

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, JANUARY 8, 2015
7:00 p.m.
in
Senior Center
806 Massachusetts Avenue
Cambridge, Massachusetts 02139

Constantine Alexander, Chair
Timothy Hughes, Vice Chair
Brendan Sullivan, Member
Thomas Scott, Member
Janet Green, Member
Douglas Myers, Associate Member
Slater Anderson, Associate Member

Sean O'Grady, Zoning Specialist

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PROCEEDINGS

(7:00 p.m.)

(Sitting Members Case #BZA-005420-2014:
Constantine Alexander, Brendan Sullivan, Thomas Scott,
Douglas Myers, Slater Anderson.)

CONSTANTINE ALEXANDER: The Chair will call this meeting of the Zoning Board of Appeals to order. And as is our custom, we're going to begin with the continued cases. The first continued case I'm going to call is case No. 005420, 134 Magazine Street.

Is there anyone here wishing to be heard on this matter?

ATTORNEY HERBERT WEISS: I'm Herbert Weiss, attorney with Burns and Levinson in Boston and I represent the congregation and school here. And very simply you asked us to do certain things since the last meeting before this was

continued.

CONSTANTINE ALEXANDER: Sit down, please, unless it's uncomfortable for you.

People are having trouble hearing you. All I can suggest is that this is not a good room for acoustics as you're aware of.

I know, we can't shut that off, unfortunately.

ATTORNEY HERBERT WEISS: I'm happy to raise my voice.

CONSTANTINE ALEXANDER: People can feel free to come around the side or behind us.

FROM THE AUDIENCE: If he turns.

CONSTANTINE ALEXANDER: We'll do the best we can, that's all.

ATTORNEY HERBERT WEISS: We had a continuation of this meeting and. --

CONSTANTINE ALEXANDER: Sir, sit at this end and that will make your life easier.

ATTORNEY HERBERT WEISS: Thank you.

I'm going to start over. I'm Herbert Weiss. I'm from Burns and Levinson in Boston. I'm counsel for the congregational school who are the applicants here for denial of the Inspectional Zoning Services demand that we cease beehives on the roof of the synagogue at Magazine Street. The hearing was started in December and it was postponed until tonight at the request of the Chair who said he wanted to hear some input from the neighbors.

There are two people we would like to have heard tonight. One would be Rabbi

Stern who is the head of Congregation Eitz Chaim and head of the school. And the other would be an expert Noah Rich on bees who can answer any questions as an expert that people may have.

CONSTANTINE ALEXANDER: Let me -- I'm sorry to interrupt you. Your reference to having a speaker who is an expert on bees leads me to make some comments. I was planning to make comments anyway. This is a good segue.

ATTORNEY HERBERT WEISS: Sure.

CONSTANTINE ALEXANDER: I want to make sure everyone understands what's going on here and what our role is.

We are a Zoning Board of Appeals. The issue before us is a Zoning issue; frankly, an interpretation of our Zoning Ordinance. It frankly is a very narrow

issue. The issue is not about the social benefits or societal benefits of beekeeping. That is a, whether -- right or wrong, that is a policy matter that is not something that we as a Zoning Board decide. Policy is decided by the City Council. The City Council adopts a Zoning Ordinance, sets forth the Zoning policy of the city, and then amends it from time to time and is free to adopt separate ordinances like a bee ordinance that I believe Somerville, as for one community, has. So to the extent we have speeches tonight about the societal benefits of beekeeping or even the safety, I'm going to cut these discussions off at that because that is not before us tonight. What is before us, as I said, is a matter of Zoning policy. And as I said, also,

the City Council adopts the Ordinance. We interpret that Ordinance. We also have the power to grant Variances from the Ordinance. But the petitioner has not sought a Variance and so that is not before us tonight.

So what is the issue under the Ordinance? I'm being very clear.

The Zoning Ordinances, Cambridge's as well as other communities, among other things regulate the uses people put to their property. In Cambridge's case we have a Table of Uses. It goes on for ten pages, very small print, enumerating many, many, many uses of potential uses of property. And then the Ordinance says, district -- Zoning District by Zoning District, this is permitted, this is permitted with conditions, this is not

permitted. Then there's after -- not after, actually before, but in connection with this Table of Uses, we have a very simple section in our Ordinance. It is Section 4.13. And it says, and I'm going to read it because it is short and it is very straightforward: No building, structure, or land in any district may be used, erected, or designed to be used in whole or in part, for any use not listed in Section 4.30.

Section 4.30 is the Table of Uses. And there's an exception for non-conforming items, it's just not relevant here.

So if it's not in a Table of Uses, it is by section per the literal language of 4.13, it is not permitted under our Zoning Ordinance. That that leads to why

the case is here tonight.

A complaint was raised by a neighbor through the Inspectional Services Department that these bees were being maintained and not in compliance with Cambridge regulations. Mr. O'Grady checked out the Table of Uses and can find nothing -- he could find nothing in the Table of Uses that dealt with beekeeping. He went further, which is I think is salutary, and tried to see if there's any analogous situation that he could fit bees under, or arguably should be put under. Things that came to mind were livestock, agriculture, but there's nothing in the Ordinance that deals with that as well. And in that, the reference in his letter stating that there's been a violation of the Ordinance made reference to livestock.

But that's his context of the reference.

So, his conclusion was nothing in the Ordinance, in the Table of Uses, that deals with beekeeping, therefore, pursuant to Section 4.13, this beekeeping is not allowed. Not a matter of policy. Not a matter of right or wrong. That's what the Ordinance says. And that, and that decision was reached and the petitioner has taken an appeal of that decision. And that's the issue before us tonight.

Interpretation of the our Ordinance. It is not about the social utility of beekeeping or the benefits of society.

They then again one more time, and I've said it before, and I'll say it again, take those arguments to the City Council. They're the ones that can make that decision and should make that decision,

frankly. But we don't. We just take the Ordinance that they've given us and we interpret it.

End of speech. Floor is yours again.

ATTORNEY HERBERT WEISS: We have no intention of going into the, you know, the benefits of beekeeping. We do want, the only -- we do want to articulate our -- briefly our opposition to the Inspectional Services' order and the reasons for it very briefly, and we would like to relate to you what the relationship to the community has been, as your suggestion, to talk to the neighbors and see what's happening there.

The congregation wants very much to be a good neighbor. We're not intent of antagonizing anybody and so on.

The arguments that were raised, the legal arguments were No. 1, it was not livestock, which the Chairman says, you know, it's a catch-all kind of thing. Our argument is that if it's not specifically excluded, then it's not covered. That may or may not be the result. There are other exceptions to it. The schools, religious institutions, and so on. And obviously we're not going to go into those things at this point.

There's also something which we did not press which we just want to mention that if -- no matter what the Ordinance says, no matter what the permit is, if the activity constitute a nuisance, you can shut it down. It's always possible to do that. What we're here to do is to report on what the Chair asked us to do, was to

talk to the neighbors. We also then want to hopefully have somebody answer -- we think it's bad -- I'll put my own -- we think it's bad policy to do anything based upon fear or ignorance or whatever. So we want to be able to have someone answer questions if people have them as to the fact.

The decision, whatever the decision the Board makes, we're going to abide by, just that simple. I hope I speak for the others as well.

May I introduce Rabbi Liza Stern who is the rabbi and head of the congregation Eitz Chaim who I think can respond.

RABBI STERN: I'm good and I'm used to speaking loudly.

CONSTANTINE ALEXANDER: Good.

RABBI STERN: At the meeting in

November you invited us to attempt to have a conversation with our neighbors to clarify any misunderstandings. The reason why we have the apiary inspector of Massachusetts here and why we have Doctor Noah Rich here is because it was our belief and our assumption, actually, that when people were educated about the bees, it would help them feel more comfortable with the hives. We are totally -- we totally respect the fact that bees are frightening to people. And frankly, since I've been around bees for so many years, I forgot that bees can be alarming. That honeybees can be alarming. And I'm aware that many people don't know that honeybees are not aggressive and that they're not gonna chase after you and sting you. And so having people who are

in the field professionally is a way to help, help people over their fears. And that is why we brought educators frankly, not because we want to debate the merits or other issues about bees.

So, you made the suggestion that we attempt to reach out to our neighborhood. And we thought -- I thought that was a great idea. And we created a flyer. I have a copy of the flyer. We said come learn about honeybees from experts, come see the hives, come ask your questions, express your concerns, come taste the honey. We accepted that challenge as an opportunity to communicate with our neighbors.

We also made individual phone calls and some of you are here and it's great. To our neighbors who had -- we knew had

expressed concern, the neighbors whose letter you read last time, we went and visited. And we did everything that we could think of to reach out to our neighbors. We had a nice meeting. We put out flyers. We put out posters. We sent out e-mails on the neighborhood list. And so we had a meeting. Doctor Wilson Rich was there. He was -- it was a very educational experience. Councilman Marc McGovern was there. I know he did send you a letter. It was, I think, the meeting was appreciated, but all who were present as an opportunity to be educated by bees.

Councilman McGovern also suggested that we find out what the neighbors felt, not only the neighbors who were having issues with bees, but also the neighbors

who -- we hadn't heard from. So I sent out an e-mail to the Cambridgeport list. I have over 40 letters. I'm not going to bore you by reading them, but I have them all right here and the comments are highlighted and I'm happy to pass them around. People saying they are happy to be listed in support. One person said I'm highly allergic and yet I am highly in support of the bees. I'm in support. I'm in support. 100 percent of the letters I received expressed appreciation. So I just want you to know --

CONSTANTINE ALEXANDER: Excuse me, Ma'am, do your letters address the Zoning issue the letters that you received?

RABBI STERN: These letters --

CONSTANTINE ALEXANDER: Do they address the Zoning issue about Section

4.13 and the Table of Uses?

RABBI STERN: These letters responded to your suggestion that we help the neighborhood learn about the bees.

CONSTANTINE ALEXANDER: I only ask that question because we don't need to see the letters.

RABBI STERN: Okay. But they're here. I'm not gonna -- they're here if you want them.

CONSTANTINE ALEXANDER: I understand.

RABBI STERN: So I just wanted you to know that we saw your suggestion as an opportunity to create relationships, to meet neighbors we haven't perhaps met before, to have an open conversation about this. And I feel very proud of our community for really taking on this

challenge and reaching out to the neighborhood.

A number of people who had objected to the hives decided not to come to the meeting we held, and instead held -- decided to hold a second meeting, and it was in a small venue and I was given a limited number of people to invite to that meeting, so I wasn't able to invite the supporters. We did have that meeting on Tuesday night and it was an opportunity for the neighbors to express -- really to describe anecdotally the experiences that they had had once we moved the bees in. And I'd like to think that we listened sympathetically. In fact, I apologized wholeheartedly for any discomfort that people had experienced from the bees. And the apiary inspector

explained how we could utilize best practices to change the situation in the coming summer and year. So I think we came to that meeting with the hope that there would be a way to educate people to understand that these bees do not have to be in any way a nuisance.

I did not leave that meeting with any sense that there was an interest in withdrawing the complaint I'll be frank with you. But I just want you to know that we did everything that we possibly could to help people understand that these bees are a benefit to the neighborhood and not anything that anyone should be concerned about.

So I think that's all I have to report. Do you have any questions of me?

CONSTANTINE ALEXANDER: No. I

congratulate you on your outreach to the community. That's good. It might have been better if it happened earlier, but it didn't. In any event, the complaint as far as I know has not been withdrawn. So the case will go forward tonight.

RABBI STERN: So what happens now?

CONSTANTINE ALEXANDER: Well, you still have the opportunity to present a case, your case, your counsel, and then we'll take it from there. But usually we would ask for comment, not usually, we will ask for comments from the audience, but per the rules, I suggested earlier I'm going to limit it to the Zoning issues. Then we would often read letters that we received that are in our files, but again, argue that only for comments that are relevant to the Zoning issues might be

general. Because much of the correspondence that we received in November -- well, it broke down to two categories. Many letters, most of the letters were in support of beekeeping in Cambridge, but as a general proposition, because of societal benefits. And I explained already, you know, that's very well founded. Not well founded, well thought out, and sincere comments and not relevant to us. They're relevant to some other body that can adopt an Ordinance to allow bees subject to appropriate restrictions if the body decides that.

We also had a number of letters, anywhere from three to five, opposed to your request for relief claiming that the bees are hazardous to them and also impedes with their ability to use their

premises. And they're in the file. And, again, like the letters of support say based upon social utility, beekeeping -- we've noted them, but that's not again the issue tonight. So I don't propose to read either set of letters. I just characterize them as I had.

We've received almost no letters post the hearing that we continued back in November -- I thought it was December, but November. November. It was November. We did get a letter from Mr. McGovern, City Councilman McGovern, as you mentioned, asking us to delay -- I'll read the letter later on, but it's not to the merits but it's as to how we should proceed.

It was my hope when I suggested that you meet with the neighbors, is that you would come to a resolution and any

complaint for Zoning enforcement would be withdrawn. To date that has not happened. So that's why we have to have the case tonight. But good for you that you did reach out to the neighbors. And good for you for educating the community as to what beekeeping is all about.

RABBI STERN: So would a conversation about the Zoning issues pertain to the use of the building as an educational institute? I'm not quite sure how we should proceed.

CONSTANTINE ALEXANDER: It's your case to make. I'm not going to -- you've got to persuade us that the decision of Mr. O'Grady, regarding Section 4.13 in the Table of Uses was incorrect. And if we find that it is incorrect, we will reverse his decision and you can maintain the

beehives. If we say it is not incorrect, that it is a correct decision, then the case will be over from our perspective. You will have recourse to the courts if you so choose, and you would also have the ability, or you always have the ability to go to the City Council and get effectively our case overturned by virtue of amending the Ordinance to allow beekeeping under whatever restrictions City Council wants to do. But that's out of our hands at that point.

ATTORNEY HERBERT WEISS: I find a confusion here.

CONSTANTINE ALEXANDER: Go ahead.

ATTORNEY HERBERT WEISS: Confusion being that you referred to arguments only as to the decision itself, the legal issues. We raised -- I raised -- and the

Board of Appeals requires that you stick to your arguments with your appeal. We raised a number of arguments. We only started to speak to one, which was whether or not not only the question of livestock which was questionable, where does this come? How is this decision made? And the other issue there was that our argument that if the congregation is already in a legal argument, that if it's not specifically permitted or denied, that it's therefore unregulated, it's possible. It's sort of open.

CONSTANTINE ALEXANDER: That's the purpose of tonight's hearing.

ATTORNEY HERBERT WEISS: That is correct.

And there were some other arguments. No. 1, this was a separate enforcement, a

selective enforcement, which didn't happen elsewhere that there were other arguments that there are exclusions from religious or educational institutions, and I didn't go into the nuisance issue but always --

CONSTANTINE ALEXANDER: On those two points, I'm sorry to interrupt you. We dealt with them at the last hearing.

ATTORNEY HERBERT WEISS: We're not going to raise them.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY HERBERT WEISS: We're breaking -- we're not even interested, frankly, in the interpretation that some of the Board may want, whether or not if it's not specifically permitted that it's allowed, that's an argument maybe philosophical or maybe go back to the courts or something, we're not going to go

there. We're -- we did what you asked us to do which is talk to the neighbors.

CONSTANTINE ALEXANDER: You did.

ATTORNEY HERBERT WEISS: At this point the question for us is whether or not in view of the history of Cambridge, in view of the experience of Cambridge, whether it's appropriate, may be appropriate under the existing Zoning Laws for these hives to continue to stay there. That's the decision, you know, and that's the decision which the Board has to take. The Board will have to say whether or not they think that they're permitted or not, whether or not it's selective enforcement, whether or not -- these are all arguments. What we do with them afterwards, that's another question. But at the moment we really want to be good neighbors. Our

concern is that we really don't want to antagonize. And that doesn't mean there aren't always people who will object to some things that happen. Our concern at this moment is that there's not enough information about it, but that we may find some vocal objection to bees which is really not warranted by the history of the facts of beekeeping. But I don't know whether or not -- well, he'll be coming.

I wondered whether or not at this point we might change the agenda a little bit and you can ask the people who are objectors to this to come up and speak and we reserve the right to have --

CONSTANTINE ALEXANDER: No, I'm not going to do that. I don't want to put the people who -- the people who have expressed opposition have done so in

writing. It's in the file.

ATTORNEY HERBERT WEISS: Yes.

CONSTANTINE ALEXANDER: I don't mean to put them on trial.

ATTORNEY HERBERT WEISS: We don't want to do that.

CONSTANTINE ALEXANDER: Well, that's how they may feel. The fact of the matter is, is that what they feel is not no longer relevant. What's relevant is the decision by the Inspectional Services Department based on a complaint received, which is why it's not selective enforcement. I make that point again since you keep referencing it.

ATTORNEY HERBERT WEISS: Right.

CONSTANTINE ALEXANDER: I keep telling you it's not the case. The case before us is what the Ordinance provides

and how we interpret the Ordinance. And I'm willing to entertain, consider, I think all members are, any arguments regarding that, specific arguments. But this is not the time to have a meeting about the birds and the bees. We've had six weeks. November we had the case. We had six weeks -- and you've done your best to educate the community, to get people involved, to understand all about beekeeping and the benefits, and perhaps the risks. And the end result is the complaint still stands. The complaint has not been withdrawn, therefore, we have to proceed with the case.

Yes, sir.

ROBERT GOSS: Yeah.

CONSTANTINE ALEXANDER: Give your name to the stenographer.

ROBERT GOSS: Robert Goss,
G-o-s-s. Newton Street.

My understanding, and I think the neighbors' understanding was that we were supposed to have a meeting between the people who complained and the people from the temple. The other event that they did was fine, but it was not what you asked us to do. We did have that meeting Tuesday night and we have someone here to summarize the results of that meeting and that was our understanding we were going to come and do that tonight. So all this stuff is I think superfluous to what we're supposed to be talking about. Those issues, you know. We don't want to hear that.

CONSTANTINE ALEXANDER: Do I gather from what you're saying is

that -- and maybe you can give it directly, that after -- the result of the meeting that was held on Tuesday night is that there are still complaints -- the neighbors, those who complained are still -- want the complaints continue and they still expect the Inspectional Services to enforce the Ordinance. Is that correct?

ROBERT GOSS: We had a meeting and we talked and we had a doctor testify about some issues about bee stings that can be fatal and, you know, all the things we discussed the first time. We have someone here with a summary of Tuesday night's meeting. We did what you asked us to do. The other stuff was extra by your part, not what you asked us to do. That's why we have this two group meeting.

CONSTANTINE ALEXANDER: Again, I'm trying to --

ROBERT GOSS: Okay?

CONSTANTINE ALEXANDER: -- I'm trying to accelerate this, probably fruitlessly. All I want to know is the opposition to the beekeeping continuing among at least some neighbors? I see heads nodding yes. An indication that there is still opposition. Therefore, the efforts of reconciliation were well founded and very much pursued by the applicant didn't result in any change of view by the people who are opposed. Therefore, I think the case goes forward.

We did what we could. Or you did what you could. We all tried. We can't reach -- we can't reach agreement and therefore let's proceed with the case.

So the floor is yours, Mr. Weiss.

ATTORNEY HERBERT WEISS: Pardon me?

CONSTANTINE ALEXANDER: The floor is yours.

ATTORNEY HERBERT WEISS: Could I ask Doctor Noah --

RABBI STERN: Actually, I think it's not an issue about -- I think frankly the only grounds for our challenging the Zoning rule as it's been defined, as I'm understanding now, would be that as a religious institution we have some leeway as an education --

ATTORNEY HERBERT WEISS: As a school.

RABBI STERN: -- institution. We have some leeway or some variance about the activities that we use our facility

for. And on that basis it might be appropriate to say that in fact we are within our rights to have beehives on the roof.

CONSTANTINE ALEXANDER: Is it your position or your advice to us that it's essential to have beekeeping to the practice of religious services at the temple?

ATTORNEY HERBERT WEISS: Not essential.

CONSTANTINE ALEXANDER: Not essential.

ATTORNEY HERBERT WEISS: Not essential but customary.

CONSTANTINE ALEXANDER: Something could be done. There are a lot of things you can do with an adjunct to conducting your religious --

ATTORNEY HERBERT WEISS: As a school.

CONSTANTINE ALEXANDER: Same with schools. Same with the school. I mean, it's not an essential part of your curriculum, beekeeping, am I right?

RABBI STERN: I would say improving the environment is an essential part of the curriculum and doing what we can to improve the environment would be an essential part of the curriculum. And the bee professionals here could testify as to whether beekeeping is an essential part of improving the environment better than I could.

ATTORNEY HERBERT WEISS: I --

CONSTANTINE ALEXANDER: I've said enough. If there anyone else on the Board who wants to speak, please do. I frankly

think this is a fruitless path to go down.

RABBI STERN: Okay.

ATTORNEY HERBERT WEISS: This is a what, excuse me?

CONSTANTINE ALEXANDER: A fruitless path to go down. Essential part of the environment. Everything is an essential part of the environment.

ATTORNEY HERBERT WEISS: I understand. We have a witness here and professional, an expert, who would like to address any questions anybody may have.

FROM THE AUDIENCE: That's not what we're here for.

CONSTANTINE ALEXANDER: Can I suggest, if you want to have those questions addressed, after the hearing's over out in the hall or in the room behind us. We don't need to take up our time as

a Board for this. We've had six weeks to do this. And you tried. I'm not in any way being critical of you.

ATTORNEY HERBERT WEISS: My only question is that the objectors, you say they have not withdrawn their objection, obviously have specific reasons for objecting other than the fact that, you know, I would think so, they either do this and they do that. I would like to be able to have someone address those questions.

CONSTANTINE ALEXANDER: Please, let me try to run the meeting. Not that I'm doing a great job, but I'm trying.

The reasons are not relevant. Frankly, they may be misguided. They may be entirely wrong. They have a right as a citizen to file a complaint with the

Inspectional Services Department and the Inspectional Services Department looks into the complaint, which it did, and rendered a decision. I don't want to get into the reasons why.

ATTORNEY HERBERT WEISS: But that's the difference because my feeling is that it's bad public policy for the Board of Zoning Appeals or the city of any Board to make a policy based upon ignorance or fear.

CONSTANTINE ALEXANDER: We're not making a policy. You're not listening to what I said at the beginning. My point is we're interpreting an Ordinance. How we got to the interpretation is through the complaint that was filed.

ATTORNEY HERBERT WEISS: Well --

CONSTANTINE ALEXANDER: Why the

complaint was filed is irrelevant. The complaint was filed, a decision was rendered, and we're now passing on that. And the question before us is an interpretation of our Ordinance. And our Ordinance says, as I said once before, I'll say it again, if -- beekeeping is a use that's not identified in the Table of Uses it's prohibited. It violates our Zoning Ordinance.

ATTORNEY HERBERT WEISS: That's the interpretation of the Board.

CONSTANTINE ALEXANDER: Well, that's what this says now. Now, the good rabbi made a suggestion that maybe you can fit under the use -- permitted use for religious --

ATTORNEY HERBERT WEISS:
Exception.

CONSTANTINE ALEXANDER: -- for education. I've expressed my skepticism about that, but I'm only one person on this Board.

ATTORNEY HERBERT WEISS: We don't want to do that. That's a court decision to be made.

CONSTANTINE ALEXANDER: Are you withdrawing that argument?

ATTORNEY HERBERT WEISS: Of course, no.

CONSTANTINE ALEXANDER: Okay. Then what argument do you have that the decision is wrong by Mr. O'Grady?

ATTORNEY HERBERT WEISS: Well, that depends what the decision is of the Board.

CONSTANTINE ALEXANDER: No, no, no, Mr. O'Grady has decided that

maintaining of bees is prohibited under the Ordinance. And you're saying that's not true. If you want to reverse the decision -- want us to reverse the decision, you have to give us an argument.

ATTORNEY HERBERT WEISS: I understand. The argument I've given you is two fold -- several fold, you have it.

One, that it's basically not, it's not specifically prohibited, it's allowed.

And No. 2, it happened to be separate enforcement. But there are other issues as well.

My question is are you basically telling me that the Board is not going to permit the --

CONSTANTINE ALEXANDER: Well, now your first --

RABBI STERN: Unless we can

justify --

CONSTANTINE ALEXANDER: Excuse me.

RABBI STERN: Yeah.

CONSTANTINE ALEXANDER: On the first argument, you're ignoring the statute. It says that: No use. That's any use that's not listed here, is prohibited. That's pure and simple. And unless you can convince us that this use somehow fits -- this beekeeping somehow fits under the uses that are identified here.

ATTORNEY HERBERT WEISS: That's interpretation. And I said does that include gerbils, for example? Does that include, you know, there are all kinds of things which are not specifically permitted which continue as we go. We don't want to get there.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY HERBERT WEISS: You know, and basically I gather what you're telling me is that the Board is saying no because there's been still continued refusal to withdraw objections that the Board is not going to --

CONSTANTINE ALEXANDER: We are trying to give you -- I'm trying to give you -- I'll recognize you in a second, Ma'am. I've seen you. I'll recognize you.

We're trying to conduct a hearing that is consistent with our responsibilities and our rights as a Zoning Board. We interpret the Zoning Ordinance. We -- and we're doing the best we can. The complaint was filed, the decision was made by Inspectional

Services, you've appealed it, we're considering that appeal. If you can't make an argument to us as to why -- a persuasive argument, persuasive to us, why the decision of the Inspectional Services Department is wrong, the decision will be upheld. Pure and simple.

RABBI STERN: So I think we should conclude this --

CONSTANTINE ALEXANDER: I'll recognize you. Before you speak, this woman here has been wanting to speak. I'll let you speak in one second.

Yes, Ma'am. Give your name and address.

RUCLAUDE ROTHMAN: Ruclaudé Rothman, R-u-c-l-a-u-d-e Rothman, R-o-t-h-m-a-n, 88 Putnam Avenue, Cambridge, 02139.

Okay, my concern is very simple, I understand that temple at time is a non-profit organization, however, we know that Cambridge is full of beehives. I could have met some researchers and not only businesses. We know that restaurants have their own beehives. We know that family stores in Cambridge, we are blessed with them, but that's also some people with families in their home who have beehives. I was delighted to discover that on Bank Street and on Flagg Street, my neighbors have beehives. I was stunned and discovered it. I didn't even go to see them.

What I don't understand is that if these people are allowed to have their beehives, does it mean that they are allowed because nobody complained?

CONSTANTINE ALEXANDER: You got it.

Let me finish. Let me interrupt again.

RUCLAUDE ROTHMAN: Let me finish, please. Please.

CONSTANTINE ALEXANDER: You're right. I'm sorry. Go ahead.

RUCLAUDE ROTHMAN: So is it because nobody complained or is it because there's nothing explicitly forbidding it and consequentially it means they are allowed to do it?

CONSTANTINE ALEXANDER: Let me explain. I made this point, because you're touching on the selective enforcement issue that I keep hearing over and over again in passing.

RUCLAUDE ROTHMAN: Sorry, I'm not

a lawyer, I'm sorry.

CONSTANTINE ALEXANDER: Let me finish. I addressed this at the last hearing. I didn't think I had to address it again, but I will do it right now.

You are absolutely correct. There is beekeeping being done all over the city of Cambridge. However, the longstanding policy of Inspectional Services Department, not this Board, the department, which is at the first level charged with enforcing our Ordinances is that we enforce by complaint. If no one complains about something, the Inspectional Services Department does not take action to try to and prohibit. They don't go out and seek violations. But if someone does complain, they will take action. They will look into it and take

appropriate action. This case here is the first instance that someone has complained to Inspectional Services Department about beekeeping and that's why a decision was reached and that's why we're here tonight. As to all of these other beekeeping activities, if a neighbor or citizen complains about those, I think you can expect Inspectional Services Department will look into that and take appropriate action. And --

RUCLAUDE ROTHMAN: But the decision is going to apply to all the other beekeepers?

CONSTANTINE ALEXANDER:
Technically if we decide tonight that beekeeping is -- violates our Zoning Ordinance, technically every person who is maintaining bees in the city, beehives, is

doing so in violation of our Zoning
Ordinance.

Let me tell you a lot of things people do in this city are in violation of the Zoning Ordinance. I mean -- and that's why, that is why -- I'm not trying to be funny, that is why the Inspectional Service Department has the policy it does. They don't want to go out and be Zoning police and seek out Zoning violations and drag people down here. If the neighborhood has no problem with what's going on, so be it. But, let me finish, please. But if the neighborhood does have a problem, and that's the case here, they will act. So it's not selective enforcement by any means. It is a means -- it is a philosophy of enforcement that is existing in Cambridge and has

existed for some while. And speaking just personally, it's a wise policy. Cambridge is a diverse community, and if we went around trying to figure out and ferret out every Zoning violation, God help us all. Certainly God help this Board, we'll be here for 24 hours every night.

ATTORNEY HERBERT WEISS: May I interject and may I offer something?

CONSTANTINE ALEXANDER: Go right ahead.

ATTORNEY HERBERT WEISS: The bees are dormant at the moment.

CONSTANTINE ALEXANDER: That's correct.

ATTORNEY HERBERT WEISS: And they won't be active until -- they may be all dead with this weather. There was a suggestion made by a City Councillor, and

I would like to ask the Board to consider postponing again any decision on this thing and to attempt to see whether or not the City Council, in a meeting between now and the time when -- next spring when the bees -- would enact an Ordinance relating to beekeeping, best practices, whatever which would remove the question from the Board of Zoning Appeals, would give comfort to the people who have existing hives, and would clarify the issue of beekeeping in the city from the standpoint of -- and I think that that's probably something that should happen at this point without lawsuit.

BRENDAN SULLIVAN: You know, Counselor --

CONSTANTINE ALEXANDER: Pardon me?

BRENDAN SULLIVAN: I sat here for

two nights and I'm saying that there's -- we just keep going, going around and around and around.

ATTORNEY HERBERT WEISS: Right.

BRENDAN SULLIVAN: You have laid out what is before us. And it is a very, very narrow parameter that we are operating in here --

ATTORNEY HERBERT WEISS: Right.

BRENDAN SULLIVAN: -- as to whether or not Inspectional Services, with the support of the Commissioner and also the Law Department, interpreted the Ordinance correctly.

ATTORNEY HERBERT WEISS: Correct.

BRENDAN SULLIVAN: That's the only issue. It has nothing to do with whether or not we think it's a good idea or not. A very simple thing for a City Councillor,

for nine City Councillors to do would be to take this Ordinance that Somerville has and put the City of Cambridge on it and bring it to a vote to City Council. And then you could all go -- all the beekeeping and it would be wonderful.

ATTORNEY HERBERT WEISS:

Mr. Sullivan, I'm not a Cambridge resident but I would vote for you.

BRENDAN SULLIVAN: And that would save us all from coming out here night after night and saying things that we can't take back, getting emotional about it. It's a City Councillor, all they have to do is adopt this as a motion on Monday night. Have it go before the Ordinance Committee, fast track it, enact it, and all the blessing in the world.

CONSTANTINE ALEXANDER: I knew the

suggestion was coming because Mr. McGovern did write us a letter. And it strikes me, it could go one of two ways, and I'll defer to my other fellow board members. We could decide the case tonight, and it looks like we decide to deny your appeal. But tomorrow morning the Inspectional Services is not going to come and padlock the temple's doors. There will be plenty of time --

ATTORNEY HERBERT WEISS: We can convert them.

CONSTANTINE ALEXANDER: The City Council will have plenty of time to enact an Ordinance, and it would be under some pressure to do that, because if they don't the bees are gone.

The other alternative is to defer this case, as you suggested, and it's a

reasonable suggestion, for let's say a couple months to give the City Council a chance to act. The cynic that I am, I suspect that that would be kicking the can down the road. In two months from now we'll still be here because the City Council has not done anything, because there's no pressure on them to do anything.

ATTORNEY HERBERT WEISS: But it won't be a long hearing.

CONSTANTINE ALEXANDER: Wait a minute. That's my own personal bias view. I'm going to ask other members of the Board to express their views.

No, you've had an opportunity.

RABBI STERN: No, I have --

CONSTANTINE ALEXANDER: You know, I am the Chairman of this meeting, not

you.

RABBI STERN: No, that's true.
That's true, but I'm willing to withdraw
the appeal so don't you want to hear that?

CONSTANTINE ALEXANDER: You want
to withdraw the appeal?

RABBI STERN: You want to hear
what I want to say?

CONSTANTINE ALEXANDER: If you're
going to withdraw the appeal, go ahead,
then the case is mooted.

RABBI STERN: This is what I would
like to say.

CONSTANTINE ALEXANDER: Go ahead.

RABBI STERN: The last thing that
I want is for this Zoning Board to vote on
something that would have a negative
impact on other beekeepers in Cambridge.
And my concern is that if it did so, that

that would be putting other beekeepers who are endeavoring to benefit the environment at a disadvantage. And so it would be my preference, given that it's, it's clear where this is going, to withdraw the appeal and, in fact, request that we have a period of time to get, that we -- I'm not going to -- we can't move the bees tomorrow. It may in fact be the case, but we're prepared -- I'm prepared to take the bees off the roof. It's not worth it. I'm doing a good thing. People don't feel it's a good thing or a few don't, most do. It's not worth it. I'm sorry. I think it's a loss for everyone, but it is simply not worth the aggravation. It's just not. And as much as it's a great thing and the kids love it and the community loves it, what am I gonna do? So I'll get rid of

the bees.

CONSTANTINE ALEXANDER: Okay.

RABBI STERN: But, however, it may be in fact the case that an Ordinance will be passed and it may be that then we would have to revisit the issue of removing them if an Ordinance is passed and I haven't yet removed them. But as of this point, I am certainly willing to withdraw the appeal.

CONSTANTINE ALEXANDER: Your gracious withdrawal is going to be voted on momentarily. If you do withdraw it and the Ordinance is passed, there will be no -- I can't see why, assuming what you're going to do, complies with the Ordinance. There's no reason for you to take the bees out. And as to doing it, I don't think you're going to see

Mr. O'Grady showing up at your doorstep at eight o'clock tomorrow morning with a net over his head saying get rid of the bees. There will be an appropriate time for to you do it. And I would think, I would suggest that given the fact that the bees are dormant now, the pressure to do this quicker is not as great. But a time will come when it will be great. So I'm going to take your suggestion of withdrawal and I'm going to move that we accept the request, the requested withdrawal by the petitioner.

All those in favor of that withdrawal say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

The effect of this is the decision

of ISD stands. The beekeeping, it takes place on Magazine Street is in violation of our Zoning By-laws. And now the matter is out of our hands and in the capable hands of Mr. O'Grady and the ISD.

Thank you very much.

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

* * * * *

(7:50 p.m.)

(Sitting Members Case #BZA-005750-2014:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: The Chair is going to call a case from our regular agenda, case No. 005750.

Is there anyone here wishing to be heard on this matter?

ATTORNEY JAMES RAFFERTY: Thank you. Good evening, Mr. Chairman. For the record, James Rafferty, appearing on behalf of the petitioner. We have submitted a request to continue this case. It's an appeal from a determination of the Commissioner and there are many residents here.

CAROL O'HARE: We can't hear you.

ATTORNEY JAMES RAFFERTY: There are many residents here that have an interest in this and we're amenable to whatever date is deemed convenient for the Board and the residents.

CONSTANTINE ALEXANDER: Okay.

Now, they want us to continue the case and for further discussions, and we almost always, always as a courtesy, do continue the case. But we're going to do

it to a date that works for as many of the people of the audience as possible. I'm not looking to sandbag anybody.

So, you said basically any date works?

ATTORNEY JAMES RAFFERTY: Totally agnostic. Whatever is most accommodating.

CONSTANTINE ALEXANDER: Okay. Very accommodating Mr. Rafferty is.

I'll just throw out a date. Brendan, you want to sit on this case or not?

All right, let's take February 20-something?

SEAN O'GRADY: February 26th.

ATTORNEY JAMES RAFFERTY: It may be --

CONSTANTINE ALEXANDER: If we heard this -- postpone this case until

seven p.m. on February 26th, does that work for those people in the audience who are here for this case?

ATTORNEY JAMES RAFFERTY: Sorry, doesn't work for me. Can we go into March. I'm actually out of town that day.

CONSTANTINE ALEXANDER: All right. We can go earlier. Let's do March.

ATTORNEY JAMES RAFFERTY: Let's go to March.

CONSTANTINE ALEXANDER: What's the first date?

JANET GREEN: It's not heard. I'm not here in March.

CONSTANTINE ALEXANDER: Do you want to sit on this case? Do you care?

JANET GREEN: No, it will be fine for me to miss this.

SEAN O'GRADY: 3/12.

CONSTANTINE ALEXANDER: 3/12,
okay. We'll continue the case until seven
p.m. on March 12th. Does that generally
work for the people in the audience here?

And I apologize for having to bring
you back but this is a, there's no
pernicious motives here. It just makes
sense to have this thing continued and
have further exploration. We won't
continue the case again unless there's
good reason.

ATTORNEY JAMES RAFFERTY: I
understand.

CONSTANTINE ALEXANDER: March
12th? Going once? Going twice?

FROM THE AUDIENCE: Not good for
me but I'm just one person.

CONSTANTINE ALEXANDER: Any other
people that can represent your views?

FROM THE AUDIENCE: Some of us are not sure.

ATTORNEY JAMES RAFFERTY: The next one would be the following week.

CONSTANTINE ALEXANDER: Good suggestion. Mr. Rafferty is pointing out -- we don't. We meet Thursday, as you know, on Thursday nights. Usually every other Thursday. So if March 12th doesn't work, we can do the 26th? Would you prefer that?

FROM THE AUDIENCE: March 12th.

CONSTANTINE ALEXANDER: The Chair moves that this case be continued as a case not heard until seven p.m. on March 12th on the following conditions:

That the petitioner sign a waiver for a time of decision. And you may have already done that.

That the posting -- there is no posting sign. This is an appeal. No posting sign. And there are no plans being submitted. Have you submitted plans for this case?

ATTORNEY JAMES RAFFERTY: No. It's a legal issue.

CONSTANTINE ALEXANDER: So therefore the only question is for the postponement is a waiver for time of decision.

All those in favor of continuing this case on this basis say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. We'll see everybody on March 12th.

ATTORNEY JAMES RAFFERTY: And I alerted the neighbors that if the case were to be withdrawn, I would give them

advanced notice of that as well.

CONSTANTINE ALEXANDER: That's a good courtesy. Thank you, Mr. Rafferty.

FROM THE AUDIENCE: Thank you very much.

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

* * * * *

(7:55 p.m.)

(Sitting Members Case #BZA-005543-2014:

Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 005543, 186-188 River
Street.

Is there anyone here wishing to be
heard on this matter?

Before we start, I think there's a
preliminary question whether we can hear
this case or not. The posting sign that
you modified says that the hearing is
going to be on January 8, 2014. Now 2014,
January of 2014 has passed. I trust it
was a mistake on your part. Not that you
ever make mistakes, Mr. Rafferty.

ATTORNEY JAMES RAFFERTY: If it
was a mistake, it was who I delegated to
change the sign, Mr. Pierre.

FROM THE AUDIENCE: My face is red.

CONSTANTINE ALEXANDER: We're going to go forward.

ATTORNEY JAMES RAFFERTY: We commend you for your attention to detail, Mr. Chair.

BRENDAN SULLIVAN: Somebody said don't you mean '15 on it?

CONSTANTINE ALEXANDER: Somebody marked the sign up.

ATTORNEY JAMES RAFFERTY: Oh, is that what happened?

CONSTANTINE ALEXANDER: You have neighbors who are paying attention to the signs which goes to why the importance of posting signs.

ATTORNEY JAMES RAFFERTY: To the best of my knowledge --

FROM THE AUDIENCE: I didn't see any sign posted and I've been looking for when the new date is.

ATTORNEY JAMES RAFFERTY: Two signs, one on Kelly and one on River.

FROM THE AUDIENCE: Kelly's disappeared.

CONSTANTINE ALEXANDER: Anyway, it's there.

And you were about to say, Mr. Rafferty? You got interrupted.

ATTORNEY JAMES RAFFERTY: No.

CONSTANTINE ALEXANDER: Do you want to comment, there's opposition in the file who we'll get to in time. I wanted to make sure you were aware of that.

ATTORNEY JAMES RAFFERTY: I am, thank you. For the record, James Rafferty appearing on behalf of the applicant.

Seated to my right JoJo Lu, L-u.

So this is a -- this is a unique building. I trust that board members have had an opportunity to view it, and Ms. Lu has acquired the building. Is it has had an interesting history. It most recently served as kind of a secondhand store I guess.

CONSTANTINE ALEXANDER: Antiques according to the sign in the window.

ATTORNEY JAMES RAFFERTY: A more charitable description. But the things in there were old, but different people in the neighborhood have had different histories with it, but it really is a unique building. And we will acknowledge upfront -- I mean, we do this enough, Mr. Boyes-Watson and I, we know the dimensional numbers here on their face

are -- might be viewed as aggressive.

CONSTANTINE ALEXANDER: Might be?

ATTORNEY JAMES RAFFERTY: Might be. Might be. But nonetheless we do believe strongly that there's an underlying effort at work here that justifies the hardship fort he relief that's being sought.

CONSTANTINE ALEXANDER: Since you raised it, you're absolutely right about that. And I think, speaking for myself, proposed to give Zoning relief to allow this building to be preserved. However, how much Zoning relief is the issue? You're speaking an enormous amount of Zoning relief in my judgment.

For example, up conversions which this is -- two-family to three-family. There are four requirements in the Section

5.26. You satisfy none of them. And with one of them, FAR you're going to be 50 percent over the allowable FAR. And so my preliminary and strongest question is can't you do this in a way that this comes closer to complying with the requirements of our Ordinance?

ATTORNEY JAMES RAFFERTY: Well, we have the floor plan, and what's gone on here, and there has been particular attention, great deal attention paid to that very function. It, you know, the question of 5.26 applies to the conversion of an existing dwelling. This isn't a dwelling. But that may be technical. But at any rate, there's no question that it's a -- it's GFA. But what's really taking place here is a decision to create three dwelling units and to create three duplex

style units on that busy corner. The building is set hard against the street. It's a very active street. It has not succeeded as a retail place. And frankly there is an economic issue that drives, as in most cases, the preservation. You couldn't logically renovate this building and expect to get a retail tenant to give you the type of rent to justify what it would take to bring this building up to code. It is in a very, very poor condition. It has suffered from a great degree of deferred maintenance and we've got some photographs.

Mark, I don't know if you have the interior photos. It's in very tough shape. The concept that Mr. Boyes-Watson has come up with to put the bedrooms on the second floor.

CONSTANTINE ALEXANDER: I saw that.

ATTORNEY JAMES RAFFERTY: So the building itself, the two-story element exists, and then there's this one-story piece between the existing building and the firehouse, which has all the attributes of a one-story retail, and it's the most conventional of retail. But that space unimproved really doesn't lend itself very well to residential use at all. So the design here with the second floor was an attention to, to be as modest as we can. And as you'll note, that the second floor addition does step back from the face of the building about four or five feet. And to be candid, in an earlier iteration, the building extended further in the back. I don't know if

you've had a chance to see the plans prior to the condition. And we looked at that and said well, that, that really has to -- we should scale that back as well. So Mr. Boyes-Watson is far better able to describe it. But when you do a duplex, you use square footage for the interior stairways. So each of the three units will have an interior stairway. The bedrooms, you'll see, it's designed to accommodate two rather modest average size bedrooms. So it is an attempt to create three dwelling units.

We hosted a meeting at the site with many neighbors, several of whom are here today in support of the petition. Other than the letter that's on file from a tenant in the building next-door who I spoke with, who expressed a preference for

retail use in the building, because I specifically said are you concerned about -- I frankly thought he would have concerns about the mass on the second floor as it affected his views and he's -- that was not his priority. And he met with Mr. Boyes-Watson and he said he would like to see retail there because he thinks it's a nice amenity. When we met with neighbors, several of whom are here who've lived there for a long, long time, they gave vivid testimony to the history of failed retail at the location for the last 25 or 30 years. As I said, an economic reuse of the building as retail, it really, it's frankly beyond that.

There is an option here that we think is less desirable, and I think Mr. Sullivan speaks to it in a letter from

the Historical Commission, which is well, if we simply applied the math, the 0.75 to the lot area here, one of the more logical things to do here would be to take this building down and build two townhouses. And you could build two townhouses, and depending on the style, they could be of a certain -- they could be set back from the street and all that, but we believe strongly that something would be lost both in terms of the character of the neighborhood and the contribution the building makes to the streetscape. So the effort here is to not have to take the building down, to create a logical residential conversion of this building. So beyond that, we -- maybe you can just walk through the floor plans. We thought the same thing, how small -- because

really it's that second floor -- how small can that second floor go to reduce our 900 plus square foot ask here.

CONSTANTINE ALEXANDER: Yes, but which is all on the second floor.

ATTORNEY JAMES RAFFERTY: Which is all on the second floor.

MARK BOYES-WATSON: All over the existing first floor. Yeah.

CONSTANTINE ALEXANDER: Let me ask you a question, and in your comments address it.

MARK BOYES-WATSON: Yeah.

CONSTANTINE ALEXANDER: What if you made it instead of three dwelling units, two dwelling units? And I understand that obviously economically you don't get the same return.

ATTORNEY JAMES RAFFERTY: I wasn't

going to say that.

MARK BOYES-WATSON: I think that the first thing is -- precisely, it's like a layer of decisions here. So the first one is, you know, say you could do two units inside the building, you could do that, and no relief required. Now you've got the situation where most of it's on the first floor right on this floor on this corner of Kelly and River. So you've got all of the difficulty of privacy and everything managing of that. So once you're up to the third unit, then you say, but once you're up to -- so you're saying let's go to the second floor. So that gets you the second floor addition. And then when you're looking at that as an the economics of that whole thing, to get an economically viable renovation there, it's

just too much money for where you are. It's simply, because relatively -- you've got the bedrooms, you've succeeded in mitigating that, it's so much better -- you get a much more appropriate size unit if you go to the third unit.

CONSTANTINE ALEXANDER: And as you well know from the past experience, I'm illiterate in this area. What if you did go to two units? You added some of the space on the second floor but nearly as much as the 907 square feet that you want? What is wrong with that solution? And that would minimize the FAR deviation from our requirements of our code. It would also get you out of the -- I think you might be able to satisfy some of the other aspects of 526 that are not being satisfied. There are four, and as you

know, and you're not satisfying any. In other words, I'm trying to get two units, second floor if necessary, not as economically attractive, perhaps, as what you want to do now, but something that is more consistent or closer to compliance with our Zoning Code and doesn't require tearing the building down which I understand the argument for and Mr. Sullivan made the argument very well in his letter. That's what I want to hear. I want to hear why you can't do this in a different fashion that's more Zoning compliant.

BRENDAN SULLIVAN: Let me ask the same question. I read the pleadings and it said, you know, literal enforcement of the provisions of the Ordinance would involve a substantial hardship. And the

answer was that it would preclude the petitioner from providing residential units. And so of course my answer -- my question then is why? So assuming that you bought this for a dollar, you could probably renovate this building to provide residential units. Yes? No? Even if you --

MARK BOYES-WATSON: Zero value.

BRENDAN SULLIVAN: For a dollar.

MARK BOYES-WATSON: Yeah, it helps, obviously.

BRENDAN SULLIVAN: So at some point along that scale we reach a tipping point where it becomes no longer viable. Whatever, wherever we are on that scale which then says well, then the acquisition cost. And, again, the Board has heard this a million times, but what you paid

for it is your cost. The value of the property is what you can do with it as of right. So because your acquisition costs were so large, your renovation costs are X number and all of the other hard costs, that then becomes that we need to maximize the site. So, again, I go back to the acquisition, is what really is the tipping point?

MARK BOYES-WATSON: I think that -- right in the middle of this, of course, is the preservation of the building, right, as an expense, right? So if you -- obviously there's a dollar value where you can do anything. But the -- if you want to -- if you watch the crossing line of where you would, you would want to take the building down and build a very simple two-family structure, which people

are doing, nobody around this table wants to, that's not why the building was purchased. The idea of this purchase is out of the love of the building, the preservationist thing. And when -- frankly, when my firm looks at that and we talk to a contractor and we really start to work there, if you -- if you look at it from the other point of view -- I understand that the idea here -- and you know, we come here often and we try not to ask for what we don't need.

CONSTANTINE ALEXANDER: I'm not sure I agree with that but keep going.

MARK BOYES-WATSON: So, the -- but the -- if you try and do this with a two, with only two units, you're asking -- the economics are just such that you're asking

a -- it's really hard to decide to go ahead on that basis.

BRENDAN SULLIVAN: But you're starting off at a high number.

MARK BOYES-WATSON: Because you're starting off with the number you have for me. Well, the number --

BRENDAN SULLIVAN: But then, then you come down and throw yourself at the mercy of the Board saying you got to bail me out of this.

ATTORNEY JAMES RAFFERTY: But in all fairness, we're not saying that because we're saying there is a more economic alternative that doesn't involve the cost associated with the preservation. And believe me, I advised Ms. Lu right upfront, I said, you know, this is the type of case that the Board will -- and

I -- how good did I do predicting the comments you're hearing in terms of "Okay, what you paid for the building is your business." "You paid a certain amount." All that is true. And I have to say, and I know Mr. Boyes-Watson felt the same way, there's something very unique about this particular structure, the manner in which it abuts the firehouse, the massing of that stretch of River Street, and we have received very favorable support within the residential community to do this that allowed me to think well, okay, once you do the economics of having to go to the second floor and you have to introduce the stairways into these units, then you start to think about, well, what if they were one-bedroom units in -- and we only had one bedroom per floor? Well, we -- they

looked at those. And then all of a sudden in the overall scheme of density, a couple hundred square feet per unit, frankly, in our view didn't really change the impact the building has. And if we were simply focussed on arithmetic, and it's probably worth noting that probably isn't a structure within a few blocks of this that meets that 0.7 FAR that's currently zoned for. So if we talk about character and context of what what's out there today, this is very much in keeping. In fact, one can argue it's less dense than many of the surrounding structures, and I think that's why it has received as much support as it has. Just the adjoining firehouse, the mass and size of that building alone dwarfs this building. It became very clear that putting a second floor here

made all the sense in the world. And then once you go to the structural issues of putting the second floor, it's already pulled back. I've asked could it be pulled back further? Well, maybe you could -- you lose a couple of square feet. All of a sudden you lose that bedroom. And, yes, we've gotten closer to the as-of-right number and it's a little less relief, but frankly it just strikes us as one of those cases where the Ordinance does allow for a logical use of property and that the preservation and public benefits associated with keeping the building are a counterbalancing amenity that would allow the Board to reach of a hardship strikes me as not all that different of a case not too long ago on Western Ave. where there was almost -- a

retail building and some residential was allowed to put on front. They're filling in missing gaps in the streetscape here. And this building, this building could really, would be a very handsome building.

Now if the building didn't have -- if the last third of the second floor wasn't there, who would be the wiser? Particularly if it was on the back of the building. The firemen would notice it wasn't there? I mean there would be little benefit both in terms of the building's impact on surrounding neighbors and everything else. So, yes, there's no question, three units makes better economic sense and certainly the applicant would like three units, but I think if you look at the size of the units and what the prevailing household size is in this

neighborhood, that this is a pretty logical, not overly aggressive super deluxe unit. These are average two bedrooms, that -- and it's the -- they're going to be sold as condominiums. It's the type of housing, that, you know, in a three-unit building, you could, you could see that corner really come alive. I don't know if you noticed the building next-door. The two have been renovated. There's one is a three-unit building. The next is a six-unit building. So this density is very consistent and neither one of those has parking. We need some relief to meet the parking, but we do have the capacity to provide the parking, so that's what's behind our thinking. And that's why we're here in full understanding that this is a case that's we think unique

enough and unusual enough that warrants
the type of relief that's being sought.

CONSTANTINE ALEXANDER: Well,
said. I still would like an answer to my
question. Can you with two units make
the -- do the project, your project,
preserving the existing building, two
units and make economic sense? You can --

MARK BOYES-WATSON: No, I would --

CONSTANTINE ALEXANDER: I don't
want to hear -- it's all about return.

MARK BOYES-WATSON: What you're
doing here, you always when you think
about when you're peering into the future
and looking for a sales value and is that
underwritable. Saying if I had two units
and they would need to be worth X each, is
X divided by -- are you going to get that
on the corner of River and Kelly next to

the fire station? And I, we need this relief. We wouldn't be here. We wouldn't be --

CONSTANTINE ALEXANDER: You need relief, we understand that.

MARK BOYES-WATSON: It makes a huge difference as to whether or not that's a sensible, gonna be -- look, a successful project, it makes a huge difference if there's a third unit. It makes it much, much more --

CONSTANTINE ALEXANDER: It makes a much more attractive investment that's what it does.

MARK BOYES-WATSON: No, it doesn't.

CONSTANTINE ALEXANDER: It does. It does two things for the city:

It makes a more investment for the

owner, and it creates an additional housing unit. Those are the benefits of three units. That's the only benefits.

MARK BOYES-WATSON: I would say in this neighborhood, if you were to go back, you will find, and I've been involved in many of them, times when we've reduced the number of units in this neighborhood, not increased them, because the opposite pertains, right? So, so value, you know, it's very location specific. In this spot, in this busy, busy spot on this busy street, this isn't the place for a bigger unit. So it, real estate, the value's very granular and this particular moment is not that place. So if you're around the corner down Kelly and you had the three-family you might well take one unit out and make a two-family. And you may do

just as well or better economically. So it's not the case because there's a linear relationship here. This spot it works way better, the investment that somebody would have to make to live here and make this whole thing work and allow us to preserve the building, etcetera, and do a really nice job doing it, three makes a big difference in this spot. It's not a question of oh, wow, three is always better than two and four is better -- it's not. It's very specific.

ATTORNEY JAMES RAFFERTY: It's interesting to note that if you look at the existing conditions, the lot coverage goes down. We're removing a garage. So the actual massing and bulk that's on the site goes down. There's a very extensive deck from the second floor that goes right

across it. That goes away. And there's a very large two car garage in the rear. So we're putting some GFA on top of an existing footprint, but in terms of creating circulation or ventilation around the lot, it's a small lot. This scheme, this approach actually represents less lot coverage than the existing conditions.

JANET GREEN: Come forward and see it.

CONSTANTINE ALEXANDER: This very same plan would apply to the building. You would have actual better parking, and you have the same amount of open coverage. That doesn't address the three units versus two units. It's troubling to me anyway.

MARK BOYES-WATSON: The -- it does ventilate the lot and that's the great

advantage of removing these pieces, but the -- the structural issue about the size of the units and being able to get them calibrated so that they are of the size that people will want to buy them and they will work, that's the difference between the three and the two. And the thing is about the two or the three is, I think that the congestion, I mean, if you think of the Zoning Code and protection and trying to do the right thing for the city, is going back to Mr. Rafferty's point is if you made that second floor additional side smaller, actually spatially and urbanistically make -- this is a little building, it's a two-story building on River. It's one of the smaller buildings on River. And it will be when we're done, that's why it's the before and after.

It's not like a huge thing.

CONSTANTINE ALEXANDER: How big -- under your plans, how big will each of those units be?

MARK BOYES-WATSON: The GFA in each unit is between 1200 and 1300 square foot.

CONSTANTINE ALEXANDER: If you went to two units, you could probably get two, 1600 or 1800 square feet?

MARK BOYES-WATSON: Well, you'd put 600 into each one.

CONSTANTINE ALEXANDER: Well, yes, but you're not going to build a 907 foot addition.

MARK BOYES-WATSON: Well, the value would be getting some bedrooms.

CONSTANTINE ALEXANDER: Right. You're going to get some bedrooms in.

You've got to do some addition, presumably not to the extent that you're doing here. I'm trying to get a sense of the units that you -- size of the units you're proposing of what you would have.

ATTORNEY JAMES RAFFERTY: The floor plan --

MARK BOYES-WATSON: Yeah, we can look --

ATTORNEY JAMES RAFFERTY: But I mean, I respect and understand, but it's an interesting metric, the lot area per dwelling unit. And in this district, as I said, at 1500 square feet, it's one of the higher ones. And you say, okay, well, that's the way the Zoning is. But in reality the lot is large enough to take two and two and a fraction of two. And the issue is the third unit, you're right.

I mean, the third unit is -- has been said the third unit is where the profit is, if you will. So, you know, you probably need to, you probably need two units to cover the acquisition and -- the acquisition and the improvements. So there has to be an economic incentive to do this, and that economic incentive will yield -- and you will yield, I don't think it's breaking news, you will yield a greater gross revenue with the sale of three than two, even two big ones because it's not that linear. So, yes, the third unit has an economic component that makes the renovation and restoration of the building viable. As I said, if we were doing this in the face of strong opposition, I would say that the public interest was not being served by this, but I think you'll hear

tonight, frankly, that the public interest supports the approach we're taking.

CONSTANTINE ALEXANDER: It's not clear to me that it's public, like I said, that the public will support a two-unit building as well as they do a three-unit building. The public interest is to preserve this --

JANET GREEN: Can I ask --

ATTORNEY JAMES RAFFERTY: My point is that two units, we may not be able to preserve --

JANET GREEN: Well, I'd like some detail about that very point.

ATTORNEY JAMES RAFFERTY: Okay.

MARK BOYES-WATSON: That's the point.

JANET GREEN: Can you tell us what the difference would be and the

preservation you could do with three units
that you couldn't do with two units?

MARK BOYES-WATSON: We're not sure
we can get there with two units.

CONSTANTINE ALEXANDER:
Economically.

JANET GREEN: What are you talking
about specifically? You're talking about
this piece over here.

MARK BOYES-WATSON: Yes.
JANET GREEN: But that's not
preservation, because that's something
new.

MARK BOYES-WATSON: Right.
ATTORNEY JAMES RAFFERTY: Right.
MARK BOYES-WATSON: The issue with
the monetary relationship is if you, if
you -- I'm just -- to simplify. If you,
if you have acquisition of a million, you

do a million dollars worth of construction and you divide it by two, you get \$2 million units, right? And because this is -- and those aren't the right numbers, but this is expensive construction. We've done this before. I've done it with the contractor, done it around town. This is tricky. To save these buildings is not easy. It's much easier (inaudible), nobody wants to do that. Now if you change those economics, right, so that 2 million maybe is incrementally with the -- slightly smaller, maybe it's two million two, right? If you divide two million two, by three and the number you get is 750 or something, right? Well, there's something you can finesse. Right?

JANET GREEN: But you --

MARK BOYES-WATSON: So there's a

moment there when the whole thing becomes doable. So the reason we're here --

JANET GREEN: I understand that. So what I -- I was asking for something different.

MARK BOYES-WATSON: Okay.

JANET GREEN: I was asking for will the outside look different? Will the windows look different? Would the molding look different? Would the -- I mean what would you lose by not having the money from that third? I don't understand.

MARK BOYES-WATSON: You might not do the project. You might well take it down. Take down the building.

ATTORNEY JAMES RAFFERTY: Because I presume the scenario that reduces the unit suggests that the second floor addition is not as large as is being

proposed, or maybe the suggestion is it shouldn't be built at all. So but we're now then become focused on -- the flip side of the same question is so the smaller second floor addition does represent greater conformity with the allowable FAR. But given the numbers we're talking about, the size and the setbacks and the way the site is oriented now, we're going to lose, we're going to narrow up this second floor addition, lose a unit, and it goes to the underlying economic viability of restoring the building. Now that's not to say it couldn't be done, and I don't think we want to sit here and say we've run every number to say it couldn't be done --

BRENDAN SULLIVAN: What I'm hearing is the building doesn't work as a

two. It will only work as a three. Our alternative is to knock the building down and put up a two-unit townhouse.

ATTORNEY JAMES RAFFERTY: Well, I'm trying not to say it in such stark terms, because I think that's probably overstating it. I think analysis lends -- I think you then begin to look at that scenario. Where you end up on it, I don't know. I don't want to sit here tonight and say it's all or nothing and we're here and you have to -- that's not what we're saying.

BRENDAN SULLIVAN: Because then you are going to have certain constraints when you start off with a blank piece of paper which will then reduce the size of those townhouse units.

MARK BOYES-WATSON: Well, I mean

it's true. And in fact, and this is an odd shape lot --

BRENDAN SULLIVAN: I'm not there.

MARK BOYES-WATSON: Well, we're not trying to -- we're not really trying to threaten. Nobody wants to take the building down, right? That's not why -- we wouldn't make that argument to you. And you know we wouldn't. That's not where we want to go with this. So -- and it is an odd shaped lot. This isn't even that easy a lot to put a two-family house. It's an odd shaped lot. So it sort of speaks to the Zoning where it is very specific to place, right? It is on River Street. It is on the corner. It has this curve. It has, you know, no real yard. It has all of these things which actually mean that the

renovated -- what I think is interesting about this, and I look at the design for this, and actually -- I mean, I love the building. It's really cute. It has that little car court. I wish -- if we knocked it down, I'd like to come back to you and ask to build exactly the same thing again, because it's a really clever use of the site.

So I know that we're here asking both GFA relief and for that unit, but it's not a redesign of the unit that we're asking for. It rests on that subtle moment where the pieces fit, the economics fit, and that's why we're here. I mean, we know not to come here and ask for more than what is reasonable. But this works as it is. The two unit, I think if you simply do the math, head math, you can

feel that that's not looking good. That's why we're here with the third unit. I know it's awkward to have -- to ask for that third unit. It seems to be an ask, but it makes a huge difference.

BRENDAN SULLIVAN: I think in a perfect world the ideal situation would be Mark Boyes-Watson Architects on the first floor and you can live on the second floor.

MARK BOYES-WATSON: I can't afford that, though. If I didn't have to renovate the building, I would have --

BRENDAN SULLIVAN: We go back to the acquisition.

ATTORNEY JAMES RAFFERTY: I would -- no, no, you know, it reminds me --

BRENDAN SULLIVAN: The building

that was assessed at what \$400,000? And obviously we didn't pay \$400,000.

ATTORNEY JAMES RAFFERTY: No, we did not.

There's a very handsome building in East Cambridge that the Board and Mr. Boyes-Watson should take some pride in. If you ever have an opportunity, go back to the old Cambridgeport welding building which is in the corner of Charles, just in from the corner of Charles and Third Street, in the shadow of the courthouse, which was in --

BRENDAN SULLIVAN: When I go to the Greek restaurant, I see it all the time.

ATTORNEY JAMES RAFFERTY: Exactly. Right across from --

BRENDAN SULLIVAN: Currently one

of my proudest moments.

ATTORNEY JAMES RAFFERTY: Hurley and Lopez.

I look at this building and I think of the repainted work and how -- I don't know if board members have been back to see it.

CONSTANTINE ALEXANDER: I have.

ATTORNEY JAMES RAFFERTY: And there was some realization and some additions went on the top of that building, and it -- but it's a dental office on the ground floor and a very spacious unit on the second floor. It is a sweet looking building. And it is a case where design can kind of trump math here, and we're asking for the same type of analogy. A good design -- I mean, this is a very appealing thing, but you don't

want too much of this living space. This won't work for bedrooms. So you reach the conclusion you want to go to the second floor. And once you go to the second floor, the third unit becomes a real critical piece of the success of the project. Can the project happen without it? I couldn't say here today that Ms. Lu would necessarily reach the conclusion it couldn't, but it is so much the outcome, this far greater certainty, and I have to candidly say that I often look at it with the question of -- notwithstanding the strict adherence of the Ordinance, who would we be benefitting by constraining this in a way that doesn't allow us to put the second floor out and fill out this portion of the building? I've yet to figure out who we benefit by that

constraint. So that's where I would hope the Board would allow some consideration.

THOMAS SCOTT: I think emphasizing the in-fill is really critical because it's the streetscape, the improvement to the streetscape and the urban fabric of the neighborhood that I think is the key selling point to the design. Because right now we have this missing tooth kind of in the middle of the block, and it's very awkward looking in that diagram right there. And when you look above, it just, it appears --

ATTORNEY JAMES RAFFERTY:
Particularly when you juxtapose it next to the firehouse next-door which this large masonry building looming over it. It does look like a missing tooth.

THOMAS SCOTT: Yes, I agree. I

think that that's a major contributing factor to the design and, you know, the need for the additional square footage.

CONSTANTINE ALEXANDER: Completely unrelated question. The basement is going to be renovated but it's not going to be part of the GFA?

MARK BOYES-WATSON: It's not. It's entirely underground because it's at grade the building.

CONSTANTINE ALEXANDER: Okay.

MARK BOYES-WATSON: We're going to try to get some light down there, but it will be less than seven feet high. It is now, I think it's six, nine now.

CONSTANTINE ALEXANDER: What is it now?

MARK BOYES-WATSON: Six, nine or six, ten.

CONSTANTINE ALEXANDER: Other questions from members?

We've been peppering you.

ATTORNEY JAMES RAFFERTY: Yes, I know. I mean I think -- I hope we've at least explained our rationale and I think again, I think --

CONSTANTINE ALEXANDER: Any further questions? Any further comments?

ATTORNEY JAMES RAFFERTY: No, no.

CONSTANTINE ALEXANDER: Questions from members of the Board at this point?

(No Response.)

CONSTANTINE ALEXANDER: I'm going to open the matter up to public testimony.

Is there anyone here wishing to be heard on this matter?

CAROLYN SHIPLEY: Oh, okay.
Carolyn Shipley, 15 Laurel Street,

L-a-u-r-e-l. I live around the corner.

What I want to point out is that no one really sees this section because traffic comes this way. It's one way on Howard. I -- when I walk up the street, I see this. Okay? And the eye doesn't see this. We see the front of the fire station. I see nothing wrong with filling that in. And Mark Boyes-Watson has a very, I think, a very nice, very appropriate plan for this, and I like the idea of having the setback and having the port up there. I don't think that anyone really will notice. As I say, you look at what's up to about ten or twelve feet maybe when you're walking down the street. The only people that would see this is the woman that lives across the street on the corner of Howard and River, and I don't

think she's here tonight and she didn't come to the open house when we -- when Mark Boyes-Watson took us around the building and showed us the floor plans.

As far as retail, that's never been a good corner for retail. There was a sort of a grocery store, convenience store across the street, that never lasted and it's now some kind of t-shirt place which I don't know what they do.

I think that there's three parking spaces. I don't think that's a problem with the three units.

I really liked the plan that Mark Boyes-Watson designed. I'm glad it's going to be residential so it's not something we wouldn't be happy with, but it's just going to be nice neighbors.

Parking's not that bad in our neighborhood

on my street in Laurel Street. It used to be terrible 30-some years ago. Now you can barely find one or two spaces at six o'clock at night when you come home from work. So it's not that kind of crunch. We used to have a lot of students and now our neighborhood has changed. It has changed. It's more families and young professionals, couples.

I don't know what else to say, but I think it's going to be very nice. And they're going to try to restore the bricks carefully, you know.

CONSTANTINE ALEXANDER: Again, I just make the comment, the skepticism that's being expressed by at least some members of the Board, it doesn't relate to tearing this building down or not maintaining the streetscape that's there

now. It's a question about really almost the interior in the back of the building and how much is needed and the like. So I don't think you should be afraid, assuming that we're looking to have this thing torn down and as Mr. Rafferty pointed out, two townhouses built. That's not where the drift of this conversation is just so you understand that.

CAROLYN SHIPLEY: I think the idea for the back, the suggestion for the back is to get rid of that porch and that allows them to lengthen the driveway and the features in the back. I don't see it as a problem.

CONSTANTINE ALEXANDER: Thank you for taking the time to come down and speak with us.

Ma'am, would you like to speak?

I assumed you finished. I didn't mean to cut you off. Ms. Shipley, are you all done?

CAROLYN SHIPLEY: That's all right.

CONSTANTINE ALEXANDER: Okay.

RITA ERICSSON: Rita Ericsson, E-r-i-c-c-s-o-n and I own the building, the three-family building across the street at 52 Kelly Road. And I'm actually delighted that this is happening because I thought, you know, when the building was bought that somebody would just tear it down and put up some kind of modern housing because that's what people do nowadays.

CONSTANTINE ALEXANDER: We know that.

RITA ERICSSON: But I want to make

some specific comments regarding retail.

The store across the street started out as a convenience store and that lasted until probably the middle eighties. After that it's gone. It's -- it hasn't really worked as retail. And the last tenant was a store that basically survived doing custom printing on t-shirts and signs and which moved out because they found a better place, a bigger place for less money. And now it's empty. And it probably sit empty for a year or two before somebody tries to do -- go there.

So retail is not possible at that corner. There is no foot traffic. There is no parking. There's no way to stop and run into the store because of the fire station and the whole configuration of the street there. And if there was retail,

everybody would come on Kelly Road which is a problem for me.

The other thing I want to address is parking. Parking is a problem in Cambridge. Whenever they sweep the streets and parking might be a problem if you want to park exactly outside your house. But otherwise it's no problem in our neighborhood. And that's all I want to say on parking.

CONSTANTINE ALEXANDER: Okay, thank you. Thank you very much.

Ma'am, Ms. O'Hare.

CAROL O'HARE: Carol O'Hare, 172 Magazine Street, Cambridge. Good evening.

CONSTANTINE ALEXANDER: You're not here -- Magazine Street was the bee case.

CAROL O'HARE: It was. It's a neighbor. Yeah, down the street neighbor.

Well, even though I live on Magazine Street, I walk by this building all the time on the way to the farmer's market. And every time my husband and I walk by it, we say we hope somebody saves that building. And given the fact that they have proposed this very handsome and harmonious renovation with three parking places that is fitting for the neighborhood, and in fact less dense than most of the other properties on the neighborhood in that it provides off street parking, if they're going to make a healthy profit, who cares? I mean, it's a, it's going to be a benefit. It will provide -- it doesn't really matter the extent of the variance in my view when so much weighs in favor of this because it's already got four variances, and so

reducing them by whatever amount you decide is appropriate when it risks losing the quality of design to change it from three to two, isn't worth it I don't think.

CONSTANTINE ALEXANDER: Thank you.

Anyone else wishes to be heard on this matter? Sir.

JOHN GALINATO: I'm in favor of encouraging --

CONSTANTINE ALEXANDER: You have to give your name. I'm sorry. Come forward, too, because it's easier for everybody to hear.

JOHN GALINATO. I'm John Galinato, G-a-l-i-n-a-t-o. I'm in favor of encouraging an owner who expresses such interest and has worked so hard to preserve this building. I think it's an

awesome building, and I think the neighborhood would be well served to encouraging an owner like Ms. Lu.

CONSTANTINE ALEXANDER: Thank you.

Anyone else wishing to be heard?

CATHY HOFFMAN: Cathy Hoffman. Cathy with a C, Hoffman, H-o-f-f-m-a-n. I live at 67 Pleasant Street, right at the corner of Kelly and Pleasant.

I also would love to have the building preserved. Part of what concerns me, though, is part of what you were saying, that in Cambridge now someone can pay a price for a building that they're paying so high with an expectation that the only way to make it viable is to so substantially get such a substantial change on it so that you now have three units at 800 or \$900,000 each. That is

part of what is making Cambridge unlivable for so many people. So it concerns me that, that that's part of what is required. So then people feel like oh, well, now I'm willing to pay this amount of money because, even though it's restricted and it says I shouldn't be able to do it, I can go ahead and get it because we'd rather have this than that. So it's, it's problematic and that's kind of --

CONSTANTINE ALEXANDER: I think that's the sense you're getting from the Board, too. We haven't decided yet, but it is problematic.

CATHY HOFFMAN: I hear people, I spoke to someone who was thinking about buying the building, and they were actually talking to people in the

neighborhood about what people would like to see on that first floor, and different people were -- had lots of different thoughts about whether a cafe or whether there's any other way to deal with it, and in terms of commercial property. And I think, you know, Mark is someone who is a careful and Cambridge-oriented architect and people are thinking about it. And so, I'm -- I'm stymied about it actually, because I would like to preserve the building. It's just all so complicated about what's happening in our neighborhood. And unlike Carolyn, who maybe can find -- I have a parking lot that's part of my house, but I have found actually parking on Pleasant Street to be more and more and more and more difficult. So the parking situation is hard.

CONSTANTINE ALEXANDER: Thank you.

Anyone else wishes to be heard on
this matter?

(No Response.)

CONSTANTINE ALEXANDER: There
appears to be no one else.

The Chair would report that we are
in receipt of two letters. The first is
from Charles M. Sullivan, the Executive
Director of the Cambridge Historical
Commission addressed to our Board.

(Reading) I am writing with regard to the
request of JoJo Lu for Variances to
construct a second story addition to the
existing structure at 186-188 River Street
and convert it into a three-unit dwelling,
and for a Special Permit to modify the
parking setback requirements and
dimensions. The building at 186-188 River

Street originated as a two-story brick store with an apartment on the corner of Kelly Road in 1915. The original owner, Carmella Rinaldo (phonetic) operated a fruit store on the premises. The one-story section was added in 1923 by a new owner, Rogerio Arrow, A-r-r-o-w, who initially kept a variety store there. The other storefronts were occupied by a barber and a tailor, but fell vacant in the depression. Arrow's store became the River Street Market, which closed about 1970. An antiques dealer occupied the corner in the mid-1970s, and the property last changed hands in 1980. The building is not significant architecturally, but it is an important feature of River Street and it has intrigued people for many years including the needs in economic use if it

is to survive. And I think Mark Boyes-Watson's design for residential conversion is -- will allow that to occur with minimal interference with its characterful exterior. This is a worthwhile project that will preserve a significant asset for the community. I hope the Board will request the suggested Variance and Special Permit.

The second letter is from -- a joint letter from Matthew Ciborowski, C-i-b-o-r-o-w-s-k-i and Mary Hester, H-e-s-t-e-r. They -- I'm trying to see where they reside. It looks like 55 Kelly Road, No. 2. (Reading) To the Board: Thank you for the opportunity to comment on case number such-and-such. We live immediately adjacent to the proposed site with our apartment facing River Street and

the existing building. We are excited to see this structure rehabilitated and occupied, and having new neighbors will cut down on rough activity in the neighborhood, including the state of recent break-ins, and improve the pedestrian realm along this important stretch of road connecting Central Square with the Charles River. However, we unfortunately need to oppose the petition and Variance request in its current form. There are three reasons for this opposition:

One, the proposal does not include space for commercial retail occupancy. The current building is designed for and previously housed commercial space on the ground floor. Commercial uses are vital for vibrant communities and to bring foot

traffic and activity to the neighborhood.

The Cambridgeport neighborhood is better in the locations where mixed use buildings exist. This can and should be a key example of this.

Two, an FAR is requested that exceeds the existing allowable for the parcel. The current parcel is already very dense, and while we understand that increased density will assist in making the parcel more viable, this needs to be done in a way that is more sensitive to the neighborhood context.

Further, the Historical nature of the building emphasizes the need to expand in a way that is consistent with the existing brick structure.

Three, finally, the proposal is silent on the impacts to adjoining

buildings. For example, to the south of the building there is a one-story garage and a second-story deck. The plans do not currently show what will happen with these structures. These two structures are adjacent to our building, within 12 feet of our apartment's windows. More information on the effects to neighbors should be required in the permit application. Thank you for your consideration. We look forward to hearing your decision and look forward to working with the owners on developing the parcel in a way that benefits the neighborhood.

Please feel free to give our information to the developer so that we can assist in granting a common understanding to this important parcel.

And that's all she wrote.

Any final comments Mr. -- sorry, we have a hand up.

CAROLYN SHIPLEY: I have a comment. Those people are absentee landlords, and I'm not sure that they really have a sense of the neighborhood. So I wanted to throw that out.

CONSTANTINE ALEXANDER: Thank you. We try not to -- I do, I try not to characterize opposition or support based upon whether you're a tenant or an owner. You live there, you're a citizen of the city, you have a right to comment whichever way you want to comment.

ATTORNEY JAMES RAFFERTY: I would only note, Mr. Chair, the letter -- there seems to be some confusion on the author's part on the proposal involving the garage and the deck.

CONSTANTINE ALEXANDER: Right.

ATTORNEY JAMES RAFFERTY: I think it's pretty clear in the plans --

CONSTANTINE ALEXANDER: I think you're right.

ATTORNEY JAMES RAFFERTY: -- that they're going away. I'm not sure why that wasn't apparent to the letter writer.

CONSTANTINE ALEXANDER: I take your comment.

MARK BOYES-WATSON: And we since met with them in my office and reviewed the plans in detail with them.

CONSTANTINE ALEXANDER: But they have not withdrawn their letter.

MARK BOYES-WATSON: They did not withdraw and/or write a new one.

CONSTANTINE ALEXANDER: One more time and that's it.

RITA ERICSSON: The nuisance factor, the way the building is now, it's easy for somebody to go behind and do whatever they feel like doing back there, which probably influences the 55 which is looking out on that. But with the new plans, when you take the porch down and the garage away and put lighting along that side, that is going to disappear.

CONSTANTINE ALEXANDER: Thank you. I am going to close public testimony. I think you said you're finished, you concluded your comments?

ATTORNEY JAMES RAFFERTY: Yes.

CONSTANTINE ALEXANDER: Okay, so now it's time for us to make our decision unless the petitioner wants to continue the case.

So comments from members of the

Board?

TIMOTHY HUGHES: I personally am good with it. I think the tradeoff for the three units for the preservation works for me. I think it's good for the city. I wish I had known the building was only \$400, I would have bought it myself. But -- and I do think that -- two larger units here are not really suited to the property. I don't think -- if you put in two, three-bedroom units you would, you'd really be trying to attract a family and this is kind of a busy corner to raise kids on necessarily. I don't think, you know, whatever they sell the price, you know, the prices are on these units, I don't think it's going to drive this neighborhood over the brink. I think Cambridgeport already got to the million

dollar neighborhood a long time ago and I still don't understand that.

CONSTANTINE ALEXANDER: Strike that from the record.

TIMOTHY HUGHES: Strike that I don't understand part, because I do understand.

But I'm in favor of it. I'm in favor of the project.

JANET GREEN: I'm also in favor of it. I find -- I can't remember the neighbor who said it was handsome and harmonious, but I find the design that. I agree with Tom when he said it's like a missing tooth actually without that piece. I think the opportunity to really, you know, whether it's officially an historic building or not, it's a very attractive one. It's there, the plan is in place.

There's huge neighborhood support for this. So I'm in favor of this.

ATTORNEY JAMES RAFFERTY:

Mr. Chair, if I could just note and there was a mistake on my part not to, and I don't know if we get credit for this, but the earlier design, frankly, was a little more aggressive. It had head houses and roof decks, and we removed those because of the concern about height and to be as modest as possible. So that these would lend themselves very nicely to that. It would certainly make it more appealing in the marketplace. But after conferring with the client, sharing the Board's views on things like that, believe it or not, this does represent an attempt to scale back the amount of improvement even though that, that's easy GFA, right, because that

roof deck is below the third floor wouldn't be GFA. But we know what the Board's concern and the impact those could have on neighbors so we took those out.

CONSTANTINE ALEXANDER: I appreciate that. I think the concern you're hearing, at least from some members, is you haven't gone far enough. You did, you know, it's nice to say you came -- we had a grand, my words, grand proposal, give us credit for cutting it back. But, you know, I got to worry about straw men and, you know, maneuvering. And I know you would never maneuver, Mr. Rafferty, but maneuvering could happen, and that's my concern. I haven't decided how I'm going to vote to be sure. I am troubled as you can tell from my comments already. But anyway, enough from

me.

Anybody else want to comment?

BRENDAN SULLIVAN: I'm just thinking that, you know, a developer who sees a for sale sign and then decides to put a price in to buy the building has to What can I do with it? And probably consult with an architect, attorney, contractor, whatever, and they'll say what do you want to do with it? Well, convert it to residential because retail is not going to work there. And what are my costs? And so that's what governs how much you're willing to pay for the building. And as the lady said so rightfully, is that they're driving up the prices because the relators will say go ahead, pay it, and go down before the Zoning Board and they will give you what

you want basically in a nutshell.

Oversimplification, but then using this Board as a vehicle to justify the purchase price. And that's what I'm troubled by is that I'm not convinced. I haven't seen any, you know, looking under the hood, as to what the numbers are that absolutely, positively makes it imperative that this building be a three-family, and yet the alternative is to knock it down and put up a two family. Not as desirable in appearance obviously, but --

CONSTANTINE ALEXANDER: That's the -- you've captured my concerns as well. I mean, we've been pressing you for why it has to be three units. And frankly, I haven't gotten a direct answer. I hear a lot of fuzzy words and deflections of comments. I would like to

see some sort of analysis as to why it has to be -- economically it has to be three units. Because absent economic justification, I don't know why we should allow three units. That's my trouble. I do want to preserve. I do think what you want to do is good. I do want to preserve the existing structure. I don't think you're going to tear it down, because if you do, you're going to have a lot of other Zoning problems because you've got to start from scratch as Mr. Sullivan pointed out. That's why I'm on the fence. I don't think I've heard the case as to why this has to be a three-unit building.

ATTORNEY JAMES RAFFERTY: I'm sorry, does that suggest that it's less the GFA and more the unit count?

CONSTANTINE ALEXANDER: I'm going

to suggest I would like to see a proposal that is closer to complying with our Zoning Ordinance. I used the two unit versus three unit because it seems in my simplistic mind that's the closest way to get there. But any way that's doing something that's closer to our Ordinance than what you're proposing that still makes economic sense to go ahead and proceed with the property. Maybe it's not there, but I haven't been persuaded yet that it's not there.

MARK BOYES-WATSON: So, Mr. Chair, let me try -- so is the --

CONSTANTINE ALEXANDER: And I'm only one person by the way.

MARK BOYES-WATSON: If the purchase price is -- this is it, if the purchase price is over a million dollars,

and if you take the square footage that you have to renovate and you multiply it by 200, you actually well over a million dollars. So you are now -- you're well over with no profit at all, not having paid your architect or your lawyer.

CONSTANTINE ALEXANDER: You could be giving hypothetical numbers.

MARK BOYES-WATSON: No, these are real numbers.

ATTORNEY JAMES RAFFERTY: The purchase price is a matter of public record.

CONSTANTINE ALEXANDER: Why didn't you say it?

ATTORNEY JAMES RAFFERTY: Because to be candid, because I've come here and I've heard that that's not relevant to the Board's deliberation. I'm hearing frankly

for the first time --

TIMOTHY HUGHES: I have to say I'm a little uncomfortable with this approach because we've never have pressed them on numbers --

ATTORNEY JAMES RAFFERTY: We've been told your business --

TIMOTHY HUGHES: -- up to this point, this is the first time in my eleven years on this Board that we're looking for an analysis that actually asks them to come up, you know, show us the column, you know, numbers and I -- and we've never done that before.

CONSTANTINE ALEXANDER: I would disagree, Tim. I've asked for that a lot of times.

TIMOTHY HUGHES: Well, I've never heard it presented from that side of the

table.

CONSTANTINE ALEXANDER: I made the speech before, our job is to enforce the Zoning Laws, not to increase the value when developers --

TIMOTHY HUGHES: I understand that and I agree with it.

MARK BOYES-WATSON: I would say to Brendan Sullivan's comments, I mean we are not coming here routinely encouraging people into this position. In fact, I think the only time I've been recently here is on the difficult projects. You get the difficult ones when it's tricky and we need help because of the specifics. And so rehearsing the real numbers, you take one, one -- because I don't mind sharing them. Normally we don't. It's well over a million dollars paying. It's

well over a million dollars of renovation. And I don't know which members of the Board would like to come and purchase one of those units with the profit in two million four. So that's why we're here. We, we're asking for the relief because it's needed not because -- JoJo Lu's not a greedy developer. This is her first time developing. We're coming here to -- because we think we've got the best and we've -- we've actually internally pushed back and trying to hone it down to the minimum that is, you know, kind of a doable thing. So we really are not trying to hide anything about this development. Development is -- everything's on the table here in the request that we have here.

ATTORNEY JAMES RAFFERTY:

Mr. Chairman, you can't help but notice, and context matters here, with all due respect, there is a three-family house next-door on a smaller lot. So I go back to my earlier point. There isn't a lot containing two units. This is eight units. This is six units. So the footprint and size of these buildings aren't even remotely close to Zoning, and I'm not suggesting that gives them a free pass, but it does suggest that in terms of context and prevailing density of what's being proposed here in three units, and I think that's really the test here, because if the lot were slightly bigger, we could have a third unit. And it's not. And it would have nothing to do with the economics, but the lot is 500 square feet too small to support a third unit. And

that's the hardship that we're faced with because of the way the build something sited on that. We're talking about the location of the building, the size of the building. We're suggesting that the Ordinance allows the Board to make a finding based upon the integrity of the district to suggest that a third unit on this lot, which allows for two as-of-rights is not -- does not violate the integrity of the Ordinance and that's the case. I agree, I have never frankly been asked to share pro formas -- and I have clients all the time who tell me you tell them how much I'll be paying the city of Cambridge in taxes when I build this big building, and I always say, you know what, they don't care about that. That's not relevant. So I have never frankly

been encouraged in making a presentation to share pro formas with the Board, but the acquisition cost is a matter of public record. I think it's slightly over a million dollars. It was marketed -- it was on the market. That gives you some order of magnitude, and there's a variety of level of understanding of construction in collectively on the Board here, so you can start to do that math and see. And I have tried not to say it's three units or we tear it down, but I do think it becomes part of the long-term solution. So we're saying three units here. There's a logic to the third unit because once you, once you go to the second floor, you put the bedrooms up there and you get three units, you get three door fronts, you get three stops stoops onto the street, you have a

nice little boutique little building, and you've got neighbors supporting it. And the one abutter who is a tenant but has a right to express his view, is talking frankly more about retail and market with them and I won't characterize anything beyond that. But it's unique and Zoning Variances exist to accommodate unique circumstances. I can't think of another building that has these unique characteristics that has enjoyed the support of Mr. Sullivan in a way that's quite enthusiastic, and also some neighbors who have longstanding history in preserving the quality of life in their neighborhood. And they've come here tonight and they've told you pretty much uniform, they understand Ms. Hoffman's comment about the economics of all this.

But, you know, any relator who tells people come down here, I mean I tell clients all the time, don't be doing that, because that -- one might suggest there might have been the good old days where some of that went on, but there was always frankly a recognition that there is, there is a net outcome here that's a positive and a plus. And if it improves the overall neighborhood and does no harm, and frankly I feel this is such a building and such a conversion, that the Board has a history of being reasonable. And I think this is a reasonable approach and we earnestly hope that we could proceed with something here that --

CONSTANTINE ALEXANDER: Just to correct the record. I didn't, I didn't -- I don't expect you to have you

give me the numbers are or pro forma. I asked at one point, more than once, a simple question, can this thing be developed in a different way in a way that there's a profit can be made by the developer in this structure? A way, a different way being a way that's closer to complying with our Ordinance and I kept getting dodgey answers. That's the reason I kept pressing. I don't need to know how much you paid. If you just represented to me or to this Board, yes or no or then I --

ATTORNEY JAMES RAFFERTY: But I think in fairness, it's not a yes or no answer. I'm careful, I don't want to mislead you. I can't sit here today and say no. We all know that it's a better project and a better outcome and probably

would lead to a better design and better product if there was a third unit. No. And that's why I agree Mr. Sullivan. We're not coming here and saying it's three units or nothing. We think there's a logic to three units, and I wasn't doing a bait and switch thing, we scaled it back. But the improvement that we're doing here or the addition that we're doing here, there's a certain logic to it. It's not even the full footprint of the one-story element that was pulled back. That was pulled back four feet. If it was pulled back eight feet, if it would be closer. I'm not sure who that setback would benefit on River Street when you're up against, you know, the firehouse and the other buildings tower over it. So, you know, you're always concerned about

bulk and mass, shadow, air, light, all of that. None of that would be happening with this. So that's -- we did not come here lightly. I want to assure you, because I have too much respect for and too much understanding -- I always tell me why do I -- I have a fair amount of business not because I'm smarter than anyone else, I'm just there a lot so I've picked up certain sensibilities and preferences and I can share them with clients. We knew this completely going in that this was a unique situation.

CONSTANTINE ALEXANDER: Thank you. Tom, you haven't spoken but you did express support earlier.

THOMAS SCOTT: Yes, I agree this is a unique situation that needs to be looked at separately and differently. You

know, we don't have a slam dunk policy here with people come looking for this type of thing, but I think this particular site, the building, the expressions of the neighbors to save the building, I think the ability to be able to do that by adding the third unit, if that's truly, you know, the financial matter, than I'm in favor of the project.

CONSTANTINE ALEXANDER: I think we're ready for a vote.

Ready for a vote?

The Chair moves that this Board make the following findings with -- I'm going to do the Variance first, obviously, with regard to the Variance being sought.

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner.

Such hardship would be that the petitioner would not be available to redevelop this building in its current form which is historically very pleasing without relief.

The hardship is owing to the shape of the structures. Mainly it's an older structure on the street on a relatively small lot, all going back to before Zoning was enacted.

And that relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent and purpose of the Ordinance.

In this regard the Chair would point out that this proposal has the support of most of the neighbors to the property. By know means unanimous.

That the project has the support of

the Historical Commission or at least Mr. Sullivan.

And that the proposal would be, would allow the city to preserve an architecturally interesting building. I'll use Mr. Sullivan's words, something like that. That's to the benefit of the community.

So on the basis of these findings, the Chair would move that we grant the Variance being sought on the condition that the work proceed in accordance with the plans prepared by Boyes-Watson Architects. They're dated 12/29/14. They're numerous pages. The first page of which is G001, and that first page has been initialled by the Chair.

All those in favor of granting the Variance on this basis please say "Aye."

(Aye.)

(Alexander, Hughes, Scott, Green.)

CONSTANTINE ALEXANDER: Opposed?

(Sullivan opposed.)

CONSTANTINE ALEXANDER: Variance
granted.

ATTORNEY JAMES RAFFERTY: Thanks
very much.

Does that cover the relief
associated with the parking?

CONSTANTINE ALEXANDER: I'm going
to take that up next, the Special Permit
that's the case.

ATTORNEY JAMES RAFFERTY: No, we
need a Variance for some of the
dimensional aspects of the parking space,
too. They were in the front setback.
That's in the Variance application.

CONSTANTINE ALEXANDER: Yes, in

the Variance application.

ATTORNEY JAMES RAFFERTY: Yes.

CONSTANTINE ALEXANDER: And the relief you wanted is reflected in the plans?

ATTORNEY JAMES RAFFERTY: Yes.

CONSTANTINE ALEXANDER: Now let's go to the Special Permit.

MARK BOYES-WATSON: Did we, did you reference the date of the drawings there? Because they are the updated ones.

CONSTANTINE ALEXANDER: The date I see on the drawings is 12/29.

MARK BOYES-WATSON: Thanks.

CONSTANTINE ALEXANDER: Special Permit.

ATTORNEY JAMES RAFFERTY: That's so easy I'll let the architect do it. Is it the windows?

MARK BOYES-WATSON: The parking.
Side yard. Side yard setback.

ATTORNEY JAMES RAFFERTY: The side
yard setback can be addressed to Special
Permit. The provisions in six for the
layouts so we're closer to the side yard.
The other dimensional relief was contained
in the Variance for the parking.

SEAN O'GRADY: Yes, I'm not -- are
you looking for me for an answer?

ATTORNEY JAMES RAFFERTY: Our
application asks for --

CONSTANTINE ALEXANDER: I thought
the Special Permit was -- all parking was
Special Permit. Maybe I'm wrong.

ATTORNEY JAMES RAFFERTY: No, no.
Some aspects of it are by Special Permit
and some are by Variance.

CONSTANTINE ALEXANDER: Okay. We

granted the Variance, so whatever the parking that needed a Variance, you've got it.

ATTORNEY JAMES RAFFERTY: Right.

CONSTANTINE ALEXANDER: Now let's talk about what you need a Special Permit for.

ATTORNEY JAMES RAFFERTY: Right. Well, I've heard it said here that if you got a Variance for parking, then you might not need the Special Permit for parking.

Right? So the Special Permit, the setback for -- the five-foot setback requirement can be waived by Special Permit. There are other dimensional characteristics, size of space, backup alley, and all that, that we don't have, including the parking in the front setback which cannot be waived by Special Permit. That was

addressed by Variance.

CONSTANTINE ALEXANDER: Yes, it was.

ATTORNEY JAMES RAFFERTY: To the extent that we need the separate Special Permit, we applied this way because it's a belt and suspenders, but the Special Permit for parking applies to the side yard setback. So we would -- we were asking for that relief.

CONSTANTINE ALEXANDER: Okay. I don't think there's anything else you want to say about that.

ATTORNEY JAMES RAFFERTY: No.

CONSTANTINE ALEXANDER: No. Anybody want to speak on the matter of Special Permit for parking on this site?

(No Response.)

CONSTANTINE ALEXANDER: No one wishes to be heard.

I read all the letters in the file. The two letters that I read make no reference to the parking. Special Permit.

I'll close public testimony. Any discussion on the Special Permit or go to a vote?

TIMOTHY HUGHES: No, I'm good.

JANET GREEN: Good.

CONSTANTINE ALEXANDER: The Chair moves that with regard to the Special Permits being sought we make the following findings:

That granting this relief, which is basically parking setbacks in the side yard will not cause congestion, hazard, or substantial change in established neighborhood character.

That the continued operation and development of adjacent uses will not be adversely affected by granting the relief.

No nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant of the building or the citizens of the city.

And that the proposed use will not impair the integrity of the district or adjoining districts or otherwise derogate from the intent and purpose of this Ordinance.

In this regard the Chair would note that the relief on parking is modest in nature. It is by virtue of a Special Permit which by its terms is effectively presumptively we should grant it unless we find issues that we shouldn't. It's very different from a Variance.

And no issues have been identified.

So I move on behalf of the Board
that we grant the Special Permit being
sought on the condition that the work,
again, proceed in accordance with the
plans referred to in the Variance that we
granted.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in
favor.

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

ATTORNEY JAMES RAFFERTY: Thank
you very much.

* * * * *

(9:10 p.m.)

(Sitting Members Case #BZA-005809-2014:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: The Chair
is going to call case No. 005809, 7
Kirkland Road.

Is there anyone here waiting to be
heard on this matter? You know by now,
give your name and address.

CORY ZIGLER: I'm Cory Zigler. My
address is 7 Kirkland Road.

So we have an application for a
Variance and a Special Permit for two
things. The Special Permit is for
a -- moving of a door on the back of the

house that's actually already been moved.

So it's sort of retroactive.

CONSTANTINE ALEXANDER: It was moved because you assumed that were going to be able to do the deck as I understand it. It's not being critical.

CORY ZIGLER: No, no, yes, that's right. And actually we -- this was some miscommunication. We thought that we had gotten the permission to do the door. I mean I have the permits. The permits that our builder had said that he sent to Inspectional Services right here that clearly showed the inspector came to the house. So we thought -- and we didn't know that hadn't happened as planned until we asked for the deck. And so that's the Special Permit.

And the deck, the Variance for the

deck is to put a deck off of that door now that is against the Variance because of the setback on that side of the house.

CONSTANTINE ALEXANDER: The issue on your Variance is that under our Ordinance you have to have ten feet, at least ten feet of space between two structures.

CORY ZIGLER: Yeah.

CONSTANTINE ALEXANDER: And you only have a roughly about three in the deck, which is considered part of the structure.

CORY ZIGLER: From the deck to the garage.

CONSTANTINE ALEXANDER: Three and a half feet from the garage. Right now, this is important I think, your building before the deck is three and a half feet

from the garage.

CORY ZIGLER: Right.

CONSTANTINE ALEXANDER: So you're just going to be more building structure --

CORY ZIGLER: Of the same distance.

CONSTANTINE ALEXANDER: Same distance.

CORY ZIGLER: Yes. So we had originally proposed something that abutted the garage, push it back to the three feet.

CONSTANTINE ALEXANDER: Which pushes it back.

CORY ZIGLER: That's correct, that's correct. I'm aware of that.

CONSTANTINE ALEXANDER: So, I mean -- and I just observe that the reason

for the separation of buildings is safety really. If you need to get fire equipment back between the structures and we don't -- that's the issue's there already. You can't -- you got a three and a half foot problem. And having a deck back there, particularly a deck that's on the ground, is not going to, in my judgment, going to increase the fire hazard or increase the safety issue. So it strikes me as a very modest piece of relief you're seeking.

BRENDAN SULLIVAN: So the deck is going to be three and a half feet off the garage?

CONSTANTINE ALEXANDER: Yes.

BRENDAN SULLIVAN: And well, my recollection is that you basically kind of -- there are stairs next to the house

going down the --

CORY ZIGLER: Yeah, there were stairs going next to the house going --

BRENDAN SULLIVAN: My thought was that --

CORY ZIGLER: The deck part of the garage.

BRENDAN SULLIVAN: -- but in the original proposal the deck was going to be attached to the garage?

CORY ZIGLER: Correct.

BRENDAN SULLIVAN: And that there were stairs up and then you could have actually gone across the deck and then down the backyard.

CORY ZIGLER: That's right. You could have gone through by going up the stairs and down the deck.

BRENDAN SULLIVAN: So free access

could have been down the back?

CORY ZIGLER: Right.

BRENDAN SULLIVAN: Now we have this three and a half foot -- I consider it a barrier in a sense.

CONSTANTINE ALEXANDER: But you still have to get -- before you get to the barrier, you still have to squeeze between the existing building and the existing garage. The three and a half -- the corner of the existing building and the corner of the --

BRENDAN SULLIVAN: But wouldn't that be better served to have stairs there so that you could then go up on to the deck and then at least you could go, you could transverse all around that?

CORY ZIGLER: It sounds like what you're describing is what we had proposed

originally.

BRENDAN SULLIVAN: Correct.

CORY ZIGLER: And that now there's just that passage is there at ground level. You just be able to walk between the deck on one side and the garage on the other side, and the same width that was already there.

BRENDAN SULLIVAN: Right. And I'm just saying that area I think would be better served to have stairs and a deck there because then you have more space to walk around.

CORY ZIGLER: So you wouldn't get caught in between you're saying.

BRENDAN SULLIVAN: Would not get caught in between.

CORY ZIGLER: I see what you're saying.

BRENDAN SULLIVAN: That would be my thought. So I think that, I was all for the original proposal.

CONSTANTINE ALEXANDER: Right. They want to go with this one. And we could say go back and go to the original one and continue the case.

BRENDAN SULLIVAN: Which one would you prefer?

CORY ZIGLER: That's an excellent question. Can I make that decision without my wife here?

CONSTANTINE ALEXANDER: That's your problem, not ours.

BRENDAN SULLIVAN: Make an executive decision.

CORY ZIGLER: Well, the executive decision is that the way that we originally proposed it, you know, this is

sort of an awkward three foot space. To have it be deck I think would be preferable to us, but we're happy to not have it not that way if it poses some safety issue.

BRENDAN SULLIVAN: It's your house, but I think that functionally it would function better to have that with stairs.

CORY ZIGLER: Yeah.

BRENDAN SULLIVAN: So that you just go up on to the deck and you can go in the back and you can go all around there as far as emergency equipment and emergency personnel far better than trying to squeeze through with all this other stuff.

JANET GREEN: That's right.

CORY ZIGLER: That would, I think

that would make us perfectly happy.

TIMOTHY HUGHES: Do you have a plan here that reflects that?

CORY ZIGLER: Yeah. Well, so that was the plan that was submitted with the previous application that had the stairs. You can see the picture, you can see the space.

TIMOTHY HUGHES: The one we're going to withdraw as soon as we pass this one?

CORY ZIGLER: This is, yeah. I think that that's right.

TIMOTHY HUGHES: I get it.
Can we swap the plans out?

CONSTANTINE ALEXANDER: That's exactly what I'm thinking about.

CORY ZIGLER: I mean, yeah, to go with the one that has the steps between.

TIMOTHY HUGHES: I'm fine with anyway you want to go. But it's like we need a plan in the file in order to, you know, give you the Variance on it so that he can initial it.

CORY ZIGLER: I don't have on me the original.

TIMOTHY HUGHES: We can take -- if it works, we'll take it from the other file. Can we do that?

CONSTANTINE ALEXANDER: We'll take it from the other file.

SEAN O'GRADY: Just leave one behind.

TIMOTHY HUGHES: Just two of them?

JANET GREEN: What is this? Yes, it goes like this and then it comes over to here; is that right? With the stairs that come down here?

CORY ZIGLER: Yes, this is what?

JANET GREEN: It comes over here and over here and then these are the stairs?

CORY ZIGLER: Yeah, and so then these are stairs.

TIMOTHY HUGHES: I see. Yeah, I like it.

CORY ZIGLER: This is the awkward passage. So instead of the deck just continuing here and having this three-foot wide passageway along the length of the deck, it would be stepped up here to the level.

BRENDAN SULLIVAN: It would be a leaf collector and a dirt collector and just a collector.

JANET GREEN: Right.

CORY ZIGLER: Right.

CONSTANTINE ALEXANDER: These are
the plans you would prefer?

CORY ZIGLER: Yes.

CONSTANTINE ALEXANDER: Enough
said.

I'm going to open the matter up to
public testimony.

Is there anyone here wishing to be
heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: No one
wishes to be heard.

The Chair would report there is
nothing in our file, no letters from
neighbors of the like.

CORY ZIGLER: There were letters
in the support from the neighbors.

CONSTANTINE ALEXANDER: I didn't
see any in the file though.

TIMOTHY HUGHES: Maybe in the old one.

CORY ZIGLER: I have one on them on me from one of our neighbors.

CONSTANTINE ALEXANDER: Okay. It's your representation that the letters are in support?

CORY ZIGLER: Yes. JANET GREEN: There were several in support.

CORY ZIGLER: Yes. The two neighbors and a letter from someone at Harvard who is our rear neighbor.

CONSTANTINE ALEXANDER: All set. I'm going to close public testimony. Discussion or are we ready for a vote?

TIMOTHY HUGHES: Ready.

JANET GREEN: Ready.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that with regard to the Variance, we're taking that first, being sought, that this Board make the following findings:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner. Such hardship that the petitioner would be denied the ability to have a desirable deck in the rear yard of their structure.

That the hardship is owing to the shape of the lot and the non -- the fact it's a non-conforming building and garage which causes the separation of the building that's at issue to the subject of the Variance.

And that relief may be granted without substantial detriment to the public good or nullifying or substantially

derogate from the intent and purpose of
the Ordinance.

In this regard the Chair would note
that the relief being sought is modest.
There appears to be no neighborhood
opposition.

And, therefore, the Chair moves that
we grant the Variance being proposed on
the condition that the work proceed in
accordance with the plans -- two pages.

Well, two pages prepared by FAR Group.
They appear to be dated 5/11/14, both of
which have been initialled by the Chair.

All those in favor, please say
"Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in
favor. Variance granted.

(Alexander, Hughes, Sullivan,

Scott, Green.)

CONSTANTINE ALEXANDER: Now the Special Permit. And you've already addressed that. Basically in anticipation of doing the deck work you moved the door, the rear door, and that's all you did. And because it's a non-conforming structure, this requires a need for a Special Permit which you did not realize at the time you did the door.

CORY ZIGLER: Well, I think we did realize --

JANET GREEN: He thought they had it.

CORY ZIGLER: I thought it had been given to the --

CONSTANTINE ALEXANDER: Either way. It was inadvertent and innocent.

CORY ZIGLER: Right.

CONSTANTINE ALEXANDER: Okay.

Questions from members of the Board?

CORY ZIGLER: And there was a door on that side of the house already, we just moved it.

CONSTANTINE ALEXANDER: Just moved it over, that's right. Relocation of the door not the creation of new one.

Anyone wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: No one wishes to be heard.

Again, we have nothing in the files on the door. Particularly nothing in that position.

So, the Chair moves that we make the following findings with regard to the Special Permit being sought.

That what will be done, the proposal will not impact traffic generated or patterns of access or egress that would cause congestion, hazard, or substantial change in established neighborhood character.

This new door would be the rear of the structure and it is the purpose basically of accessing the deck.

That the continued operation of adjacent uses will not be adversely affected by the nature of the proposed use. Again, we're just talking about moving the door from one area to another, and that in no way impacting on the privacy of neighbors, certainly the neighborhood -- the abutting neighbor has not objected.

No nuisance or hazard will be

created to the detriment of the health, safety, and/or welfare of the occupant or the citizens of the city, and that what is being proposed will not impair the integrity of the district or adjoining districts or otherwise derogate from the intent and purpose of this Ordinance.

Again, the basis for meeting this requirement would be the fact that the relief is being sought is rather modest in nature.

Therefore the Chair moves that we grant the Special Permit being requested on the condition that the work proceed in accordance with the plans. These are the plans -- this door's not in the old plans. This is the new plans, right?

CORY ZIGLER: The door's in both plans?

CONSTANTINE ALEXANDER: Both
plans?

CORY ZIGLER: Yes.

CONSTANTINE ALEXANDER: Okay.

And in accordance with the plans
previously approved in connection with the
Variance.

All those in favor of granting the
Special Permit say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in
favor. Granted.

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

CORY ZIGLER: Thank you.

* * * * *

(9:20 p.m.)

(Sitting Members Case #BZA-003934-2014:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: You have
the old case. Do I hear a request?

CORY ZIGLER: Yes, you do.

CONSTANTINE ALEXANDER:
We're -- I've got to call the case first.

The Chair will call case No. 003934,
7 Kirkland Road.

Is there anyone here wishing to be
heard on this matter?

CORY ZIGLER: Cory Zigler, 7
Kirkland Road.

CONSTANTINE ALEXANDER: And
Mr. Zigler has requested a withdrawal of
this case.

The Chair moves that we grant the
requested withdrawal.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in
favor. Case withdrawn. Now you're done.

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

* * * * *

(9:22 p.m.)

ELECTION OF CHAIR AND VICE CHAIR.

BRENDAN SULLIVAN: You wanted to do the voting of the Chair.

CONSTANTINE ALEXANDER: This Board elects officers, a Chairman and a Vice Chairman. So elections are open.

Do I hear any nominations?

BRENDAN SULLIVAN: I would nominate Constance Alexander for the ensuing year.

TIMOTHY HUGHES: Second.

CONSTANTINE ALEXANDER: I will withdraw my name if there's anyone else wishes to be Chair. I've talked enough.

No? Not yet?

Okay. I accept the nomination.

Any other nominations?

(No Response.)

CONSTANTINE ALEXANDER: I'll move that nominations be closed.

All in favor of electing Constantine Alexander as Chairman for the ensuing year and until a successor is elected and qualified, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Four in favor.

Do you vote?

DOUGLAS MYERS: I would vote if

you need me to.

CONSTANTINE ALEXANDER: I guess now I'm elected Chairman.

Now the nominations are open for election of a Vice Chairman for the ensuing year.

Do I hear any nominations?

BRENDAN SULLIVAN: I would nominate Tim Hughes to be Vice Chair for the ensuing year.

CONSTANTINE ALEXANDER: Second.

JANET GREEN: Second.

CONSTANTINE ALEXANDER: Any other nominations?

(No Response.)

CONSTANTINE ALEXANDER: The Chair moves that nominations be closed.

All those in favor of electing Tim Hughes as Vice Chair of the Board for the

2015 and until the successor is elected and qualified, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Four in favor. And Mr. Hughes abstains. Done.

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(9:25 p.m.)

(Sitting Members #BZA-005719-2014:
Timothy Hughes, Brendan Sullivan, Thomas
Scott, Janet Green, Douglas Myers.)

TIMOTHY HUGHES: The Chair will call case No. 005719, Vice Chair.

79 J.F.K. Street.

BRENDAN SULLIVAN: Is there a letter from the planning?

JANET GREEN: It wasn't there when

I was there.

MARK VERKENNIS: I have it here.

There's a decision and a brief memo.

JANET GREEN: Here it is.

TIMOTHY HUGHES: Whenever you're ready.

MARK VERKENNIS: We're ready.
I'll start off. My name is Mark Verkennis. I'm with Harvard Planning and Project Management and tonight we're here with the Kennedy School. They are proposing a development on their Cambridge campus. It's going to add 77,000 square feet of new gross floor area. The Cambridge Planning Board approved this project, the Special Permit for the project back in November of this past year. They also, you should be in receipt of their decision and also a letter

indicating their support for the Variances that we are requesting this evening.

The new development that is being proposed tonight is consistent with prior Board of Zoning Appeal decisions that related to future development on the Kennedy School campus. Tonight we are looking at one of the sites that does sort of fill in some of the missing teeth on the campus. So there were prior Board of Zoning Appeal decisions pertinent to that. It's also -- the project is also consistent with all of the Cambridge requirements of the Zoning Ordinance with the exception of three items that we're seeking Zoning relief for this evening.

One concerns a Variance for the side yard setback at the west building which is one of the buildings that is sort of

filling in one of these missing teeth on the campus, if you will. It allows a setback that's consistent with the existing pattern of development, and is also, again, consistent with prior Board of Zoning Appeal decisions.

A second Variance that we're seeking pertains to the proposed height of the loading bays in the new loading facility.

And finally we're seeking a Variance for the width of a relocated curb cut on Eliot Street. That curb cut will access a new below grade loading facility that will serve the campuses.

With that brief introduction I'd like to turn it over to John Haigh who is the Executive Dean at the Kennedy School who can tell you a little bit why this project is important to the school.

JOHN HAIGH: First of all, thank you. And I appreciate it. I'll try to be reasonably brief since you've been working through a number of cases.

What we thought would be useful is give you a sense of why we're doing this and what we're trying to accomplish. In particular we're not doing this because of plan to grow the campus or grow the student body. We do not plan to increase student size. What we really are focussed on are starting with the sense of strategic objectives, and those objectives are obviously around our teaching mission, our research mission, and our sense of building community. And what do I mean by that?

On the teaching side, we need to have a new kind of structure of classrooms

because our intent and desire is to move what are lectured, traditional lecture kinds of activities out of the classroom, more maybe more potentially even to on-line kinds of activities so that in the classroom you end up spending a lot more time debating, discussing issues, it's more experiential learning and be more problem solving in the classroom. That requires a different kind of classroom than we currently have in some instances. So we're building four classrooms we call them flat flexible classrooms that enable -- you can be in a group, and you can break into small groups, so that's a key component of what we're trying to do or how we change our teaching methods.

The second piece is really trying to build a research capability, and I always

challenge people, you know, we deal with public policy issues, we focus on the major issues facing the world, facing the country. And I challenge anybody to find a single public policy problem that somebody can solve with a single occupant of discipline. An economist can tell you what the best tax is on gas if you want to address, you know, the social cost. But they can't tell you necessarily what the political process is to resolve that or whether it's passable through Congress. You need political scientists. You need -- so what we want to do is try to with this effort, build a campus that allows that kind of interaction between faculty and between disciplines, between political scientists and economist, so we're building programatically what we

call skunk works which are places where people can meet across disciplines to kind of create that either planned or even unplanned interaction between these different disciplines to help solve these problems.

JANET GREEN: What did you call that? What was the word?

JOHN HAIGH: We call it a skunk works.

JANET GREEN: Skunk works.

JOHN HAIGH: Skunk works. Some place where people can get together and brainstorm ideas and address problems. Because problems get solved across disciplines in multidiscipline.

The other area where we really want to focus is we want to be in the world of practice. So that means how do we bridge

from academia into the world of practitioners. And so the skunk works, if you will, enables us to bring people in to have those kinds of conversations. So, for example, we do a new members of Congress program, and we bring the new members in and they interact with our faculty. We don't have the best space in the world to do that right now. This adds programmatic space that's time and flexible that enables us to do that as well. And then the third piece is really building things that strengthen community. We see ourselves -- when we think of the values of the Kennedy School, we believe in the process of public discourse and debate and dialogue about the major issues of day. So to do that we want to keep the campus open. We have forum events. I don't know

how many of you have been or heard about forum events. But maybe a Joe Biden event, those are open to the public. We invite the public to come in and we want to maintain that open sense of discourse that civic in a built around public discourse. We want to create an environment that invites that engagement and discussion. As we were looking at the campus and we were thinking about this project and in an ironic way the place we started, and you'll see in the diagrams, was not necessarily with the buildings, but it was with courtyard because the courtyard starts to become a core unifying mechanism to both build that open discourse, build a campus that has a little more porousness to it so it's easiest for the public to connect with

that along with the Kennedy School students and faculty and staff. And then build from that courtyard out to integrate the campus into a whole campus as opposed to the kind of hodgepodge of buildings that exist today. That's the purpose.

Like I said, it's not to add more students. We'll keep the student body roughly the same, the faculty size roughly the same. It really is to meet those programmatic objectives that are teaching better research and better community.

With that hopefully that gives you enough. I'm happy to answer questions if you've got them specifically, but I think you wanted to hear about the Variances.

Graham Wyatt from an architectural firm Robert A.M. Stern is here to walk you through what we've done and what the plan

is and the Variances and we can answer any questions you have.

GRAHAM WYATT: Great. On to the pictures. I have more than three decades that I've known the Kennedy School, I've always felt that there was a part of Cambridge and the Harvard campus that was not completed and there was a clear intention in the original buildings of what the complete form ought to be, but the, there always were these missing teeth as Mark has referred to them. So it's actually an honor for us and for me to be helping to complete the form which has been developing over a period of four, almost five decades, in addition to honor of being able to fill the programmatic needs the Kennedy School needs.

So tonight what I'll do is give you

a little bit of background. A little bit of background of what exists right now and then talk about the three Variances in question and what constitutes the hardship in each case. Now, first here is the form of the Kennedy School as it exists right now. The orientation of the Charles River is up here. This is J.F.K. Park, and Harvard Square is down the lower left. And the school is developed as a series of buildings built over the decades. The first is the Littauer Center which is located facing the park and facing J.F.K. Street from 1978. Pushed fairly close to the park boundary and fairly close to the property line along J.F.K. And then subsequently Belfer building which visually for most people is simply an extension of the Littauer building and

Rubenstein building from 1986. Same, extending the idea of the Littauer building. And then finally in 1990, the construction of the Taubman building which is the only building which is in most people's minds freestanding, but the intent of it is clear to complete the quadrangular form of the site which is consistent with the pattern of quadrangles and the courtyards and the Harvard campus, but particularly with the river houses, of the idea of having buildings fairly close to but not right on the property line with a landscape buffer along the edge and then maintaining a large courtyard or the yard at the center.

One very important existing condition on the site, though, that is really a generation definer for people I

found in Cambridge, do you know this or not? The site was previously the MBTA rail yard before the rail line was extended beyond Harvard Square. And the trains would pull here and they would not only be stored here, but they would be serviced here. Prior to that much of this was wetland. So when these facilities were built, the MBTA rail yard was built on top of almost a thousand wooden piles which were driven down into the mud and a concrete slab. Some parts quite thick were built on top of that. These are photographs from 1910 and then 1970 when that rail yard was in operation. All of that slab and the piles still exist, and this is very relevant to a couple of the issues that we're talking about, two of the three issues tonight. The slab

exists. It's about ten feet below street level, and the piles and the slab for a variety of complicated technical issues should remain in place.

So what is it that we're actually proposing? This is more or less the same view you saw moments ago. This is J.F.K Street. Sorry, this is J.F.K. Street on this side or Harvard Square. The Littauer building, the Belfer, and the Rubinstein. And the proposal is to insert the major portion of the program which John describes within the southern portion of courtyard, and to create immediately behind it a big gathering space which would be adjacent to the forum. The forum is located in here.

Now there are two other components, though, of the building. One is

the -- we'll refer to it as the west building. It's two floors of occupied space raised above a one-story opening. Open air archway that would lead from the walkway, the J.F.K. corridor down the park, and from that walkway into what we're calling the Kennedy School yard, courtyard. And I will show you a photograph in the moment there is clearly no access there right now because there's an existing retaining wall which is between five and eight feet tall which dates from the time of the MBTA rail yard. And then on the other side of that wall is a ten-foot drop down into the courtyard. So this is an opportunity to put some of the program along the walkway, but largely to open the building and the courtyard from the walkway and from the west.

Now the second building, which is similar in its function and arrangement is called the gateway building. And that faces north on Eliot Street. And it also has two floors of occupied space which in this case are raised two floors up, so that they connect the existing floors which are currently disconnected in the Taubman building and the Belfer building, but they allow a large opening, 45 feet wide, two stories high so that members of the public and members of the Kennedy School community can walk from Eliot Street into the yard.

Now final component of all of this plan, which is really important, is that the courtyard as it exists right now which has parking in it, and it has an open air surface area in it, and it has a certain

amount of lawn and recreational facility, is all pushed nine to ten feet below the street level. It's more or less down at the level of that old slab of the MBTA rail yard. Now, this makes it very off putting from the street. It feels like you're going down a steep slope into a loading dock and the whole courtyard is down below you. So the most essential change to the central courtyard is that the loading dock facility will be placed below it and capped over with a new landscape courtyard, which means that all of the service functions, the parking and the loading dock, will for all intents and purposes go away, not be visible. The loading dock will be below and the courtyard itself, the Kennedy School yard comes up to the street level and is

accessible from the west and is accessible from the north.

Here then is the same idea, but shown in brown. The areas that are shaded in brown are portions of the new building as they exist at ground level, street level. So this is the south building. That's the most significant part of the program which is located at the southern end of the courtyard. This is a portion of the west building with the large open air arched gateway from the JFK corridor on the west, and here are two portions of the gateway building as they come down to the ground with the large two-story high openings that allows people to get from Eliot Street into the yard.

And most of the loading dock, which I referred to a moment ago, is located in

this area below the landscaped courtyard so that it does not have to be below the building which there are various (inaudible).

THOMAS SCOTT: Is that what the curb cut's for the loading?

GRAHAM WYATT: Yes, the curb cut is for the entrance into the loading dock. Currently there is a curb cut and an open area that leads down the surface, and we would be relocating that slightly to the east and using it to go into a doorway which will lead down a ramp below grade.

I'll leave this up.

So I also have, I won't dwell on this, this is a reference. There is a plan at each level of what I just described making the point that below courtyard are located service functions,

and what is shown in yellow is the loading dock itself. Trucks come down from the north on a ramp and then they can maneuver and serve the building, and all the maneuvering is entirely enclosed within that loading dock. And at the levels, the levels above the open archway, the buildings are connected at the third and the fourth level.

So on to the three Variance requests.

The first is the west building as it faces J.F.K. Park walkway. And the orientation here is different, I apologize for that. The J.F.K. walkway is at the bottom of the page, and the portion of the new Kennedy School yard is located here in the upper left-hand corner.

The existing Taubman building and

the existing Rubenstein building are both pushed back by approximately eight feet from the property line. Rubenstein was built first and it's got some ins and outs, and it averages around eight feet. Taubman was the last building that was built. It's pretty consistently eight feet back. And when Taubman building came in front of the BZA for its Variance request, which was granted, there was a condition placed at that time that future construction between the two of them would at a minimum be pushed back by the same eight feet so that it would respect the line of the buildings on either side.

The property line as shown here in gold, right now there is no entrance from the walkway in the courtyard. This is where that five to eight foot tall wall is

located currently. The red line is the eight foot setback line. And the frontage of the proposed building in this area would at a minimum be set back by about eight feet. We're showing an enclosed bicycle structure there which is light structure, metal and glass, and it extends out to more or less the line of the Taubman building which is the eight feet previously required when the Variance was granted there.

The rest of the building, though, is pushed back by more, about 23 feet back. And we feel that's appropriate and that was deemed to be appropriate by the Planning Board. And then there is the large opening in the middle that brings people into the courtyard.

Now, the Variance here, though, is

that if you were to follow the letter of the Zoning Regulation, the building would consist of Rubenstein, Taubman, and the west building considered as a single building. And then if you run the setback formula, because the two of those have previously been granted their current location as built, the required setback for the west building would be 72 feet, not the eight-foot minimum which was previously recommended. And 72 feet is shown here by the blue line.

Now the hardship in this case is that the building which completes the perimeter of the site and which allows for the courtyard at the center of the site, so consistent with the urban design principles that have been followed for 50 years here and consistent with the urban

design pattern here at Harvard, would be violated because the west building would have to be pushed right back into the yard. So that would be a hardship for the Kennedy School given as John described the importance of the yard. Frankly, also I think it's a hardship for the citizens of Cambridge because it would be destroying part of the nice outdoor courtyard or yard which is largely accessible to citizens.

Finally it's a hardship because this is the area that has the underground loading dock. And if the building were placed on top of that, for a variety of technical reasons, it would be extremely difficult for us to accommodate the loading dock below. The loading dock is a benefit, again, not only to the Kennedy School, but to the community. So that is

the description of the first hardship.

Here, just for reference, is an elevation representation of that condition. So this is the Rubenstein building which is closest to J.F.K. Park. This is the Taubman building. And here in between is the new proposed building, lower than the buildings on either side. And the brick portion of it pushed back further than the buildings on either side at the piece that is closest to the property line that is the eight-foot setback is just the bicycle storage structure which is located here.

And finally, and again just for reference, this is a view of that situation as it exists right now. This is the five foot to eight foot wall that exists right on the property line. And on

the far side of that wall there is a drop of approximately nine feet down to the courtyard which is currently below grade.

These are views, other views that are taken along that walkway before and after views.

These are existing conditions and proposed.

Existing conditions and proposed.

And in each case you can see here and it's rather difficult to see, but it's in your package here, the new building continuing the street wall along the path.

The other two variance requests --

JANET GREEN: Can I ask you one question because you mentioned something in your proposal about the trees.

So -- but it seems like this is not where any of the trees are impacted? It looks

like what we're seeing there is still the same trees.

GRAHAM WYATT: We've been very careful to protect these trees because it's been consistent. The honey locust all planted at the same time. And actually the retaining is a direction, but the relevant one, the retaining wall because it's built right on the property line and because we're not going to remove any of it below grade, helps to protect the roots. We're not doing anything to the roots of those trees.

So the second Variance request has to do with the loading dock. And the loading dock, according to Zoning, should have a clear height of 14 feet. And we're proposing a clear height of 13 foot, 6 inches. So six inches lower. That's

actually higher than is required by any truck which services the Harvard facilities. The largest truck, which is the one that's shown right here with a 40-foot wheel base, requires only a 12-foot, 6 clearance and we're providing 13-foot, 6. So it is certainly our impression and the impression of our consultant that this is more than adequate. The reason, the hardship here is that there is an existing slab which I mentioned right at the outset. And to -- we can actually cut slightly into the top of that slab, but not by very much without running the risk of starting to expose piling caps and to compromise the structural integrity. That slab has been exposed and tested in certain areas and we're confident that we can do this, but

we think that the 13-foot, 6 is really the most that we can achieve and certainly more than we need.

JANET GREEN: And currently these same size trucks deliver into the circle right now?

GRAHAM WYATT: Yes. There are actually very few of these trucks that service, but they are the biggest ones that do, and they sort of just set down in the courtyard. They drive down and maneuver around out of doors and then go back up again.

So here is the truck. Here you can see from Eliot Street the ramp that leads down and the 13-foot, 6-inch clearance. So the hardship is the existing condition of the slab below. And it is also the desire to keep the finished courtyard

above so that it aligns with the street and it aligns with the inside floors of the adjacent buildings and is not higher than those. So we're constrained above and below, but we feel from our perspective that the 13-foot, 6 is more than adequate. We're hoping you agree.

And the final Variance request, also related to the loading dock, is the width of the curb cut. And on the existing condition here is the curb cut along Eliot Street where there's a roadway which is -- goes down into the courtyard, which is 19-foot, 6 inches wide. The curb cut itself with its flare is 26 feet wide, and the maximum Zoning requirement is 30 feet wide. So this is slightly less than that Zoning requirement. The street, however, is not at 90 degrees to the new drive or

the existing drive. The street is -- Eliot Street is all angled at 67 degrees. And in order to get the maneuvering for these trucks to work properly and to have them turn in such a way that they don't interfere with oncoming traffic and they minimally disrupt vehicles in their own lanes, the curb cut should be made wider. And traffic study looking at the maneuvering of that particular vehicle that I showed you a moment ago, suggests that it should be 41 feet wide. And this has been reviewed with traffic, the Cambridge Traffic and they wrote a letter in support of this as the appropriate solution.

JANET GREEN: And are there limited times for delivery so that you don't have those big trucks coming in at

rush hour and things like that?

GRAHAM WYATT: Most of the trucks, 80 percent of the trucks are regular deliveries, and actually those trucks will have a transponders, a sort of button that will open up the door so they could simply arrive and pull down. And they have specific scheduled hours, many of which tend to be quite early in the morning and that's actually advantageous for them also --

JANET GREEN: I'm sure, I'm sure it is.

GRAHAM WYATT: -- because there's less traffic and fewer pedestrians. They can get in and --

JANET GREEN: But are there regulations? Does Harvard have limits on what times those trucks -- I mean, I'm

just thinking -- I mean, I think this is really lovely, but I'm just thinking about all the people who travel down that street at those times of the morning, many of whom are you, and what a problem those trucks are. You know, they can't turn. They're waiting. They don't make it through the light. The cars are then backed up more.

GRAHAM WYATT: That's actually exactly the goal of this is to try to be able to get them out of the traffic as quickly as possible, and do it in such a way that when they are both entering and more significantly when they're leaving, that they do it in a way that doesn't disrupt other traffic lanes.

JOHN HAIGH: The current delivery --

GRAHAM WYATT: This is much narrower, the truck would have to do a bigger loop.

JANET GREEN: I see that point. It's the timing. You know, it's those hours between what is it? You know, eight and ten that it's a mess out there. I mean --

JOHN HAIGH: Yeah, the intent is to try to move things in time earlier in the day. And then with this version with the loading dock and the delivery bays under the courtyard, it has multiple bays which is more than we have now. So it backs up now to some extent because it can -- it's so narrow only one truck can go down and only one truck can come out, right?

JANET GREEN: Right.

JOHN HAIGH: So they actually get back -- what causes part of the problem is they get backed up on Eliot Street --

JANET GREEN: Right.

JOHN HAIGH: -- because even early in the morning. And so with the bay structure we can actually get them off the street quickly, get them into the bays, let all of that occur under the courtyard and let them --

JANET GREEN: And it holds four of those trucks is that what I understood from the plans?

MARK VERKENNIS: We have the ability to house four.

GRAHAM WYATT: House four.

JANET GREEN: House four.

GRAHAM WYATT: With all their maneuvering underground.

MARK VERKENNIS: I mean this topic did come up in the Planning Board's review, and the Traffic Department certainly raised that as well. And the Kennedy School and Harvard are committed to having an active management of the loading facility. And we are going to be implementing a number of measures to make sure that --

JANET GREEN: Five trucks don't come.

MARK VERKENNIS: Exactly. It happens as smoothly as possible. So we've committed to that with the city.

GRAHAM WYATT: So, that's the presentation.

DOUGLAS MYERS: Do you have a simulation that would show the entry ramp as it's proposed, juxtaposed with the

gateway building? Do you have a simulation which would show those?

GRAHAM WYATT: Yes, we do actually.

So this is, imagine you're standing on the sidewalk in Eliot Street. On the north side, you've got, you're just to the side of the exit from that parking garage. You're looking across at the new building which is between Taubman and Belfer. This is the opening through. Pedestrian path is here and leading into the new courtyard, which is brought up to grade. And here is the door which is the entrance to the ramp which then goes down to the lower level. What maybe isn't clear, because this is a perspective, is that that door is actually set back 45 feet back from the property line. So although

most trucks have the transponder which will open the door automatically, even if someone did not, the largest truck would be waiting entirely on Kennedy School property and not on the sidewalk.

JOHN HAIGH: With the management conditions that --

DOUGLAS MYERS: And what's the width of that door? And in this perspective it looks rather narrow.

GRAHAM WYATT: The width of that door, 19 feet.

DOUGLAS MYERS: And upon entrance there's a downward ramp?

GRAHAM WYATT: And then there's a ramp that goes down. It's a big door there.

TIMOTHY HUGHES: Okay?

DOUGLAS MYERS: And the width of

the grassy sward between the sidewalk and
the door?

GRAHAM WYATT: From here to here it's 45 feet. And that's the area that's also -- actually, it's a little bit more here because Eliot Street angles. It's 45 feet at the midpoint at the driveway.

DOUGLAS MYERS: You understand my question, the grassy area?

MARK VERKENNIS: You're talking about the width, not the depth.

DOUGLAS MYERS: The width. The width of the grassy area --

JOHN HAIGH: On the sidewalk.

DOUGLAS MYERS: -- between the sidewalk and the entrance. Yes.

GRAHAM WYATT: Approximately 15 feet on each side. The entire opening there is 45 feet wide.

And one, I can point out previously that even though the proposed curb cut is wider in order to facilitate this movement, all of the paving here is brick sidewalk paved. So it is -- there is a lane with a different pavement that crosses the sidewalk.

Other questions?

JANET GREEN: A question not directly related to this, what does it do with the 13 parking spaces that were there? Which, you know, it wouldn't be a true Cambridge Zoning meeting where we didn't talk about parking.

MARK VERKENNIS: What's going to happen with -- the 13 spaces are going away from this site. They're going to be reallocated within our existing parking pool on the campus.

JANET GREEN: So who parks in those spaces now?

MARK VERKENNIS: I'll let John --

JOHN HAIGH: The Dean, myself. And then we have centers, research centers. And one of the little perks that we can give to have somebody who chooses to run one, would be a director of one of the research centers, they get one of these 13 parking spots.

JANET GREEN: So now they'll get a parking spot somewhere else?

JOHN HAIGH: Right.

JANET GREEN: But they'll have an assigned parking spot?

JOHN HAIGH: Yes.

JANET GREEN: They're not going to be parking on that one spot in front of Charlie's?

JOHN HAIGH: No. In fact, we're getting reassigned parking spots within -- and probably just because there's more information than you want to know, but you would be shocked that some former presidents of Harvard who have spots there and their first question to me is what happens to my parking spot? And I have to tell them you're going to be reassigned next to the pool. But that's the right answer. I mean, that's the right answer for this.

JANET GREEN: Yes.

JOHN HAIGH: That's part of the problem is that the courtyard and this whole area is this hodgepodge of activity with no definition and no coherency to campus. And so this is kind of cleaning a lot of that up. And when you go through

the plan with them, they understand. I mean they, you know, they ultimately react positively.

BRENDAN SULLIVAN: So your healthcare costs are going up, your spot is being relocated, happy new year in sum.

JOHN HAIGH: Kind of.

DOUGLAS MYERS: If it's any consolation, federal judges are exactly the same.

TIMOTHY HUGHES: Any other questions?

JANET GREEN: I have one. I have another question which is the city is now spending a lot of money on separating the storm water and the sewer water and it seems you have some kind of plan that addresses that as well; is that correct?

GRAHAM WYATT: We are capturing

and storing almost all of the storm water which is generated in areas due to construction and being underground cisterns and those cisterns are used for irrigation.

JOHN HAIGH: There's a storm water retention tank -- or two storm water retention tanks underneath that entryway, under the gateway building, because there's a section of that courtyard that we elevated that's still open. You can see it in one of them. And so, there's well of -- I don't know the numbers off the top of my head, but it's well above the required amounts because we would like to have a sustainable campus.

JANET GREEN: That's great. Because you're so close to the Charles. It's great.

GRAHAM WYATT: Yeah, and we're lucky to be able to have just that space to do it.

TIMOTHY HUGHES: Any other questions?

(No Response.)

TIMOTHY HUGHES: I'm going to open this up to public testimony. Is there anyone who wants to be heard on this matter?

Please come forward and identify yourself, please.

ADRIAN LANDSMAN: So my name is Adrian Landsman and I have been a neighbor of the Kennedy School for 20 years and I've been attending events there for even longer than that. And I came to speak favorably about one aspect of -- I came to speak in favor of these curb cuts. But

before that, I want to lead with a joke. So, the Taubman building is not connected to the other buildings because the other buildings can all be reached via the underground passageway. And the Taubman building sits on top of the sidewalk. And this huge plan reminds me of something that Barry Frank said in advance of the Big Dig project to depress the Central Artery. He said, it would be easier to raise the city. And in this case the Kennedy School's actually raising the rest of the school. Okay.

So now I want to say what I came here to say and that is that I support and endorse the curb cut on Eliot Street and the whole arrangement of enabling all the delivery trucks that deliver provisions to the loading dock as well as the procession

of vehicles that bring the dignitaries of the world to speak at the Kennedy School. And I want to contrast the brilliance of this underground entrance feature on their side of Eliot Street to the other side. So this is compare and contrast. So I want to compare the enlarged curb cut, enlarged driveway, right, to what you have on the other side of the street which is a significantly large driveway cut, curb cut for the parking garage, and next to it. Just a few feet away is another driveway curb cut on the alleyway next to a restaurant. If you add those two together, they are probably bigger than the curb cut that the Kennedy School's proposing for their side of the street. So why not have it at least match what has been in existence all those years on the

other side of Eliot Street. So that's the comparison.

And then so there's compare and contrast. Okay, I brought this visual aid. This is a business card for a gallery that existed on the other side of Eliot Street for five years. This is Levin's Gallery (phonetic). She had beautiful things displayed. Evelyn (inaudible) she had her gallery owned by Robert Bangor of the 12 blue awnings and this -- now her awning looked like this. You may remember seeing it. But actually you don't remember seeing it because there was always a beer truck parked in front of it. And so all of the customers that she thought she would get from what she thought was across the street the Charles Hotel, even says it on the back of her

business card, that's where it's located. Nobody ever saw it because there were always beer trucks there. Now this, a proposal by the Kennedy School solves that problem ingeniously. And so I want to just very strongly endorse it because it completely takes away of the problem that we've seen all these years with the beer deliveries in Charlie's Kitchen. So I want to close by saying that I think it's at least as important to deliver the President of the United States and all of the prime ministers of the world to the Kennedy School as it is to deliver beer to Charlie's Kitchen.

TIMOTHY HUGHES: Thank you.

JANET GREEN: Welcome to Cambridge.

DOUGLAS MYERS: Do the dignitaries

go underground along with the delivery trucks?

JOHN HAIGH: Yes. I should have mentioned that earlier. In fact that's an important part --

JANET GREEN: We're not going to have that line up?

JOHN HAIGH: When Joe Biden was here in the fall and we ended up -- just to give you a sense, we get overwhelmed by Secret Service as you can imagine when those things happen and they come in. They pretty much dictate to us. You know, they're the ones that decide, okay, we're going to close off J.F.K. Street and Memorial Street. They're the ones that put the snowplows up and that kind of stuff, and we just have to go along with it. The idea here is that it's a safer

and more effective way of delivering the dignitaries into the school.

TIMOTHY HUGHES: Thank you.

DENISE CHILSON: I have to follow her. I'm sorry, I don't have a joke.

TIMOTHY HUGHES: She told two anyway, so one was for you.

DENISE CHILSON: Denise Chilson. I'm director of Harvard Square Business Association. I'm here to lend our support for this application. First of all, we think it's an elegant design, and one that's going to, I think, transform that section of Eliot Street which right now feels a little bit unwelcoming, particularly with the courtyard being lowered. I seldom go into that courtyard. And now with this proposal and courtyard being raised, it feels so much more

welcoming. And the idea that we might be able to go in there and meander around and find our way on to the pathway and then out to the park, seems like such a nice thing. And I actually can't wait to see it done. So I hope that you will approve it and we look forward to the ribbon cutting.

Thank you.

TIMOTHY HUGHES: Thank you.

Anyone else want to be heard on this matter?

(No Response.)

TIMOTHY HUGHES: I don't see anyone.

I know there's a Planning Board report. I don't have it in front of me.

THOMAS SCOTT: It's here.

TIMOTHY HUGHES: And it's about

1700 pages thick so I'm just going to say
I imagine it's in support of the project.

MARK VERKENNIS: Yes.

TIMOTHY HUGHES: It is in support
of the project. The cover letter is
buried in here.

And that's the sum total of
correspondence is the Planning Board.

I don't have a letter from Traffic.

MARK VERKENNIS: There was one
e-mail that should have been in your
packet. If you don't have it, it was to
the building commissioner from the traffic
engineer. I think it's just a one --

TIMOTHY HUGHES: Oh, yes, I did
see that. I do have that.

And that's, and that's the sum total
of the correspondence. I'll close public
testimony.

Are there any comments, questions
from the Board members?

Are we ready for a vote?

The Chair would move that a Variance
be granted to the Harvard Kennedy School
at 79 J.F.K. Street toward the oversized
curb cut of 41 feet, for the undersized
loading bay height of 13, 6, and for the
setback violation on the west pavilion.

A literal enforcement of the
provisions of this Ordinance would involve
a substantial hardship, financial and
otherwise to the petitioner for the
following reasons:

Without the setback relief the west
pavilion building could not be built and
could not create the enclosed courtyard
space that is key to the continuing
programmatic mission of the Kennedy School.

The height of the proposed loading bay could not be done without -- could not be done without a Variance because of the existing slab that supports basically this whole area.

And the curb cut in terms of its benefit for keeping up traffic flow from delivery trucks couldn't be accomplished with the maximum of 30 feet.

The hardship is owing to the following circumstances relating to soil conditions, while obviously the soil conditions impact the loading bay.

The placement of the buildings on the structure impact the west pavilion's placement in line with it creating the quad. And the curb cut is owing also toward the placement of the structures on the property itself and not generally

affecting the Zoning District in which it was it's located.

Substantial detriment to the -- I mean desirable relief may be granted without either substantial detriment to the public good for the following reasons:

Proposing new development result in significant public benefits, including improved pedestrian access to the HKS campus by creating new at grade connections at Eliot Street and the J.F.K. Park pedestrian connector.

Will facilitate cross-campus circulation to other points at Harvard Square.

Renew central courtyard with improved connections to the network of existing open spaces in the square.

And elimination of pedestrian and

vehicular conflicts within the central courtyard.

Relief may be granted without nullifying or substantially derogating from the intent and purpose of this Ordinance for the following reasons:

The proposed development will comply fully with current -- I'm going to go with -- what does CZL stand for?

MARK VERKENNIS: Cambridge Zoning Ordinance.

TIMOTHY HUGHES: Okay. CZL. I just never seen it abbreviated like that.

MARK VERKENNIS: We always use that.

TIMOTHY HUGHES: Proposed development will comply fully with the current requirements of the Cambridge Zoning Ordinance. With the exception of

the requested relief, the setback is consistent with existing development on the site.

We already talked about the loading. The depressed loading dock will actually make it substantially better for the safety and then, you know, movement of pedestrians and vehicles in the area with the raised courtyard.

It will eliminate the existing circulation conflicts. I think that was already stated in another element of this.

The Variance will be granted on the condition that the work proceed in conformance with the plans as submitted.

There's a lot of them. There's a lot of elevations here, and there's a lot of stuff there.

And all those in favor of

granting --

DOUGLAS MYERS: Are you going to initial the plans?

TIMOTHY HUGHES: You know, I would initial this set of plans, but it's not really a set of plans. You know, I don't have a -- I don't have construction documents and I don't have a document here that necessarily -- I'm just going to say the plans that are in the file.

BRENDAN SULLIVAN: Tim, there's some notation in there about continuing working with Community Development. Is that ongoing or does that stop?

MARK VERKENNIS: No, that's ongoing.

BRENDAN SULLIVAN: That's ongoing?

MARK VERKENNIS: Yes.

BRENDAN SULLIVAN: So those plans

are somewhat fluid in a sense?

MARK VERKENNIS: Yes.

BRENDAN SULLIVAN: Okay.

MARK VERKENNIS: There's some final design details that will be worked out with CDD staff.

TIMOTHY HUGHES: Okay.

Did you get that?

THE STENOGRAPHER: Yes.

TIMOTHY HUGHES: All those in favor of granting the Variance.

(Show of hands.)

TIMOTHY HUGHES: That's five in favor. Variance granted.

(Hughes, Sullivan, Scott, Green, Myers.)

* * * * *

(10:15 p.m.)

(Sitting Members Case #BZA-005696-2014:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 005696, 77 Standish
Street.

Is there anyone here wishing to be
heard on this matter?

RIDGELEY DUVALL: My name is
Duvall. First name is Ridgeley,
R-i-d-g-e-l-e-y. Last name is Duvall,
D-u-v-a-l-l.

KATHERINE LUM: Katherine Lum.

L-u-m is the last name and Katherine,
K-a-t-h-e-r-i-n-e.

AMY SEMMES: Good evening.

CONSTANTINE ALEXANDER: Your name
and address for the stenographer, please.

AMY SEMMES: My name is Amy
Semmes, S-e-m-m-e-s. I'm the architect
for this project at 77 Standish Street in
Cambridge.

CONSTANTINE ALEXANDER: And your
offices are in what city?

AMY SEMMES: Medford.

Beside me are the owners of the
house. Ridgeley Duvall.

CONSTANTINE ALEXANDER: He's
already introduced himself.

KATHERINE LUM: We're already --

RIDGELEY DUVALL: We're read in.

AMY SEMMES: Checked in. Well, our, I don't know if you can see this over here.

CONSTANTINE ALEXANDER: You're looking for a Variance and a Special Permit. Let's start with the Variance first.

AMY SEMMES: Yes. Context for this project is these folks are 25 year long, long time residents of this house in the neighborhood. They wish to do a substantial gut rehab of the upper floor of this two-family -- existing two-family house and the context is they did think about this and apply for a Variance previously back in 2004 and were to at that time to do a very substantial addition.

CONSTANTINE ALEXANDER: You were

granted a Variance at that time?

AMY SEMMES: They were granted a Variance to do a third floor to the property. It had some similarities with our current proposal but it's been greatly scaled back.

CONSTANTINE ALEXANDER: And then you let the Variance lapse?

AMY SEMMES: The Variance lapsed. It was not pursued and changes in their circumstances at the time.

CONSTANTINE ALEXANDER: Not relevant to us.

AMY SEMMES: We're back, we reviewed the thing. We greatly scaled down the amount of the addition. The change to the house is to allow us to build a half story on the third floor. Currently there's some attic space, but

there's not enough headroom for habitable rooms there. So the proposal is essentially to lift the, reframe the geometry of the roof by making the roof steeper and raising the ridge line about four feet over what is currently there and adding a small shed dormer on one side, the purpose of which is really to house the staircase that extends up to --

CONSTANTINE ALEXANDER: Am I correct that your proposed dormer complies with our dormer guidelines?

AMY SEMMES: The dormer --

TIMOTHY HUGHES: For the most part.

AMY SEMMES: It largely complies. It's 15 foot is overall length in order to comply. It's set back from the ridge down. It's co-planar with the wall below

rather than set in. That was necessary to not -- to try to fit the stairs on top of the existing ones within the same -- you just couldn't get the clearance --

CONSTANTINE ALEXANDER: Got it.

AMY SEMMES: -- to make the L-shaped stair work.

CONSTANTINE ALEXANDER: The hardship? Why is it that you want to do this work?

AMY SEMMES: Well, they're hoping to have this as their retirement home and there are a few kind of uniquely difficult things about the current configuration on the house. In large part that has to do with the existing staircases. I mean, I've been inside lots of old Cambridge two-families, and a lot of them have winding L-shaped stairs. This particular

house has less clearance than -- less clearance than almost any I've seen. The back staircase is only -- I mean I'm only five, four. I actually have to duck and it's only about 30 inches wide.

And then the front staircase --

CONSTANTINE ALEXANDER: Where does the staircase go to? What's on the top floor? Bedrooms?

AMY SEMMES: There is no top floor. There's just attic.

KATHERINE LUM: It's a two-family house.

CONSTANTINE ALEXANDER:
Two-family?

AMY SEMMES: Two-family flex and we're adding a half story up on the third floor.

CONSTANTINE ALEXANDER: Okay.

AMY SEMMES: So in order to fit a
stair --

JANET GREEN: Could you lift it up
just a little bit so we can see the bottom
pictures?

AMY SEMMES: Yes.

These are the configuration of the
existing front main stair that you enter
in in order to eliminate the winders and
get full to code headroom and a stair to
access the basement below. We're having
to push the staircase four and a half feet
back into the plan of the small building.

CONSTANTINE ALEXANDER: Does the
existing staircase comply with the
Building Code?

AMY SEMMES: No.

CONSTANTINE ALEXANDER: And does
the new staircase you're proposing comply

with the Building Code?

AMY SEMMES: Yes. And also eliminate (inaudible). Right now they're unable to put a normal 32-inch full-size regular refrigerator cannot fit up on the second floor unit. We don't think a medical stretcher could readily be gotten up there.

So, that's -- the kingpin of the new scheme is to make a decent staircase out of -- to access the upstairs unit.

This means we're bumping one bedroom in the back up on to the third floor which currently has no habitable rooms configured. Although overall the unit will remain a two-bedroom unit occupied by the same folks who owned it for 20 years.

The amount of FAR relief --

CONSTANTINE ALEXANDER: Yes.

AMY SEMMES: -- that we're requiring is only about 185 square feet.

CONSTANTINE ALEXANDER: You already have a non-conforming on FAR.

AMY SEMMES: Yes.

CONSTANTINE ALEXANDER: You're at 0.564 in a 0.5 district and you're slightly non-conforming and you're going to increase it a little more, but not dramatically.

AMY SEMMES: But not dramatically.

CONSTANTINE ALEXANDER: To a 0.601 in a 0.5 district. Ten percent or 12 percent more than the Ordinance permits.

AMY SEMMES: Yes.

Another part of the project is there's currently a two-story -- two decker porch, covered porch on the back. They're only six feet each. We're gonna

try to tear that down and replace it with a one-story covered porch that has a deck on top that's wide -- less narrow than what's there, but the net FAR is actually going to come down on the porch element a little bit.

CONSTANTINE ALEXANDER: And the plans that you've submitted are the final plans? I mention that because if we approve, we tie it to plans.

RIDGELEY DUVALL: Right.

CONSTANTINE ALEXANDER: And if you want to modify these plans afterwards, you're going to have to come back before us. So that's a warning. We would hope these are -- for your benefit --

AMY SEMMES: And, yes, and we've spent a lot of time --

CONSTANTINE ALEXANDER: -- these

are the final plans?

RIDGELEY DUVALL: We sort of had a glance of preliminary plans. This is our third set of plans we worked on with Amy. They're six overall.

CONSTANTINE ALEXANDER: I wanted to make sure you're aware.

RIDGELEY DUVALL: Yes, we are aware of that.

AMY SEMMES: The Special Permit aspect of the plan is the right side setback along the right side, it's supposed to be seven-and-a-half feet and it's right now only seven feet, and the rework of the floor plans to move the stair, etcetera, requires a large number of the windows along that side to be either moved and we're actually adding some, too. So we're pretty major changes

proposed to the south side of the building.

CONSTANTINE ALEXANDER: Are the neighbors on your south side who would be affected by the new windows, particularly more windows, have you spoken to them? Do they have any problems?

RIDGELEY DUVALL: I don't believe so. They're here to speak for themselves.

CONSTANTINE ALEXANDER: Okay, they'll speak for themselves.

AMY SEMMES: Those are the only other points that -- I'm happy to explain in more detail. But I know you want to move things along.

RIDGELEY DUVALL: A couple things I might mention. When we bought the house in 1991, the previous owner had converted the second floor porch to a kind of a

sunroom, which immediately failed and has never been particularly attractive.

CONSTANTINE ALEXANDER: To be sure. I've seen it.

RIDGELEY DUVALL: Have you seen it? Yeah. It's -- right up to the paint job it looked okay. But it's sort of continued to denigrate. I will mention that I postponed a lot of maintenance on this house with this in mind as a possible entire envelope refurbishing and modernizing it, insulating and making a decent stairwell so I could get the refrigerator up there and get the piano out perhaps. And we think that Amy's new design is a great deal more harmonious. Just this one elevation on the front is modest, we think, rather elegant, a good deal more traditional than the existing.

AMY SEMMES: Which is also a giant energy need.

RIDGELEY DUVALL: It's a cold sink at the moment.

So we're trying to do a whole lot of things at once. We're also trying to stay there. I should mention. We've been there -- we were renters next-door for a few years. We've owned this house since '91. We expect to continue to live there. We do not want to convert it to a single-family or to condos. It's to remain an owner-occupied two-family for as long as we're able to remain there. Love the neighborhood. One of the reasons we are there is because of our neighbors and because of the location and our familiarity with the block. It's longstanding and very important to us. As

with an eye towards perhaps failing health, I'd like to think -- it's not going to be an issue, but it could very well be. I think it's important that we have a place that we can call home without having to decamp until the last possible minute. The stairways have a lot to do with that. My wife has fallen a couple times. They really need to be fixed. We can't keep going like that. So we look forward to a completion of some sort of renovation and having tenants again frankly have new sidewalks finally and that's a start.

CONSTANTINE ALEXANDER: Thank you.

RIDGELEY DUVALL: And we look forward, furthermore, for one last thing, for the addition of greater light. It's a little bit like living in a dark cave,

particularly those two sets of stairs are like entering an igloo almost and creeping up like that.

JANET GREEN: The pictures were dramatic.

RIDGELEY DUVALL: I tried not to make them look too flattering but they really are that bad.

TIMOTHY HUGHES: I think you did a good job with that.

KATHERINE LUM: I'm only 5,3 and a half. So my head is hitting --

RIDGELEY DUVALL: The painted stair in the back, which is the lower picture there, I don't know if you can see it from there, the one that's consistently been the greatest problem.

AMY SEMMES: It's also only 30 inches wide.

RIDGELEY DUVALL: Yeah, it's pretty dangerous. So I think we've pretty much had it with that.

CONSTANTINE ALEXANDER: Questions from members of the Board?

TIMOTHY HUGHES: I'm good.

CONSTANTINE ALEXANDER: I'm going to open the matter up to public testimony. I have a lot of hands going up.

Sir, you can go first.

DOUG BROWN: Doug Brown, 35 Standish Street. And I just wanted to speak in favor of the proposal. First off, it's a very small accommodation that they're asking for, only about a four percent increase in the overall size of the house. But I think the benefit of that change is significant in that it ends up creating something that looks much more

in keeping with the neighborhood, and also I think preserves the house as a two-family for the neighborhood.

CONSTANTINE ALEXANDER: Thank you.

DOUG BROWN: And that's it.

CONSTANTINE ALEXANDER: Thank you for taking the time to come down and speak to us.

Sir. Sir and Ma'am.

RIDGELEY DUVALL: Two for one.

South neighbors.

HARRY FLAMM: Harry Flamm, F-l-a-m-m. 717 Standish Street. So we're just next-door.

AMY MUNSAT: I'm Amy Munsat, M-u-n-s-a-t.

HARRY FLAMM: So we're opposite the change in the doors and the windows, which we completely agree with and support

and we support their whole effort and all the benefits that they're gonna get that they make to the house are only going to improve the streetscape and improve the house itself, including our views from the house to their house and the benefits they get from improving the infrastructure within the house allowing them to age in place.

RIDGELEY DUVALL: And finally have you to dinner.

AMY MUNSAT: And I'd like to add at that I think that's also good just for housing stock in Cambridge. That anywhere we can make a house better for, you know, the long term seems like a great, great thing. So, yeah.

CONSTANTINE ALEXANDER: Thank you for both of you to come down.

RIDGELEY DUVALL: Thanks, Harry.
Thanks, Amy.

CONSTANTINE ALEXANDER: One more.
We have another gentleman who wants to
speak.

PETER STUMPP: Peter Stumpp,
S-t-u-m-p-p. I just want to speak in
favor. I think everything that they are
planning to do is going to help the whole
neighborhood. Thank you.

CONSTANTINE ALEXANDER: Thank you.
Anyone else? Yes, Ma'am.

JUDY MICOZZI: Hi.
RIDGELEY DUVALL: Hi, Judy.
JUDY MICOZZI: I'm Judy Micozzi.
M-i-c-o-z-z-i. I live at 80 Standish
Street, directly across the street from
Jake and Kathy. I just want to say
they're wonderful neighbors and we want to

keep them and so I think any help with the improvements to their home that would make them be able to stay there would be great.

And so, I'm in favor.

RIDGELEY DUVALL: Thanks, Judy.

CONSTANTINE ALEXANDER: Anyone else wishes to be heard?

(No Response.)

CONSTANTINE ALEXANDER: There is no one else.

The Chair would report we are in receipt of some letters. We have a letter from Elizabeth Shostak, S-h-o-s-t-a-k and Donald Drisdale (phonetic).

RIDGELEY DUVALL: Neighbors right next-door to Peter.

CONSTANTINE ALEXANDER: They reside at 51 Standish Street. (Reading) We are happy to support Jake Duvall and

Kathy's Lum petition for a Variance at 77-79 Standish Street. Jake and Kathy have provided us with details of the proposed changes to this property, including architectural drawings by Amy Semmes dated 15 November, 2014 that show elevations for all four sides of the house. We believe that these proposed changes are appropriate in scale and are sensitive to the identity of the neighborhood as a diverse residential community.

We also have a letter from -- a joint letter from Roger J. Boothe, B-o-o-t-h-e and Claudia G. Thompson, T-h-o-m-p-s-o-n. They reside at 206 Lakeview Avenue. (Reading) We are writing in very strong support of the above petition. The requested increase in floor

area, while quite modest, is essential to facilitating a very well designed transformation of this building. The thoughtfully conceived set of improvements in the application to the BZA will result in a much more attractive home that will be a true asset to the neighborhood.

And that's all she wrote.

With that, unless you have any final comments you want to make before we close public testimony. You don't need to.

RIDGELEY DUVALL: I can't think of anything in particular. Minor details.

CONSTANTINE ALEXANDER: I am going to close public testimony.

Discussion from members of the Board or we ready for a vote?

TIMOTHY HUGHES: I'm good.

JANET GREEN: Good.

THOMAS SCOTT: Good.

CONSTANTINE ALEXANDER: Okay.

I'll take the Variance first. The Chair moves that this Board make the following findings with regard to the Variance being sought, variances being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner. Such hardship being that the petitioner would be left with a very difficult to navigate stair that does not comply with the state Building Code and is an impediment to continued operation or occupation of the structure as one ages.

That the hardship is owing to circumstances relating to the fact that this is a non-conforming structure as it

is, and therefore any such -- any changes are going to require Zoning relief. And that relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent and purpose of the Ordinance.

In this regard the Chair would note that this proposal has unanimous neighborhood support.

That it is in all material respects compliant with our dormer guidelines, which is something we pay strict attention to.

So on the basis of these findings, the Chair moves that we grant the Variance being sought on the condition that the work proceed in accordance with the plans prepared by Amy Semmes architect, dated

November 21, 2014. The first page of which is numbered A0.0 and has been initialled by the Chair.

All those in favor of granting the Variance please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

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

CONSTANTINE ALEXANDER: Let's move on to the Special Permit relating to the windows.

The Chair moves that we make the following findings with regard to the Special Permit being sought:

That what is being proposed in terms of traffic generated or patterns of access or egress will not cause congestion,

hazard, or substantial change in established neighborhood character.

That the continued operation of adjacent uses will not be adversely affected by the nature of what is being proposed.

In this regard the Chair would note that the person who is most affected by the Special Permit being sought are in support of the petition.

That no nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupants or the citizens of the city.

And that the proposed use will not impair the integrity of the district or otherwise derogate from the intent and purpose of this Ordinance.

On the basis of these findings, the

Chair moves that we grant the Special Permit being sought on the condition that the work again proceed in accordance with the plans referenced with regard to the Variance that we grant.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

CONSTANTINE ALEXANDER: Granted. Good luck.

AMY SEMMES: Thank you very much.

KATHERINE LUM: Thank you very much.

RIDGELEY DUVALL: This time we'll build it.

(10:35 p.m.)

(Sitting Members Case #BZA-005790-2014:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 005790, 275 Fresh Pond
Parkway.

Is there anyone here wishing to be
heard on this matter?

ATTORNEY VINCENT PANICO: Good
evening.

CONSTANTINE ALEXANDER: The floor
is yours, Mr. Panico.

ATTORNEY VINCENT PANICO: My name
is Vincent Panico and I'm attorney for the
petitioner. And on my right is Mr. Joe
Lepore. He's the comptroller. The person
who was supposed to be here is the owner,
the manager Mr. Bellizia who is in bed

with bronchitis.

CONSTANTINE ALEXANDER: Oh, I'm sorry to hear that.

ATTORNEY VINCENT PANICO: So we're here on a Variance you previously granted. And the, we had a little disagreement with the Building Department. We thought the Variance had been active -- and may I just give each member a summary sheet?

TIMOTHY HUGHES: Is it in the file?

CONSTANTINE ALEXANDER: It's in the file. We read it. There's a statement from you or someone as to why, about the old Variance.

ATTORNEY VINCENT PANICO: Okay, fine then I won't do it.

CONSTANTINE ALEXANDER: You can anyway.

ATTORNEY VINCENT PANICO: Just to briefly summary. The activity on this project has been going on since January 2014. I have e-mails. The initiation of the contact with the.

CAROL O'HARE: Could you speak more loudly?

JANET GREEN: You can come forward. Bring your chair forward.

CONSTANTINE ALEXANDER: Or you can sit on the side.

ATTORNEY VINCENT PANICO: You want me to sit on the side?

CONSTANTINE ALEXANDER: Yes, why don't you sit on the side. It will help people's ability to hear.

ATTORNEY VINCENT PANICO: So just briefly summarizing on what took place during the year, they did -- the sign

company asked if they would determine what the perimeter of the base was and they dug up a section of the concrete and found out it was not what they thought it was. And once they determined that, negotiations with the sign company took place, they signed a contract, they gave them \$13,000, they hired the installer, and the installer -- the materials were lined up and the installer finally came on the last day to file the application for the permit. But the Ordinance does not say you must get a permit that says you must exercise the Variance. And to me they were exercising the Variance. They were acting on the Variance. So the --

CONSTANTINE ALEXANDER: By the way, that issue is moot, because if you were right, you wouldn't be here tonight.

ATTORNEY VINCENT PANICO: Unless somebody made a mistake.

CONSTANTINE ALEXANDER: The fact of the matter is that, I think, I don't mean to cut you short, but if you're here seeking to get a Variance to replace the lapsed Variance, it's got to be a concession that the old Variance lapsed. Otherwise you just take an appeal from the decision of the Inspectional Services at the old Variance didn't lapse. The only issue today is did the old -- the old Variance lapse? That's a given. It's got to be a given. And the question I have for you is has anything changed, any facts changed from the time we granted the Variance in 2013?

ATTORNEY VINCENT PANICO: No.

CONSTANTINE ALEXANDER: That I

think is the crucial, crucial piece of information that we need. Because it's exactly the same set of circumstances. There was -- the Variance arguably lapsed for purposes as I said tonight, we'll assume it lapsed, but you're just here to renew the Variance that you got before with no change in facts. And we had made findings in 2013 which granted a Variance. So you're saying that those facts, the findings we made which were based on facts at that point were exactly as they were then. Is that what you're saying?

ATTORNEY VINCENT PANICO: That is what I'm saying, and that's the exact question the Planning Board asked, too. Were there any changes? And I said no. And then they said, well, we are going to abide by the decision of our fellow Board.

CONSTANTINE ALEXANDER: Okay.

Anything else?

ATTORNEY VINCENT PANICO: That's it.

CONSTANTINE ALEXANDER: Thank you.

Questions at this point from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: I'll open the matter reluctantly to public testimony.

Is there anyone wishing to be heard on this matter?

JON McKERNAN: Jon McKernan. Since the sign was approved last, a lot has changed in terms of the changes that are going all over that area of Cambridge and what's being built there, and we now have some concerns about the number of

signs that are appearing and we wrote a letter. I think you have a letter there.

CONSTANTINE ALEXANDER: I have a letter in the file.

JON McKERNAN: And that letter says it all if you're going to read it all.

CONSTANTINE ALEXANDER: I will read it after.

JON McKERNAN: That's fine. That will be saving time.

CONSTANTINE ALEXANDER: Okay? Anyone else wishes to be heard on this matter?

ADAM GLASSMAN: Sure. I think -- oh, I'm sorry, Adam Glassman, Two Worthington Street. So this is the view of the dealership from the end of Lakeview -- I'm sorry, the end of

Lexington. Here's the Honda sign. This is what people in their cars see when they drive by. The existing sign, it's a little blurry.

CONSTANTINE ALEXANDER: They drive down to your --

ADAM GLASSMAN: You go to the parkway. And this --

CONSTANTINE ALEXANDER: Yes. But you don't see -- the major viewing of the sign is people driving down the parkway.

ADAM GLASSMAN: Right.

CONSTANTINE ALEXANDER: This is not a representative view.

ADAM GLASSMAN: Well, this side, the public side is what the dealership is asking -- requesting a Variance to improve their image.

FROM THE AUDIENCE: He's making a

different point.

ADAM GLASSMAN: Yeah, the point I'm making this is what the dealership cares about this sign.

CONSTANTINE ALEXANDER: All right.

ADAM GLASSMAN: However, what those of us in the community care about, is what we look at everyday is what's in the back. And in 2012 when I moved in, I reached out to the dealership about fixing this dumpster enclosure, just making it more attractive and less of an eyesore.

They responded favorably because they understood this is not what the neighbors should be looking at. And that was in 2012. And in 2013 they asked me to come to the Variance hearing to support them for the sign. And I was happy to do it, because I thought they were being

responsive to my concerns and I wanted to give them what they wanted. And I talked to the owner here before the hearing, and he said, you know, we're going to give you that fence because it's the right thing to do, not because you're here supporting us. And I took him at his word. And it's now 2015 and nothing has happened and there's a lot less response. And they're not bad people, they're fine neighbors in many ways, however, to deserve a Variance I would think some more consideration and respect should be given to those really who live with them day in and day out. And I really wanted to come here and support the signage today, and I went back to their office and I said I'm not looking for a promise that this sign is gonna happen tomorrow. They don't owe me the

sign, but they promised me the sign, not the sign the enclosure.

CONSTANTINE ALEXANDER: The enclosure. I thought that's what you're referring to.

ADAM GLASSMAN: And today the best I could get was well, I'm not owner. He's not here. I haven't heard about it. I don't know. And the last thing I was told was we're not the Herb Chambers of the world, we don't have a lot of money. And I said, you've got \$50,000 today for the sign in the front, why can't we fix a dumpster enclosure in the back? And there's been a level of stalling. And then in pick up in activity as we get close to Variance time and then it kind of disappears again. And I don't want to come in here and say their intent is to

not do it and they acted in bad faith, but it's been a long time and it's starting to feel that way. And based on that and the fact that they're not necessarily living up to all the other requirements that they have for the Special Permit on a consistent basis, I oppose the Variance.

CONSTANTINE ALEXANDER: Do you have a response to the comments he made about the fact that it was promised in 2012 to put the enclosure up and nothing has happened?

ATTORNEY VINCENT PANICO: I have absolutely no information. He discussed that with me prior to the hearing and I have no personal recollection about --

ADAM GLASSMAN: He doesn't remember me from last year, but when I came in, he and Andy were sitting

together and there was a lot of good cheer because I couldn't stay to make my statement, but I wrote a statement and he read it. And, you know, the commitment was made. It was made verbally and that's the truth.

CONSTANTINE ALEXANDER: I hear you. Mr. Lepore, do you have any information?

JOE LEPORE: I'm afraid I haven't been employed long enough to go back that far. I'm sorry.

CONSTANTINE ALEXANDER: Okay. It's always open to us, I think, if we should choose to renew the Variance, I'm not going to say grant the Variance being sought, that the condition be that you put the enclosure on. The enclosure that was promised in 2012. If you don't put the

enclosure, you don't put up a new sign.

ADAM GLASSMAN: And the enclosure was enclosed by T-111, something like wood. It would be solid painted whatever color we want, a brown or a green. It would extend beyond the dumpster enclosure some amount to be determined. It was implied it might come out beyond this, the existing enclosing here. We have a passthrough issue here. I spent many hours with the city getting this buffer approved because there's a gap, it's often used --

JOE LEPORE: There's a gap there?

ADAM GLASSMAN: Let me finish. There's a gap in the fencing. And to the dealership's credit when I brought it to their attention that their delivery guys and some of their employees were cutting

through, as I would because it's so tempting, they put the word out and they ceased that activity. It would, however, I don't want to be the policeman for the rest of my life watching the cross-throughs picking up trash when I call and sometimes trash is picked up because they're busy and, you know, if they could extend this enclosure a bit on either side and just do what he said he would do we could all move on.

CONSTANTINE ALEXANDER: Okay.

Anyone else wishes to be heard?

JAN DEVEREUX: Hi, I'm Jan Devereux from 25 Lakeview Avenue. So I live across the street from the dealership and you have a long letter from me.

CONSTANTINE ALEXANDER: I'm going to read it.

JAN DEVEREUX: And sorry you have to read it in the record.

CONSTANTINE ALEXANDER: Are you going to summarize for me? I won't read it.

JAN DEVEREUX: Well, I could summarize it by saying that while there's no question that the current sign is an eyesore and that the new sign design is as an aesthetic improvement, we do not see the hardship warranting it being approximately four feet higher than the 15 feet that would be conforming, particularly in light of the other signage in the aggregate. So not only --

CONSTANTINE ALEXANDER: What other -- I'm sorry, what other signage is there? On the road?

JAN DEVEREUX: No, not on the road

but on the building itself. So on the building itself they have the word "Honda" in two different places. They have an entrance portal that's a gigantic H unmistakably Honda. They have two wall signs for discount tires and two wall signs for Cambridge collectibles. I don't know that any of that signage has ever been added up and said I mean how much signage in total does this business have? There's that.

Again, I feel the last time, and I did speak when you, you know, made your last decision the last time they were saying that the approach from the south along the parkway posed a hardship because there was a curve in the road. I don't see that there's any difficulty identifying this dealership as a Honda

dealership. There are a hundred Honda vehicles in the parking lot and there's a gigantic H that says Honda. And if you're using Google Maps, it's probably saying your destination is approaching and you're going 30 miles an hour because you're stuck in traffic on the parkway. All of those things.

You know, I understand that you view this in some part as basically, you know, it's the same as something that you approved a year ago and it's a technicality, but I do think that, you know, in light of sort of renewed focus on planning in the Alewife area, broadly defined and in this parkway overlay district, I think it behooves the Board to try to hold the line on the visual clutter. I mean, I was here a few months

ago with the Bank of America and you wisely, I think, decided that they did not have a hardship and needed to double the amount of signage. I mean so sort of -- so I guess we're asking where do we draw the line? And then I would echo Mr. Glassman's comments. I mean, I think it's sort of a push/pull. There are definitely some indications that they would like to be a good neighbor, but it's not, it's not sort of the forthcoming "What can we do? We want to make you happy." It's how many times do you have to complain, ask, plead, talk to the city? We -- by the conditions of their Special Permit for having this use, you know, that was granted long ago, to have a car dealership in the parkway overlay district, they're obligated to have a

fence that extends all the way out along Lakeview Avenue to the parkway itself. This issue came up again when the city was redoing the street to create a, what they call a rain garden, which is going to be on a bit of land that is sort of from their driveway toward the parkway. And Jack and I were concerned that when snow is plowed from the lot, it would basically, you know, go be plowed in to that new rain garden. And so we asked again that a fence be installed there, and we would like to see that happen. And based on what this gentleman has said, you know, we don't know how many times we'll have to renew that request. So that's kind of what I want to say.

CONSTANTINE ALEXANDER: I'm curious, did you owned your property at

the time of the last hearing?

JAN DEVEREUX: Oh, sure, I've owned my property since 1999.

CONSTANTINE ALEXANDER: Did you -- I didn't catch what you said. Did you oppose the relief that we proposed the last time around?

JAN DEVEREUX: The sign variance, yes, I did.

CONSTANTINE ALEXANDER: You were in opposition then and you expressed that opposition?

JAN DEVEREUX: Yes, I did. Sorry to repeat myself.

CONSTANTINE ALEXANDER: No, no, no. I think it's important to know.

JAN DEVEREUX: Yeah, and, again, I'm not -- and, you know, again the sign design is fine. There are one of the

things that we had attached with this letter is the Honda corporate sign guidelines, and there are identical signs in slightly smaller versions. So they could have a sign that have the same visual look exactly. And one other issue as long as you're being nice enough to listen to me for more than three minutes, is the desire to illuminate the sign until midnight. And then we get into the issue of way finding versus advertising. The dealership most nights is closed by eight o'clock and there's really no need, again, to have light pollution on the parkway across from Fresh Pond. So we would ask that a more reasonable time, would be nine-thirty p.m. which is when they shut off the some of the larger floodlights in the lot. So that's all.

Thank you for listening.

JON McKERNAN: Could I add a bit to that? Jon McKernan and, my history goes back a little bit farther than Jan's. I live directly across the street and I've had the same push/pull relationship. And it's been not easy sometimes, but we've managed to keep working together. But the fence that she's talking about was supposed to go all the way down to the parkway. Somewhere in there a curb cut was put in illegally, which has come up, and the city doesn't want to face that because if that curb cut wasn't there, the fence could go all the way. But in the meantime, they could continue the fence that was supposed to be put in way back. But that's not the issue here. The issue tonight is the sign. And I agree with

what Jan has said.

CONSTANTINE ALEXANDER: One of the points is, and I'll speak about this a little bit more, we can't impose conditions. We imposed a number of the conditions the last time.

JON McKERNAN: I know, I have many of them again.

CONSTANTINE ALEXANDER: So it's possibly we could impose a condition related to the enclosure and the fence if we decide to otherwise grant relief. I'm just brainstorming right now.

JON McKERNAN: It's good to hear and something to take up at another time.

CONSTANTINE ALEXANDER: No, it could be taken up tonight.

JANET GREEN: Tonight.

CONSTANTINE ALEXANDER: I don't

know how other members of the Board feel if they support that. We'll find that out.

Ms. O'Hare, you had your hand up?

CAROL O'HARE: I do.

CONSTANTINE ALEXANDER: Thank you for taking the time to come out.

CAROL O'HARE: Can I sit? Carol O'Hare, 172 Magazine Street.

I'm not an abutter.

CONSTANTINE ALEXANDER: I know that.

CAROL O'HARE: I don't live in the neighborhood. I live on Magazine Street. And I did not speak last year when this -- because I just can't be at every sign hearing belief it or not. But this is a matter, even though I'm not an abutter, that pertains to the whole city

because the whole city, not just the abutters' view these signs, and this, this sign is over -- it's excessive. They're asking for -- or they asked for a sign that does not comply even if it were the only sign on the lot with Zoning. No analysis was done which would have been required. And I know I don't have standing to contest it, but the analysis you did in the case of the Bank of America sign took into account all of the signage on the property.

The analysis you did when you looked at the Novartis signs in 2011 took into account the existing signage on the property.

The analysis you've done in every other sign matter that I have attended took into account all of the signage on

the property.

Now, I realize that they are removing some unsightly signs.

CONSTANTINE ALEXANDER: That's a point I wanted to make, but go ahead. I'm glad you realize that.

CAROL O'HARE: Of course I realize that, and I'm calling that the sign cactus for graphic reasons. The existing very unsightly sign that is just a desperate set of lit, unlit signs will be replaced by a much nicer sign. But the, the kind of overreaching that they are requesting or did request when asking for a sign that itself does not comply with Zoning, it is extraordinary given the fact that there are all those other signs on the lot. And just graphically I'd ask you to look at this chart, which I had suggested that you

at least ask them to fill out for perspective signage. I developed it. It's similar to the chart that is required when you give building variances which is ask -- the building variances ask for existing conditions, requested conditions, and Ordinance requirements.

CONSTANTINE ALEXANDER: Our -- The Table of Dimensional Requirements.

CAROL O'HARE: This requirement.

CONSTANTINE ALEXANDER: Yes, I know what you're talking about.

CAROL O'HARE: And this is my version for what might be for this lot and other lots that have more than one sign a way of, you know, calling out the sign variation. Now as I said, the reduction is a good thing because that sign, is an eyesore, but so are the rest of the signs

on the lot.

Have you looked at the photographs that the Fresh Pond group sent of the rest of the signs on the lot? There's a huge sign in the window that says "Free 100,000 mile warranty." It's right behind where the cars should actually be. There's two discount tire signs. There's two Cambridge collectibles collectability, affordability, drivability signs. There's a "We know tires," blah, blah, blah. The Honda, the H, the lube oil filter, the new car deliveries. The, you know, who knows what? That's outrageous. And we don't even know whether those signs are legal. Those signs -- there's no evidence that those existing signs were legally installed. That huge one in the window was in -- I mean, there's no record in the

jacket that shows that any of those signs got Variances. So I know that you would be revisiting this, but given your sensitivity to these issues and to neighborhood concerns, I earnestly ask you to reconsider the Variance that you granted.

CONSTANTINE ALEXANDER: Let me make one observation at this point with regard to the request which I take seriously. This case was not a case where we rubber stamped the sign that we passed on in 2013 and is up again for -- before us tonight. Nothing we just rubber stamped hair.

CAROL O'HARE: I didn't suggest --

CONSTANTINE ALEXANDER: I didn't say you suggested it. I just want to get on the record the facts.

We spent more than one session reviewing this sign. According to the record, the transcript, the petitioner reduced the size of the sign from the original proposal at the request of an abutter. I don't know who it was. When we granted the relief -- so we didn't do it -- we looked at it long and hard, we debated it hard, and we granted relief with a number of conditions. We just didn't just roll over.

One of the conditions, which I thought was quite significant, was that the petitioner discontinue the use of other types of signage in the form of balloons, pennants, and the like from being strung across from the cars or the structure itself.

CAROL O'HARE: I read it.

CONSTANTINE ALEXANDER: To me that's much more offensive, those pennants and balloons than another sign in the window. And I thought we, and my judgment, and only my judgment, and I guess the sentiment of the Board, I thought this was a significant achievement. And I think we helped the environment by getting rid of these blasted balloons and pennants.

The fact that you have a structure that's set back from Fresh Pond Parkway, and in its window it's got --

CAROL O'HARE: I'm not just talking about window signs.

CONSTANTINE ALEXANDER: I know that.

CAROL O'HARE: There are banners on posts, on -- there are banners on

movable posts. There are huge signs on the facade.

CONSTANTINE ALEXANDER: Well, if he goes ahead with the Variance, those banners are gone. If we deny relief --

CAROL O'HARE: They're not flags. It's a stretched --

CONSTANTINE ALEXANDER: It's all right. It says balloons, pennants, and the like. My point is if we were to deny relief tonight, those are going to continue. And that sign, that ugly sign we all agree on will continue. And --

CAROL O'HARE: I'm just suggesting that --

CONSTANTINE ALEXANDER: Please let me finish.

And I have to ask whether what would we be accomplishing anything by allowing

the current situation to continue? But I would also point out we made findings. We made them in good faith. They may have made them erroneously, but we made them. And we made a decision, and it strikes me very -- it's very difficult for us to now decide, whoops, we, you know, the world's changed, generally, not in this lot, but we should now change our mind about the relief. I don't, I don't -- I have trouble with that. And I would point out that the Planning Board supported relief before. And with regard to the new -- tonight's proposal, the Planning Board reviewed the present sign variance request and has no further comment respecting the Board of Zoning Appeal decision on the previous request. So they're basically in support --

CAROL O'HARE: Their comment --

JAN DEVEREUX: I was there.

CAROL O'HARE: Their comment the last time around was that the sign conformed to Zoning. That was their recommendation. So that's why -- and I was at the Planning Board hearing. Their recommendation is what we and the neighbors are suggesting now that these sign that replaces the sign cactus, you know, for a graphic reasons --

CONSTANTINE ALEXANDER: Right.

CAROL O'HARE: -- would conform with Zoning and other people have said, and I've seen it, that Honda provides a sign that would comply with Zoning. And I'm not -- so I am suggesting that it is not a hardship for them to be required at this point now that we've all, you know,

now that we understand that all of the rest of the signage on the property should have been inventoried, it should have been caught at Planning Board, at CDD, that the analysis should have been -- all the signs on the property, because that's what the Zoning Law requires. That didn't happen last time. I'm not suggesting that you revisit that. I am simply suggesting that the sign that replaces the sign cactus could very easily without any hardship conform with Zoning as a single sign.

CONSTANTINE ALEXANDER: You appreciate I trust, that if we were to deny relief tonight, the petitioner doesn't have any obligation or need to replace the existing -- we all agree, ugly signs. That would stay. The pennants, balloons, and the like would stay. There

would be no enclosure for the back of the dumpster. The extension of the fence would not occur. Is that what you want?

CAROL O'HARE: No, I could easily -- I mean, it never occurred to me until you gave me that sort of choice or ultimatum, I could easily file a complaint with ISD and say, you need to show me how each of these signs -- I mean, I'm gonna --

CONSTANTINE ALEXANDER: You could. And that's your Constitutional right. But that does not involve us tonight.

CAROL O'HARE: Well, I'm talking to the petitioner at this point, through you, as they say, that one could easily file a complaint saying show me how these signs are either grandfathered or were approved because they -- all of them

together, the banners, the flags, the window, the wall, the post, the everything, they all amount to excess signage.

CONSTANTINE ALEXANDER: As I said, that's your Constitutional right. If you want to do that, you're free to do that. That's not necessarily relevant as to why we should or should not grant relief tonight.

You've spoken before but I'll give you another opportunity.

CAROL O'HARE: Thank you.
CONSTANTINE ALEXANDER: You're welcome.

JAN DEVEREUX: It seems, it seems odd to me that first of all, there's the straw man argument which you raised in another case which is that we should be

grateful at the last hearing they were willing to reduce the even more large sign down to now, I think that was 25 feet or so, now it's just down to 19 feet so we should be happy.

Secondly, I don't know any business that would basically shoot itself in its own foot by leaving that monstrosity eyesore of a sign which advertises Chevrolet and a whole bunch of other things that they don't even sell anymore simply because they weren't allowed to have a non-conforming sign. I mean that just seems like a poor business decision. So to sort of not be willing to call their bluff and say, seriously? You guys are gonna keep this ratty old sign that makes your business look not very prosperous, not modern, doesn't even sell your brand

the way it should be brand, simply because you can't have an extra four feet on your sign? That's not a good business decision. So I think they're smarter than that.

And finally I would like to say that I have very little confidence that anyone will enforce this gentleman's agreement that you're saying that they need to, you know, the condition is that they need to agree with all the other stuff based on the difficulty that we've had in the past with this. I mean, I just -- I see us spending the next several years saying, oh, you know, there's this thing still there. Yeah, yeah, yeah, we'll do it. So but I think it's down to a business decision which I think any good business person would say we can live with a

15-foot sign, thank you very much, it will be great for our business. And why do you need to give them more?

CONSTANTINE ALEXANDER: Asking the ability to enforce the enclosure and the fencing, if it's a condition of our decision and the condition is not satisfied, anyone can go to the Inspectional Services.

JAN DEVEREUX: That puts the burden on us, and Inspectional Services is overtaxed based on the amount of visual clutter that is not policed, enforced, you know, throughout the parkway. It's not a rise in signs. It is what it is.

CONSTANTINE ALEXANDER: Anyone else wishes to be heard? Ma'am.

MARILYN WELLEN: Thank you. Marilyn Wellen, 651 Green Street. I'm not

an abutter. I've been concerned with light pollution and visual clutter. I don't live there but I do -- I live in, you know, sort of Borderland between Massachusetts Avenue and the residential parts of Riverside. So I'm here because I'm concerned about the precedent of the Variances granted for non-conforming signs. I can anticipate that the conversion of the courthouse, for example, could bring a whole bunch of new signs all over the building and around the building that would create visual clutter that would go far beyond the abutters and the abutters of abutters. And the same holds true for my neighborhood. So I'm here and I am interested to learn the intricacies of your situation and the owner's situation and the abutters' situation.

And it seems to me what might be called a delicate situation in part, but I don't, for myself and my neighbors, we don't like to see Variances granted as a matter of course and we don't like to see light pollution -- yeah, and visual clutter.

Thank you.

CONSTANTINE ALEXANDER: I would just observe as I've done before, I'll do it again, we don't grant sign variances or any Variances a matter of course.

MARILYN WELLEN: I'm glad to hear that.

CONSTANTINE ALEXANDER: We spend a lot of time here studying these cases and we work on them and we turn cases down, like with the TD Bank sign. We modify or put conditions on signs. What happened in the -- a year ago or so on this case. And

we do grant, we do grant Variances. Many times those people don't like it. We think the petitioner is entitled to a Variance. So I think we're aware that you folks are looking over our shoulders, and we take our responsibilities seriously, but I don't think it behooves us to turn this one down because we might do something bad in the future. We take this one on its facts. And the fact that I'm still troubled with, and I haven't heard from other members of the Board, we made a decision. We made a decision. Nothing has changed since that decision. We, I think, and obviously the people don't agree, I think we improved -- we will improve the situation on this lot. Maybe it's not as much as you would like or you would like, but I think it would. And,

therefore, that's the problem I have. You know, this were a case were new like TD Bank, it would be a completely different story. You know, it is what it is. We made a decision. We thought about it, we worked on it, we put conditions, and now the question is why shouldn't we just keep it. Why should we change our mind just because?

Okay, you're going to respond to that and then I want to move on.

CAROL O'HARE: I just want to -- just for the record, I would like to read into the record what the Planning Board actually -- one sentence that the Planning Board wrote in its recommendation last time around.

(Reading) The Board suggests it would be useful for the sign proposal to

also illustrate -- to also illus -- to
also -- there's a typo.

CONSTANTINE ALEXANDER: Yes.

CAROL O'HARE:

(Reading) -- illustrate how a conforming
sign does not meet the business
advertising needs of the car dealership.

So in effect they're saying show us
why, you know, a smaller sign, smaller,
lower sign, whatever it takes to make that
sign standing alone conforming isn't
sufficient. And so, you know, and they
did not.

CONSTANTINE ALEXANDER: Well, we
believe they did obviously because we
granted relief. Anyway.

Thank you.

BRENDAN SULLIVAN: Carol, can I
see that? I think there's a key phrase

sentence in there that rang a cord with me the last time. (Reading) Planning Board granted Special Permit No. 149B for the site which conditioned the decision on encouraging compliance with the sign ordinance when the freestanding sign was replaced. To me that's the key sentence in that whole thing --

CAROL O'HARE: Yeah, I'm sorry.

BRENDAN SULLIVAN: -- in that whole report.

CAROL O'HARE: Sorry, I....

THOMAS SCOTT: So is it a 20-foot sign, is that what the proposal is?

CAROL O'HARE: It's too big, too high and too bright.

JANET GREEN: It's not too big. It's the feet.

JAN DEVEREUX: 19 feet, one inch.

CAROL O'HARE: The sign certification says it. If you're looking at the sign all by itself, Liza's sign certification says it.

JON MCKERNAN: I have photographs.

BRENDAN SULLIVAN: Mr. Panico, what is proposed is a 10-by-10 sign as per the last; is that correct?

ATTORNEY VINCENT PANICO: Yes.

BRENDAN SULLIVAN: Okay.
Does Honda offer an eight-foot square or a seven-foot, three-inch square sign, also?

ATTORNEY VINCENT PANICO: That, I don't know.

JAN DEVEREUX: Jack, you have it in front of you.

JON MCKERNAN: Yes, I do.

JAN DEVEREUX: The letter I sent

had an attachment to it that --

BRENDAN SULLIVAN: I think where I'm going to come down on it, even though I voted on it the last time, I'm not prepared to vote in the affirmative tonight because I think there are some overhanging issues here that in my mind have not been resolved for me in will order to vote in the affirmative. That I also would prefer to have, nothing against you, the comptroller, but I would prefer to have the owner who was here the last time, who can directly either make commitments, answer the questions or not.

CONSTANTINE ALEXANDER: That's the point.

JANET GREEN: Yes.

BRENDAN SULLIVAN: And because I think that's the guy who ultimately signs

off on whatever is asked of him.

And the other question is obviously can we go with an eight-foot sign or a seven-foot, three square?

THOMAS SCOTT: Yes. Why can't we have a conforming sign I guess is the question?

BRENDAN SULLIVAN: Well, I think -- yes, we sort of flushed it out I thought the last time.

CONSTANTINE ALEXANDER: This is the transcript. I haven't read it.

BRENDAN SULLIVAN: But I think if they offer a smaller sign at least -- so anyhow that's where I'm coming down.

CONSTANTINE ALEXANDER: I think it's a good suggestion, Brendan.

JANET GREEN: I think it is, too, Brendan. And, you know, particularly the

thing that I felt changed was your comment about not having things done that would be attentive to the neighborhood. And I guess you're new working there or you have been there for a long time?

JOE LEPORE: I haven't been there long enough.

JANET GREEN: You probably have the feeling now that neighbor relations are really important and that you can't -- especially -- I don't know how it is in other cities, I mean, I live in this city. But in this city neighborhoods are a very important part of the fabric of the city. And you'll see this through the whole layer in the business community, through the neighborhood organizations, through the non-profit organizations, neighborhoods is what the city talks

about.

BRENDAN SULLIVAN: And there's another -- even though every case has to stand on its own shoes. And we view each case separately. There isn't an abutting property that we granted a Variance to that has not complied with all of the requirements of that Variance. And that sticks in my craw and it sticks in the craw of the neighbors, too. So unfortunately you may be guilty by association here that you're the next guy coming down the pike, but I think, you know, shame -- fool me once, shame on me. Fool me twice, shame on --

CONSTANTINE ALEXANDER: You got it backwards.

BRENDAN SULLIVAN: Anyway, shame on you, fool me twice, shame on me. And

now I think they got their back up. And so I would concur --

CONSTANTINE ALEXANDER: But I also think, I would also like to hear from, in writing, before we reconvene this case, a letter with a proposal as to what you want for enclosures and what you believe was promised to you. And also a proposal with regard to the extension of the fence. So we can consider that in the context of whether we want to grant relief subject to the condition upon complying with these or not.

ADAM GLASSMAN: Do we give those to Sean?

JON McKERNAN: We can do that.

CONSTANTINE ALEXANDER: As long as we get them by the Monday --

JANET GREEN: They go in the file.

CONSTANTINE ALEXANDER: And certainly give the petitioner a file obviously.

JON McKERNAN: Can I ask?

CONSTANTINE ALEXANDER: Sure.

JON McKERNAN: I'm not understanding one thing. You said earlier if you were not to grant the previous request, that that would throw out all of the -- everything, have to start all over again.

CONSTANTINE ALEXANDER: What we could do is renewal, I'm going to use the word renewal. Renew the Variance subject to the same conditions we imposed the last time plus additional conditions.

JON McKERNAN: And if you didn't, then that would -- they'd just go back to doing everything they were doing before.

JANET GREEN: Balloons.

CONSTANTINE ALEXANDER: Or we could take -- we could grant a Variance with different conditions. One being the sign's got to be smaller than we allowed the last time and other ones. We have a whole variety of things, and that's what's possible. And one of the reasons why Brendan's very good suggestion is let's continue this case. Let's get the decision maker down here. Let's hear more specificity what the neighbors want and we'll decide.

JANET GREEN: Yes.

CONSTANTINE ALEXANDER: I know this is -- since the owner is not well, do you have any sense of when -- we have to make this is a case heard. So we have to get the five of us together. A month from

now?

ATTORNEY VINCENT PANICO: I think in a couple of days he should be better.

JOE LEPORE: With all due respect can I say something?

CONSTANTINE ALEXANDER: Go ahead.

JOE LEPORE: With respect to the Planning Board and our neighbors, my tenure with Cambridge Motorcar has been very short. I've only been there a year working for the company. I've worked for Andy Bellizia, and no disrespect to our neighbors, and I judge him to be a good man.

He has made some improvements to the fence. He has made major repairs done to the fence, straightening it out. He has installed a low level barrier, which I'm sure the neighbors are aware of.

There was discussion of a curb cut. The city of Cambridge come out and decided that Mr. Bellizia it would remain as such.

There was discussion of extending the fence if they removed the barrier, and created a dual hardship for us to operate as a business without that curb cut there. I am not aware of the dumpster situation. I know Mr. Bellizia and I was involved with cleaning up that area and cleaning up the transmission -- transformers out there which was required NSTAR to come out after hours at night. I personally took that project on myself. I, again, apologize for the dumpster. I have no knowledge or any dealings with that. Mr. Bellizia will have that. I'm not in position tonight to make any decisions.

CONSTANTINE ALEXANDER: I would

not ask you to. That's why we're going to continue the case. We're going to get the decision maker here. We recognize that.

JOE LEPORE: Thank you.

CONSTANTINE ALEXANDER: I'm going to suggest the second hearing in February. February 26th that gives you plenty of time for you folks to communicate with the owner, the owner to get better, and to respond to the questions. No need to rush through. We waited a year or more for the sign, we can wait another month.

Is that satisfactory to other members of the Board?

JANET GREEN: It is. And I would just tell you Mr. Panico, I will not be here all of March, so because this, I will be here in February.

ATTORNEY VINCENT PANICO: 25th?

JANET GREEN: I'll be here for the 26th, but should something happen and you need to delay that, you won't be able to do it for a month because I'll be away. Unless you want to go with four members.

ATTORNEY VINCENT PANICO: Which we did last time.

CONSTANTINE ALEXANDER: Actually, you're right. That's your call. Not our call.

ATTORNEY VINCENT PANICO: There's been enough things that have to be tidied up. But remember the --

CONSTANTINE ALEXANDER: You need a month to tie it all up.

ATTORNEY VINCENT PANICO: Last time there was a question about the size of the sign and we discussed it with Mr. McKernan and the sign was reduced six

feet. If you recall that.

JANET GREEN: Yes.

ATTORNEY VINCENT PANICO: So he would not have that light and he was satisfied with that. So there was some good that came out of the discussions there. So we'll bring Mr. Bellizia here the 25th.

CONSTANTINE ALEXANDER: 25th or 26th?

SEAN O'GRADY: 26th.

ATTORNEY VINCENT PANICO: 26th?

JANET GREEN: Yes.

CONSTANTINE ALEXANDER: The Chair moves that this case be continued as a case heard on the conditions that the petitioner sign -- the representative sign a waiver of the time for decision.
Mr. Panico.

That the signage on the property be modified to reflect the new date, February 26th. New time, seven p.m. And that the -- and that could be done by magic marker. And this new sign be maintained for the 14 days required under our Ordinance.

And lastly to the extent that you're going to submit new -- I guess new sign proposal, if you are, that this be in our files no later than five p.m. on the Monday before February 26th.

ATTORNEY VINCENT PANICO: So when you say new sign proposal --

CONSTANTINE ALEXANDER: If you're going to make one. I don't know if you are. I'm just saying if you decide to make a new sign proposal, different from what is now in our files, you got to have

that new proposal in our files by five p.m. on the Monday before so that the neighbors can take a look at it and we can take a look at it in advance of the hearing.

And similarly I would ask that you, that same deadline, what proposals you would like us to consider with regard to the enclosure and the signage be in our files at the same time. Okay?

All those in favor of continuing the case on this basis, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

ATTORNEY VINCENT PANICO: Thank you.

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

* * * * *

(11:25 p.m.)

(Sitting Members Case #BZA-005843-2014:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 005843, 66 Chestnut

Street.

Is there anyone here wishing to be heard on this matter?

ATTORNEY SEAN HOPE: Good evening, Mr. Chair. Good evening, members of the Board. Happy new year to everyone. For the record, I'm here --

TIMOTHY HUGHES: You're the first one to say that.

ATTORNEY SEAN HOPE: I'm here with the applicant Sam Wolf. He is the managing member of MSW Chestnut Street, LLC.

This is an application requesting Variance relief to convert a dwelling that was recently used as a transitional home back to its formal use as a two-family dwelling.

The residence is sited in the Res B

District. And just briefly, according the Cambridge Historical Commission records, this structure was built in the 1890s as a two-family that was also known as a double at the time it was built, and it maintained the uses of two or three families up until it was purchased by a non-profit. Over the last 10 to 15 years it's been in the hands of a few different non-profits, all with the charitable mission as a transition home. This is a somewhat unique case as this case came before me and with the applicant. We actually didn't believe we actually needed relief. We looked at the structure. It was a two-family and then it was used as a transition home and now we want to bring it back to a two-family. That wasn't the opinion of the Building Commissioner.

The rationale was that, as the Board knows, under Article 2, the definition of family as a single occupancy unit, doesn't allow more than three unrelated people to be within a dwelling. There's an exception under the Fair Housing Act that allows for more than three unrelated people to live there as long as you meet the requirement under the statute. And one of those is for the transitional home. What I didn't agree with was why, why because the property was allowed to be used as this transitional home, why wouldn't that use ended did it not revert back to a two-family? The explanation I received was that for a Zoning purposes, when the transitional home uses that property, it's actually deemed as a single-family. And I looked at the CO and

the building records and that was consistent with how it's termed. I believe the reason for that is that transitional homes would then be able to be in the most restrictive parts of the city. Often times certain areas will say only single-family homes are allowed, and that would allow for a single-family home to be able to -- a transitional use to be able to use in that area.

So, I did think it was a harsh interpretation but it was consistent with what the Building Department --

CONSTANTINE ALEXANDER: And you have not taken an appeal?

ATTORNEY SEAN HOPE: I have not taken appeal. And just anecdotally I'm just trying to wrap my head around for the Board's purview because I do think that

this was bringing it back to what it was.

CONSTANTINE ALEXANDER: That's fine.

ATTORNEY SEAN HOPE: That interpretation had consequences, because if the property is viewed as a single-family, then to add -- to take the old second unit and to bring did back, you would be adding unit to existing dwelling which trigger 5.26. 5.26 adds an additional dimensional requirement. There are four dimensional requirements. One is for open space, parking, and also for lot size. We --

CONSTANTINE ALEXANDER: And FAR, too.

ATTORNEY SEAN HOPE: And FAR is the fourth one, which we don't qualify for because the building was built in 600

square feet which is greater than allowed within the district. So that is the part of 5.26 that we're applying for relief on. Additionally there's a driveway on the right side of the property, again, for the two-family house, the lot would be grandfathered and it wouldn't be an issue, but because it's a single-family, the nine-foot width is below the ten-foot width requirement for the driveway. And that way we have the parking -- there was an existing driveway, and we have the parking sited in the back in the rear yard. But because the driveway is below the required ten feet by a foot, we also applied for relief on that because the idea is now we're adding this new unit.

CONSTANTINE ALEXANDER: So you don't satisfy three of the four

requirements 5.26?

ATTORNEY SEAN HOPE: I think we satisfy three of the four. So we have --

CONSTANTINE ALEXANDER: You don't satisfy FAR?

ATTORNEY SEAN HOPE: That's right.

CONSTANTINE ALEXANDER: You don't satisfy open space?

ATTORNEY SEAN HOPE: We do satisfy open space.

CONSTANTINE ALEXANDER: No. According to your dimensional form you're going from 40 percent to 25 percent and you're supposed to have 30 percent.

ATTORNEY SEAN HOPE: So there was an amended dimensional form submitted in the file.

CONSTANTINE ALEXANDER: Where is that? I'm looking in the file.

ATTORNEY SEAN HOPE: And that was why we actually submitted a revised site plan to show that we had the proper clearances and the proper open space.

CONSTANTINE ALEXANDER: Are these the right plans?

ATTORNEY SEAN HOPE: This is the survey.

CONSTANTINE ALEXANDER: Yes, survey. But I mean the plans that are attached to it.

ATTORNEY SEAN HOPE: There was an amended dimensional table.

CONSTANTINE ALEXANDER: In the correspondence there's an amended dimensional form.

ATTORNEY SEAN HOPE: Is it handwritten?

CONSTANTINE ALEXANDER: Yes.

ATTORNEY SEAN HOPE: Yes. And so on that, that's the amended dimensional form, and there was a plan that corresponded with that showing that we met the --

CONSTANTINE ALEXANDER: Where is that plan?

ATTORNEY SEAN HOPE: It was submitted along with those in the pictures.

CONSTANTINE ALEXANDER: The only plans we have is Peter Wright Studio, is that what you're referring to?

SAM WOLF: The amended one is by him as well.

CONSTANTINE ALEXANDER: Okay. I just want to -- now I'm a little confused. I want to know what is the correct dimensional form and what is he correct

set of plans?

ATTORNEY SEAN HOPE: So the correct dimensional form is the amended dimensional form that's in there.

CONSTANTINE ALEXANDER: There are two by the way. I don't know if they're duplicates. Two handwritten ones. They're the same it looks like. Okay.

ATTORNEY SEAN HOPE: Yes. And so --

CONSTANTINE ALEXANDER: And the plans are right after this?

SAM WOLF: The colored one?
CONSTANTINE ALEXANDER: No, the colored one is there.

The cover page is color.

ATTORNEY SEAN HOPE: The second. There you go. There it is.

CONSTANTINE ALEXANDER: Let me

take it out.

You're saying this is it? Take a look to make sure.

It wasn't filed properly in our files. I wasn't aware. Go back to where I started. 5.26.

ATTORNEY SEAN HOPE: Yes.

CONSTANTINE ALEXANDER: Which part of it are you complying with and which are you not?

ATTORNEY SEAN HOPE: We're complying with one per unit.

CONSTANTINE ALEXANDER: Correct, one per unit. Go ahead.

ATTORNEY SEAN HOPE: Complying with the open space.

CONSTANTINE ALEXANDER: It now says 36 percent.

ATTORNEY SEAN HOPE: We actually

went through it and detailed it.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY SEAN HOPE: We're complying with the minimum lot size.

CONSTANTINE ALEXANDER: Yes. And so the only thing is FAR?

ATTORNEY SEAN HOPE: Yes.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY SEAN HOPE: The one was the Variance, and the second element was the driveway width.

CONSTANTINE ALEXANDER: Yes.

ATTORNEY SEAN HOPE: I would say -- there were actually two members of the neighborhood who came, and I think they spoke to Mr. Hughes.

TIMOTHY HUGHES: They did. They said there should be a letter in the file. They said they were here to support the

neighbor, that had already written a letter.

CONSTANTINE ALEXANDER: We have two letters in the file. Both of them raise objections. Not total objections. But expressed concerns let me put it that way.

ATTORNEY SEAN HOPE: Yeah, and we unfortunately, the author of the letter isn't here tonight because he was travelling. We did talk to him about some of those concerns. Some of them were concerns about having the number of parking --

CONSTANTINE ALEXANDER: Yes.

ATTORNEY SEAN HOPE: -- cars in the back. And I explained to them in the hallway that there's an open space requirement and that we actually don't

have more room for an additional car to park there because we would be -- we were below the minimum space open requirement. They did mention that the turnaround space seems so large, but I think they're also familiar with the code that there is a backup radius that you have to comply with to have the compliant parking spaces.

CONSTANTINE ALEXANDER: The main objection was the concern about headlights as people turned around flashing on to their property. And they wanted hedges or a fence or something that would shield their property from the headlights. I thought, to me, that was the most significant issue they raised and something I can --

SAM WOLF: There is a solid fence.

CONSTANTINE ALEXANDER: There is a

solid --

SAM WOLF: There is a solid fence.

CONSTANTINE ALEXANDER: How high?

SAM WOLF: I haven't measured.

Six or seven feet tall.

TIMOTHY HUGHES: I'm certain
that's above the headlights.

CONSTANTINE ALEXANDER: I hope so,
unless you have a Hummer.

JANET GREEN: It's as tall as you
are.

SAM WOLF: Definitely.

CONSTANTINE ALEXANDER: Okay. So
you're saying essentially there is?

TIMOTHY HUGHES: Are there any
holes in this fence that you need to take
care of?

JANET GREEN: And is that the only
place that the lights would show into

somebody's area?

SAM WOLF: The way that -- I mean, yeah, if you were coming in, there's a very tall fence in the back. It's, you know, probably 10 or 12 feet tall. I don't know the history of why these things were put in or who put them in. There's a very tall fence in the back. And then you would be facing the neighbor that wrote the letter. And I, you know, that's the six or seven foot fence.

CONSTANTINE ALEXANDER: I'm reading from the letter from Peter Dourmishkin and Dorothea Kagol, K-a-g-o-1. And just interpreting, they say: As the plans now stand, there is no clear design for landscaping that would mitigate the impact of the parking spaces in the backyard. For example, hedges could be

planted on all sides of the parking area facing our neighbors and our house.

That's -- and I jumped to the conclusion.

Their concern is cars turning around, entering or leaving early in the morning and late at night, and was going to cause lights shining on their property. You're saying that they're mistaken?

SAM WOLF: There is a solid fence, but if they're interested in hedges --

CONSTANTINE ALEXANDER: I'm only interested if you're going higher than the fence. Hedge is the same size of the fence.

ATTORNEY SEAN HOPE: Is it a solid stockade fence?

CONSTANTINE ALEXANDER: Make it a condition that you have and maintain a fence. How high is the fence now?

SAM WOLF: I would say six or seven feet tall.

CONSTANTINE ALEXANDER: At least six and a half feet?

ATTORNEY SEAN HOPE: The one in the back is almost a spiked fence, but it's pretty tall.

SAM WOLF: It's very tall.

CONSTANTINE ALEXANDER: You understand if we do grant you the relief with this condition, that you have an obligation thereafter to keep this fence there? You can't -- if it falls down, you better put it back up.

SAM WOLF: Sure.

CONSTANTINE ALEXANDER: Etcetera, etcetera. Okay?

SAM WOLF: Yeah, I understand.

CONSTANTINE ALEXANDER: Sean.

ATTORNEY SEAN HOPE: So I was just going to talk about just briefly I think the intensity of the use. This was a transitional home and anecdotally we talked to the neighbors in the back and, you know, they were saying that part of the reasons why -- and Sam can elaborate on this, that they sold the property, was they had a hard time filling and staffing and running the building efficiently. But they also did talk about because of the nature of the home, they had fire and ambulance and different things happening there. So I do think that there would be a reduction in the intensity of the use as a two-family home. I also think that this does provide as a large 600 -- 6,600 square foot home which is really inappropriate for a single-family home. I

think it lends itself very well to a two-family structure. And you're going to have one, three-bedroom on the second and third floors and you're going to be able to utilize the left side of the first and second floor. And there was an office or study. It could be a three bedroom. So I think, again, it's an opportunity to provide quality three-bedroom units that are renovated on an area that has a lot of families in that area. I happen to live a couple blocks from the property and I know that also there's a need for more family housing, which I think this will achieve. And I also think it's just a way for add to the Cambridge housing stock. So I think there are lots of benefits for that, but I also think this is not something that where a transitional home is being

run out of town. The value of the building allowed them to carry on the mission as I talked to Sam about. I think Sam's family has been involved with the non-profit --

SAM WOLF: For a very long time.

ATTORNEY SEAN HOPE: Yes, the family. They're on to bigger and better things, but this is something they can make some money on this and then also be able to continue their mission. And so I think it's appropriate and --

CONSTANTINE ALEXANDER: To me it makes no sense to continue as a single-family home unless you do it --

JANET GREEN: Especially when you drive up to -- I thought half was the transitional, half of the house and the other people live in the other house?

CONSTANTINE ALEXANDER: It's a classic two-family house.

JANET GREEN: A classic two-family.

CONSTANTINE ALEXANDER: I'm going to open it to public testimony and I'm going to read the letter, and there are some issues about conditions, the main one we've already touched on.

Anything further?

ATTORNEY SEAN HOPE: No.

CONSTANTINE ALEXANDER: Questions at this point from members of the Board? None?

I'll open the matter to public testimony. You want to say anything?

(No Response.)

CONSTANTINE ALEXANDER: Okay, thank you. No one wishes to be heard.

We are in receipt of two letters and I think I should read them given despite the late hour.

One is from Walter Willette, W-i-l-l-e-t-t-e and Gail Willette, 72 Chestnut Street, just down the street.
(Reading) We are writing to comment on case such and such regarding renovations at 66 Chestnut Street. We are abutters on the north side of the property. We will be out of the town on the day of the hearing and thus not able to attend. In general we reviewed the proposed conversion of a single-family building to a two-family building as reasonable and fitting use of the property. One issue of some of concern is the proposed parking arrangement where a long driveway plus space for two cars and a turning space in

the backyard. If there is to be off street parking, the proposed arrangements could have negative impacts on some neighbors due to noise and headlights shining into the rooms at all hours. This will affect other neighbors more than ourselves. We believe that there should be very specific mitigation, such as hedges or fences, and a strict limitation of two cars and pavement area that are negotiated with neighbors and that are legal and permanent restrictions. We also think that the option of no off street parking deserves consideration which would be consistent with the city policy to reduce vehicle trips.

Also to our knowledge there is no permit for a curb cut for a driveway for 66 Chestnut Street. We have been

residents at 72 Chestnut Street since 1977, at which time there was no curb cut and we are not aware of any permit being obtained since then. Presumably they should also be part of any approval process.

I take it you're planning to apply for a curb cut?

ATTORNEY SEAN HOPE: There's already a curb cut existing.

CONSTANTINE ALEXANDER: There is no permit for a curb cut for a driveway.

ATTORNEY SEAN HOPE: I know anecdotally. There is a curb cut there and you go to DPW and certain curb cuts, you know, they're not all registered and documented but there is a curb cut.

CONSTANTINE ALEXANDER: Okay.

And then a second letter from, as I

said, Peter Dourmishkin,
D-o-u-r-m-i-s-h-k-i-n and Dorothea Kagol,
K-a-g-o-l, who reside at 60-62 Chestnut
Street, another neighbor. (Reading) We
would like to submit the following written
comments concerning this case. They also
are out the country and not able to
attend. You've got a very peripatetic
neighborhood.

SAM WOLF: I guess so.

CONSTANTINE ALEXANDER: Overall we
find the proposed conversion of the
existing one-family dwelling to a
two-family dwelling reasonable and will
result in an improved use of the property.
We do have concerns, however, which we
address below:

One, as the abutting neighbor living
at 60-62 Chestnut Street, we are very

concerned about the design for the rear parking driveway. The impact to park cars immediately adjacent to our living quarters would have a major impact on our daily lives, particularly with cars entering and leaving early in the morning and late at night. And in particular we are concerned that more than two cars will be parked in the backyard taking advantage of the turnaround area as an additional parking spot. As the plans now stand, there is no clear design for landscaping that would mitigate the impact of the parking spaces in the backyard. For example, hedges could be planted on all sides of the parking area facing our neighbors and our house.

Aren't they aware of the fencing all around? Why does everyone want hedges

when you've got a six-foot fence?

ATTORNEY SEAN HOPE: I'm not sure.

CONSTANTINE ALEXANDER: Two, we are concerned about possible water and car emissions runoff from the parking area. Proper drainage around the perimeter of the car parking area should be required. For the turnaround space a porous soft surface should be considered to prevent runoff.

Three, we would like to request that there should be very specific mitigations, examples of which are outlined above. Only strict limitations of only parking for two cars and a size limitation on pavement area that are negotiated with neighbors and that are legal and permitted restrictions.

TIMOTHY HUGHES: That sounds like

the same letter.

CONSTANTINE ALEXANDER: In a lot of ways it is. It's got 4 and 5 and 6.

BRENDAN SULLIVAN: It may have been written by the same person.

CONSTANTINE ALEXANDER: I should read it into the record.

Four, one of us has been a resident at 60-62 Chestnut Street -- this is about the curb cut. I'm going to skip that. We've already covered that.

Five, according to the plans submitted as part of the request for Zoning Variance, when we calculated the square area devoted to the driveway and parking, we arrived at a figure that is higher than the listed figure of 1776 square feet in the petition. It does not seem coincidental that the existing

parking area of 1776 square feet cited in the Zoning request enables the open space area to exactly fit the minimum requirement. We're also concerned about the lack of a specific location for any exterior air conditioning unit that may generate considerable noise.

TIMOTHY HUGHES: It's not coincidental that it's the date of the Declaration of Independence either.

CONSTANTINE ALEXANDER: Well, air conditioning is governed by the noise ordinance. And if you comply with the noise ordinance, so be it. There are a lot of noisy air conditioners in the city. Or noisy to some people's minds.

Okay, that's it. That's all the public comments.

Comments from members of the Board?

As I said, I'm going to make a motion to grant the Variance with some conditions.

I want to talk a little bit about -- before I do that, the parking area and the number of parking spaces.

ATTORNEY SEAN HOPE: Sure.

CONSTANTINE ALEXANDER: I think you pointed out that the parking turnaround is required by our Ordinance?

ATTORNEY SEAN HOPE: Yeah. We spent sometime making sure that we had the proper clearances. It's a narrow driveway, but even once you were there in, I counted with the architect to make sure there was enough room to back up. Not just to be able to physically do it. And so that did eat up some open space, but that was intentional. It seemed like from the letter, well, that's larger than you

would need or most people have. And I think they thought that could lead to additional cars parking there. That's not --

CONSTANTINE ALEXANDER: You're not going to park more than two cars? You're not going to use the parking area turnaround for a third car?

SAM WOLF: You have to turn around. You have to go in and out of this driveway forward.

CONSTANTINE ALEXANDER: You're saying functionally you can't put more than two cars?

SAM WOLF: I consider myself an excellent driver in reverse and I wouldn't --

CONSTANTINE ALEXANDER: Well, then we're going to condition -- I'm going to

propose a condition that no more than two cars be parked on the lot as people could drive on the lawn and the like and to turn around. I don't want to make this parking lot. You have a problem with that?

SAM WOLF: Not particularly. I mean, you know, not particularly.

CONSTANTINE ALEXANDER: Okay. Discussion or we ready for a vote?

TIMOTHY HUGHES: Guess. Take a wild guess.

CONSTANTINE ALEXANDER: You were ready at 7:45.

Okay, the Chair moves that we make -- and please chime in and correct me when I come to the conditions. The Chair -- if you feel such.

The Chair moves that we make the following findings with regard to the

Variances being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship.

Such hardship being that it would be forced to use a single-family home -- a two-family home for a single-family purposes, and that structure is not designed for such. And it would be a considerable hardship to be forced to do that.

The hardship is owing to the fact that this is a -- the shape of the lot and the shape and the nature of the structure, which requires that it really be restored to its two-family status.

And that relief would be granted without substantial detriment to the public good or nullifying or substantially

derogating from the intent and purpose of the Ordinance.

In fact, all we would be doing is restoring the building to its original intended use.

So on the basis of these findings, the Chair moves we grant the Variance being sought subject to the following conditions:

That the work proceed in accordance with the plans and dimensional form submitted by the petitioner, amended ones.

That the plan being under the signature of Peter Wright Studio, both of which have been initialled by the Chair.

That on all sides of the property, or at least on each side, that there be a fence erected and, thereafter, maintained.

A fence at least six and a half feet in

height, such that it would shield shining
of headlights on neighboring properties.
In other words, it can't be a porous fence
or a chain fence. It's got to be a solid
fence.

That the work -- work proceed in
accordance with plans submitted by the
petitioner. Such plans show only two
parking spaces and a turnaround space.

This is what it's got to be. There
will be no more than two cars parked on
the lot on a regular -- on any basis.

And that the turnaround space be as
set forth here.

Curb cuts I don't think are relevant
at this point. And that's it.

Okay, so those are the conditions I
propose.

Any comments, suggestions,

modifications? Happy with it?

TIMOTHY HUGHES: Yes.

THOMAS SCOTT: Good.

CONSTANTINE ALEXANDER: Okay.

All those in favor of granting the
Variance so moved, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in
favor. Variance granted.

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

(Whereupon, at 11:50 p.m., the
Zoning Board of Appeals
Adjourned.)

* * * * *

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C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.

I, Catherine Lawson Zelinski, a Certified Shorthand Reporter, the undersigned Notary Public, certify that:

I am not related to any of the parties in this matter by blood or marriage and that I am in no way interested in the outcome of this matter.

I further certify that the testimony hereinbefore set forth is a true and accurate transcription of my stenographic notes to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of February, 2015.

Catherine L. Zelinski
Notary Public
Certified Shorthand Reporter
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