marshall

6 CONSTANTINE ALEXANDER: Okay, let's move on to our  
7 last case on the agenda for tonight. The Chair will call  
8 Case Number 90713 -- 384 Broadway. Anyone here wishing to  
9 be heard on this matter? Hello?

10 DAVIDE VECCHI? Yes, I am David Vecchi. I am the  
11 General Contractor, and I represent the case of 384 Broadway  
12 Street. We present the case for a larger window on the back  
13 of the house in the kitchen to create more living space and  
14 give more light on the kitchen. And that's why we are here  
15 tonight.

16 CONSTANTINE ALEXANDER: How far is that back wall  
17 from the front wall, I guess or side wall of the neighboring  
18 structure? I'm getting at the question of can there be any  
19 issues of privacy or invasion of privacy by the proposed  
20 window change, the window change you're proposing?

21 DAVIDE VECCHI: Yeah, there is -- we are close to  
22 another property. But we speak with the neighborhood, and

1 they don't have any concern about it, and that's the reason  
2 why we stopped to try to go ahead in doing it. And it's in  
3 the first floor, and there is already a privacy fence on the  
4 back, it divides the two properties. But of course if  
5 you're looking for a window on the other side, they're going  
6 to go through.

7           CONSTANTINE ALEXANDER: But it's your testimony  
8 that they, in fact you did advise them and they expressed no  
9 opposition to you?

10           DAVIDE VECCHI: No, no -- to the owner, yes.

11           CONSTANTINE ALEXANDER: Okay. And in fact, we  
12 have nothing in our files that reflect any opposition. But  
13 I just wanted to --

14           DAVIDE VECCHI: Yeah.

15           CONSTANTINE ALEXANDER: Get it clear for the  
16 record.

17           DAVIDE VECCHI: Yeah, yeah, yeah.

18           CONSTANTINE ALEXANDER: All right. Questions?

19 Brendan?

20           BRENDAN SULLIVAN: Brendan Sullivan, no questions.

21           CONSTANTINE ALEXANDER: Jim?

22           JIM MONTEVERDE: Jim Monteverde, no questions.

1           CONSTANTINE ALEXANDER: Alison?

2           ALISON HAMMER: Alison Hammer, no questions.

3           CONSTANTINE ALEXANDER: And Jason?

4           JASON MARSHALL: Jason Marshall, I have no  
5 questions.

6           CONSTANTINE ALEXANDER: Thank you. And the Chair  
7 has no questions as well. I'll open the matter up to public  
8 testimony at this point. If -- any member of the public who  
9 wishes to speak should now click the icon at the bottom of  
10 your Zoom screen that says, "Raise hand." If you're calling  
11 in by phone, you can raise your hand by pressing \*9 and  
12 unmute or mute by pressing \*6. I will just wait for a few  
13 minutes to see if anyone wishes to speak.

14          SEAN O'GRADY: I'm not seeing anyone.

15          CONSTANTINE ALEXANDER: Okay. I'll close public  
16 testimony. Ready for a vote?

17          BRENDAN SULLIVAN: Brendan Sullivan, yes, ready  
18 for a vote.

19          CONSTANTINE ALEXANDER: All right. This is a  
20 matter for a special permit. Let's make sure I got it  
21 right. Special permit?

22          BRENDAN SULLIVAN: Yes.

1           CONSTANTINE ALEXANDER: Okay. The Chair moves  
2 that we make the Board make following findings with regard  
3 to the special permit that's being sought: That the  
4 requirements of the ordinance cannot be met without the  
5 special permit.

6           Traffic generated or patterns of access or egress  
7 resulting from the proposed substitution of the kitchen  
8 window will not cause congestion, hazard, or substantial  
9 change in established neighborhood character.

10           In this regard, the Chair would note that the  
11 window is at the back of the house; it does not face a  
12 public way, and has -- any impact would be on the abutter at  
13 that side, and it's been -- there's no indication the  
14 abutter has any objection.

15           And the petitioner has advised us that he did  
16 advise the abutter, and the abutter in fact does not have  
17 any objection.

18           That the continued operation of or development of  
19 adjacent uses, as permitted in the zoning ordinance, will  
20 not be adversely affected by the nature of what is proposed  
21 -- and again, that's like the comment earlier, the only  
22 person being impacted by this window change is the abutter

1 to the rear, and they decided to speak for the fact that  
2 there's not going to be any adverse impact.

3 No nuisance or hazard will be created to the  
4 detriment of the health, safety and/or welfare of the  
5 occupant of the proposed use, or the citizens of the city.

6 And generally, what is being proposed will not  
7 impair the integrity of the district or adjoining district,  
8 or otherwise derogate from the intent and purpose of this  
9 ordinance.

10 So on the basis of these findings, the Chair moves  
11 that we grant the special permit being sought on the  
12 condition that the work proceed in accordance with plans or  
13 drawings, what have you, photographs, submitted by the  
14 petitioner, each one of which has been initialed by the  
15 Chair. Brendan?

16 BRENDAN SULLIVAN: Brendan Sullivan, yes to  
17 granting the special permit.

18 JIM MONTEVERDE: Jim Monteverde, yes for the  
19 special permit.

20 ALISON HAMMER: Alison Hammer, yes to the special  
21 permit.

22 JASON MARSHALL: Jason Marshall, yes in favor.

1           CONSTANTINE ALEXANDER: The Chair votes yes as  
2 well.

3           [All vote YES]

4           It's unanimous. The special permit is granted.

5           DAVIDE VECCHI: Thank you so much.

6           CONSTANTINE ALEXANDER: And thank everyone else on  
7 the Board. We've done our last case. Board dismissed.

8           JIM MONTEVERDE: Excellent. Have a good evening,  
9 stay well.

10          BRENDAN SULLIV

11          AN: Good night and be well.

12          JIM MONTEVERDE: Goodnight.

13          COLLECTIVE: Goodnight.

14 [10:00 p.m. End of Proceedings]

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CERTIFICATE

Commonwealth of Massachusetts  
Middlesex, ss.

I, Catherine Burns, Notary Public in and for the  
Commonwealth of Massachusetts, do hereby certify that the  
above transcript is a true record, to the best of my  
ability, of the proceedings.

I further certify that I am neither related to nor  
employed by any of the parties in or counsel to this action,  
nor am I financially interested in the outcome of this  
action.

In witness whereof, I have hereunto set my hand this  
\_\_\_\_\_ day of \_\_\_\_\_, 2020.

Notary Public

My commission expires:

August 6, 2021

