

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, AUGUST 13, 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

George S. Best, Associate Member

Andrea A. Hickey, Associate Member

Maria Pacheco, Zoning Secretary

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PROCEEDINGS

(7:00 p.m.)

(Sitting Members Case BZA-006158-2015: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, George S. Best.)

CONSTANTINE ALEXANDER: The Chair will call this meeting of the Zoning Board of Appeals to order. And as is our practice, we start with continued cases. These are cases that started at an earlier session and for one reason or another had to be continued to tonight.

So the first of the continued cases I'm going to call is case No. 006158, 10 Canal Park.

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

ATTORNEY ANNE REYNOLDS: For the record, my name is Anne Reynolds on behalf of Sprint Spectrum.

As you know, this case has been

before the Board for a while.

CONSTANTINE ALEXANDER: Yes, it has.

ATTORNEY ANNE REYNOLDS: And we've gone back and try to redesign the site at the request of the Board. I wanted to present you with the both options, the initial design and what we proposed as a change based on our -- just by way of quick background, we are looking to update the existing site with three new antennas and three new HR antennas which will be side mounted on the penthouse with the same antennas.

This is what's currently there. You'll see four other carriers that are on the side of the building over here. What was initially proposed was the back side antenna next to what was already there

without the box out.

The proposal we now have or the option we have is the box out of those two antennas. You'll see on this lower level, there's a square box out that covers both antennas. And same thing, we did it on all sides so each side of these antennas are boxed out.

This is what's existing. This is what was initially proposed. It was not visible from this view. You can see slightly the box comes up a bit -- at the top there so you can see a bit there. And that's the east view.

And the south view. And so really the main view that we're looking at is this first one which is the west view. This was presented to the Planning Board before coming back here again.

CONSTANTINE ALEXANDER: I was going to ask you that.

ATTORNEY ANNE REYNOLDS: And it was, I believe, they didn't write any comment, but I did speak with Liza about it and she told me that they said they preferred the initial, having it side by side. They preferred the initial design after looking at them. And, but obviously it was more to leave it up to this Board.

I'm happy to answer questions and get your feedback.

CONSTANTINE ALEXANDER: For the record, we did have communication from the Planning Board. It said basically what you want to do, but let me just read it into the record. If I can find it. It's buried here. I have the March letter. Anyway, I don't want to hold everybody up.

I will report to the Board that basically the Planning Board expressed no opinion one way or another. They didn't prefer one for the other, just left it up to us. I think that's a fair characterization.

ATTORNEY ANNE REYNOLDS: Yes.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY ANNE REYNOLDS: And just to add to that --

CONSTANTINE ALEXANDER: Go ahead.

ATTORNEY ANNE REYNOLDS: Not that my opinion is the beyond -- my feeling at least in looking at this in particular, the third one almost adds more bulk to that top there than just having the antenna back down there. Obviously it's up to the Board, but that was kind of our feeling that we had at the discussion with

the Planning Board with Liza and Suzannah.

CONSTANTINE ALEXANDER: And while you're updating us, I did find the letter. It's a letter from the Planning Board dated August 6th, and very simply it says: The Planning Board viewed the revisions dated 7/22/15, which is what you have up there, and does not have any comments or recommendations on this particular antenna installation.

And there are no other letters of comment from the community pro or con.

Questions from members of the Board?

TIMOTHY HUGHES: Do you have a copy of that that I can hold in my hand?

ATTORNEY ANNE REYNOLDS: I do, yes.

THOMAS SCOTT: I think the enclosure is a good idea, but since there

are all those other antennas up there that aren't enclosed, I'm not sure that this enclosure makes any difference. Like Ms. Reynolds says, it adds bulk and draws attention to it and maybe a single antenna would really kind of downplay it a little bit. Anyway, I'm not particularly excited about the big enclosure.

CONSTANTINE ALEXANDER: I like the enclosure. I don't -- I wouldn't fall on my sword over it, but I think it does -- I don't like those pipes that keep sticking up on the building. Get rid of a pipe it's more like a chimney or some sort of the structure. So for myself, I like the -- this proposal rather than the original, but that's just one person's opinion and I'll go with the flow.

THOMAS SCOTT: I'll go either way,

too, I'm not, you know.

TIMOTHY HUGHES: I'll go either way, too, but I don't think the enclosure does what we suggested it should do. I think our suggestion was that the enclosure would work if it went to natural borders on the penthouse which means enclosing all the antennas from one end to the other, not just your two antennas, otherwise it just looks bulkier, but that's the kind of enclosure I was looking to see.

CONSTANTINE ALEXANDER: They can't obviously enclose other people's antennas.

TIMOTHY HUGHES: Well, somebody can.

CONSTANTINE ALEXANDER: Yes, the other people if they want to cooperate, but I mean, it's their antennas.

TIMOTHY HUGHES: I mean, the screening doesn't do anything to the antenna.

CONSTANTINE ALEXANDER: It doesn't. It doesn't do a lot. It does something, but not anything very meaningful.

TIMOTHY HUGHES: If it was meaningful, they wouldn't even offer to enclose their own antennas. Obviously you can enclose these antennas. You know, I'm at a loss to say, I don't think this, this enclosure accomplishes what we were suggesting as a Board. And the first one, you know, it does look better than this, but that doesn't mean it looks good. It just means it looks better than this. It's less bulkier in this one. It comes back to, why can't you people cooperate a

little bit? You know, talk to the other carriers. Talk to the landlord. I mean, the landlord could put a screen that covers -- that goes the whole length of this penthouse and you wouldn't see any antennas at all. None. Period. End of story. Somebody has got to start doing it. If it's not going to be you and your carrier, and it's not going to happen unless we make somebody start doing it, start looking at it as a possibility.

ATTORNEY ANNE REYNOLDS: I mean, there's access issues and the technologies are different so it's hard, it's hard to -- it's not a matter of saying we're not going to cooperate. It's more you've got, you know, there's technology that you don't want other people to access. There's different people have to go up at

different times. The coordination of that I think is just, you know, in a practical sense isn't feasible in this particular location.

Now, if it -- again, that was kind of where we came to, and we spent a lot of time trying to make this work.

TIMOTHY HUGHES: I just feel like that's just a lot of runaround, you know. And engineers are brilliant that are doing this stuff, you know. And if one company can't talk to the other company, that's, you know, that's a problem. That's a problem for the City of Cambridge which is trying to, you know, to not do something stupid or ugly, you know. And if we can't force the issue to get these companies to talk to each other and cooperate about the screening of their antennas, than who's

going to do it? I don't like either one. It doesn't, it doesn't accomplish what we suggested.

CONSTANTINE ALEXANDER: We can return to this as a Board. Let me ask, is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: As I mentioned, there are no letters other than the Planning Board who said we have no views. So I'm going to close public testimony.

I take it from your perspective you would go -- your client would go either way?

ATTORNEY ANNE REYNOLDS: Yes, they would go either way. I think the preference would be to have it the

original --

CONSTANTINE ALEXANDER: Sorry?

ATTORNEY ANNE REYNOLDS: The preference would be the original proposal.

CONSTANTINE ALEXANDER: And that's what's attached to your February 12th package?

ATTORNEY ANNE REYNOLDS: Yes.

CONSTANTINE ALEXANDER: The plans I mean.

ATTORNEY ANNE REYNOLDS: The initial plans that were filed.

CONSTANTINE ALEXANDER: I think those are the ones. I don't see anything else.

ATTORNEY ANNE REYNOLDS: Let me just make sure there's not an internal.

BRENDAN SULLIVAN: Do we have another set of graphics there, the photo

sims?

CONSTANTINE ALEXANDER: The current proposal?

BRENDAN SULLIVAN: Yes.

CONSTANTINE ALEXANDER: This is what I have.

I think the plans we should have, Ms. Reynolds --

BRENDAN SULLIVAN: I think Tim is absolutely right, we're looking for something that's a part of the building and not an appendage to the building.

CONSTANTINE ALEXANDER: That's something that shows the last revision, the original one, 7/8/14.

ATTORNEY ANNE REYNOLDS: That's it. That's prior to the box out.

BRENDAN SULLIVAN: And that -- the problem is that we're doing this in

piecemeal --

CONSTANTINE ALEXANDER: That's right.

BRENDAN SULLIVAN: -- as opposed to having them all sit around the table.

Anne will be here and whatever, this will be disposed of or something, and two months later we'll have another carrier in, and two months, six months later we'll have another carrier in. And we're doing this piecemeal and consequentially the net result is a patchwork quilt.

CONSTANTINE ALEXANDER: I think the lesson here is that screening makes sense when you're the only carrier on the building and you can control the building. When you have another carrier with their own antennas, you can't get the other ones to cooperate.

I think your point, Tim, I think they may worry about legal issues, antitrust or the like and competitors talking and comparing notes, maybe. I think it's -- you could worry about that. That's probably why they almost all don't sit down and come up with a common solution.

TIMOTHY HUGHES: I mean, you could -- the landlord could take control of the situation.

BRENDAN SULLIVAN: The landlord, all he cares about is the monthly check.

TIMOTHY HUGHES: Exactly.

BRENDAN SULLIVAN: That's all he cares about. And don't do something that's egregious.

TIMOTHY HUGHES: And if the carrier knew they weren't going to get

permission from the Board unless they push the landlord to do something else --

BRENDAN SULLIVAN: Right.

THOMAS SCOTT: Maybe the problem is it needs to go back further. When the building is being approved, they should say anything over, you know, eight stories has to have some consideration for this type of application.

TIMOTHY HUGHES: I agree with that entirely.

THOMAS SCOTT: And it has to be concealed.

CONSTANTINE ALEXANDER: Or the first time on it for a building that comes for antennas, we make it clear that further -- these have to be screened. Anything in the future, be it your carrier or another carrier, has to be screened as

well. That's the only other way of doing it.

BRENDAN SULLIVAN: I guess I would opt for the enclosure only because then when the next guy comes down, we can have him duplicate that.

CONSTANTINE ALEXANDER: I'm with you on the enclosure for that reason, too. I'm trying to establish a precedent here.

THOMAS SCOTT: Did you hear what Brendan said, Tim?

TIMOTHY HUGHES: No, I'm sorry.

BRENDAN SULLIVAN: I'm saying I would opt for the enclosure only because then we can establish something when the next guy comes down he has to duplicate what they're doing.

TIMOTHY HUGHES: Duplicate it or continue or redo that enclosure to

encapsulate theirs also.

BRENDAN SULLIVAN: And make it one element.

TIMOTHY HUGHES: Until we get from one penthouse to the other.

I would agree with that, but I'm still not going to vote for it.

CONSTANTINE ALEXANDER: George, anything you want to say?

GEORGE BEST: I'm looking at the drawings and it's ugly. I mean, that's all I can say.

CONSTANTINE ALEXANDER: Right.

GEORGE BEST: And when looking at, you know, this is a nice waterfront piece of property and you're looking at columns and you're not -- if they were placed a little bit differently so it looked like it was part of the design of the building,

I probably could be more satisfied with that. I mean, if I'm looking at what you're proposing, it's even worse than the original in my view. But I do agree, we have to start somewhere with enclosing these.

CONSTANTINE ALEXANDER: Well, I think that starting somewhere, like Brendan said, it's better to have the screening for these because that would be the second one. This is the second time we've done this. The Sancta Maria Hospital, the old Sancta Maria Hospital, that was a classic one. That was one carrier and the screening really worked I thought. It certainly improved the situation. This time we've got a different type of building with multiple carriers, but I think we can establish the

precedent in the future that the first carrier that goes up better understand that they're not going to be able to expand their antennas unless all antennas in the building, theirs and their other carriers, are screened. So like Brendan, I would vote for the current proposal, but I certainly would be -- the other members, the majority want the first proposal, I'm very happy to vote for that as well.

THOMAS SCOTT: Well, I would be in favor of the current proposal.

CONSTANTINE ALEXANDER: I know you're not. As long as Mr. Best votes in favor, you can be the descenter.

TIMOTHY HUGHES: I know. I'm well aware of my power here. But I don't know what George is going to do, do I?

GEORGE BEST: And I'm still on the

fence to be honest.

CONSTANTINE ALEXANDER: Well,
we've got to decide tonight.

THOMAS SCOTT: Just kind of hedge
your hand a little bit.

BRENDAN SULLIVAN: You can vote
present.

CONSTANTINE ALEXANDER: And we
still only get three votes. We need to
get four votes.

TIMOTHY HUGHES: All the pressure
is on you now.

CONSTANTINE ALEXANDER: He boxed
you in, George.

GEORGE BEST: That's okay, I'll
get him back.

CONSTANTINE ALEXANDER: Well,
going once -- if your view is you want the
first one, I will support the first one.

I suspect the other -- I can't speak for the other two members, they will two and we'll go with the first one.

BRENDAN SULLIVAN: Let me see that first one again? I'm sorry. I just want to be -- start to be consistent and allow for --

TIMOTHY HUGHES: The first one added another antenna. It's just another antenna. You know, incoherent growth of antennas on top of a building, you know, that can see from across the river.

GEORGE BEST: And that little box that's at the end of the building --

TIMOTHY HUGHES: I understand that --

GEORGE BEST: -- no design setback.

TIMOTHY HUGHES: I think Brendan

makes a good point, though about the screening. If not now, when?

CONSTANTINE ALEXANDER: Well, just like with the other conditions we've been imposing on these other telecom carriers about filing records and giving us copies, and giving the city copies of the reports, revoking their permit if they fall out of compliance with federal law. We're all trying to working our way towards solutions that doing the best we can in a situation where we have very little authority frankly, when it comes to telecom carriers.

BRENDAN SULLIVAN: Well, the enclosure would be better because somebody can pick up from that and hide the antenna.

CONSTANTINE ALEXANDER: Well, I

think we're ready for a motion.

So, George, which way do you want me to go?

GEORGE BEST: I'll go with the new.

CONSTANTINE ALEXANDER: The new one? Okay. I'm not trying to pressure you. I would have gone either way.

GEORGE BEST: No, no.

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

First, we've got to cover some other issues. You're a licensed FCC carrier?

ATTORNEY ANNE REYNOLDS: Yes.

CONSTANTINE ALEXANDER: In good standing?

ATTORNEY ANNE REYNOLDS: Yes.

CONSTANTINE ALEXANDER: You've taken steps, I'm reading from the

Ordinance obviously -- steps to minimize the visual impact. It's debatable as to how much you minimized it, different board members have different views.

This is not a residential area, zoned residential so the number of findings we have to find if this was residential do not apply.

And that's basically it in terms of the other elements we've got to vote on.

So the Chair moves that this Board make the following findings with regard to the relief being sought:

That the petitioner is a duly licensed carrier, federally licensed carrier in good standing.

That at our urging the petitioner has made attempts to improve the visual or minimize the visual impact of what is the

new -- excuse me, the three new antennas that are proposed.

That -- I guess that's all we need to do. On the basis of these findings, the Chair moves that we grant the Special Permit. I have to go to the Special Permit requirements in a second. Special Permit requested on the following conditions:

That the petitioner -- that the work proceed in accordance with the plans and photo simulations submitted by the petitioner. They're attached to a letter from counsel dated August 10, 2015. The first page of the plans have been initialled by the Chair. It's T1, and apparently it's last revised 7/22/15.

And further, that the work proceed in accordance with the photo simulations,

first page of which has also been initialed by the Chair. They apparently are dated -- the first page is 5/23/14, that's just a cover page. The photo simulations that are -- didn't change the numbers. They're all 5/23/14, all of which have been initialed by the Chair.

ATTORNEY ANNE REYNOLDS: They should be 7/22.

CONSTANTINE ALEXANDER: No, they're all 5/23/14.

ATTORNEY ANNE REYNOLDS: Do you have the --

CONSTANTINE ALEXANDER: You have the original ones and then when you superimposed what you're going to do, they just kept the date the same.

TIMOTHY HUGHES: I have one 7/17 if you want it, Gus, for the file.

CONSTANTINE ALEXANDER: We probably should use those.

THOMAS SCOTT: I think this one had the box out on it. That one didn't have the box out.

CONSTANTINE ALEXANDER: Anyway, the photo simulations initialed by the Chair and --

THOMAS SCOTT: Oh, and it does say 7/17.

CONSTANTINE ALEXANDER: Where? Oh, down below. Okay. I'll give those back to whoever gave them to me.

THOMAS SCOTT: Okay.

CONSTANTINE ALEXANDER: The photo simulations dated 7/17/15. That's the first condition.

The second condition that if the -- these new antennas are discontinued

for a period of six months or more, that they will be promptly removed together with the screening, and that the building be restored to its prior condition to the extent reasonably possible.

And that further, we have -- we have our standard, what's become our standard conditions for telecommunication carriers which I will read:

That inasmuch as the health effects of the transmission of electromagnetic energy waves is a matter of ongoing societal concern and scientific study, the Special Permit is also subject to the following conditions:

A, that the petitioner shall file with the Inspectional Services Department each report it files with the federal authorities regarding electromagnetic

energy waves emissions emanating from all of the petitioner's equipment on the site. Each such report shall be filed with the Inspectional Services Department no later than ten business days after the report has been filed with the federal authorities. Failure to timely file any such report with the Inspectional Services Department shall ipso facto terminate the Special Permit granted tonight.

B, that in the event that at any time federal authorities notify the petitioner that if equipment on the site, including but not limited to the Special Permit granted tonight, fails to comply with the requirements of law or governmental regulation, whether with regard to the emissions of electromagnetic energy waves or otherwise, the petitioner,

within ten business days of receipt of such notification of such failure, shall file with the Inspectional Services Department a report disclosing in reasonable detail that such failure has occurred and the basis for such claimed failure.

The Special Permit granted tonight shall ipso facto terminate if any of the federal licenses are suspend, revoked or terminated.

C, that to the extent the Special Permit is terminated pursuant to the foregoing paragraphs A and B, the petitioner may apply to this Board for a new Special Permit provided that the public notice concerning such application discloses in reasonable detail that the application has been filed because of a

termination of Special Permit pursuant to paragraphs A or B above.

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

And then D, that within ten business days after receipt of a Building Permit for the installation of the equipment the petitioner shall file with the Inspectional Services Department a sworn Affidavit of the person in charge of the installation of equipment by the petitioner with a geographical area that includes Cambridge, stating that:

A, he or she has such responsibility.

And B, that the equipment being

installed pursuant to the Special Permit we are granting tonight will comply with all federal safety rules and will be situated, will be situated and maintained in locations with appropriate barricades and other protections such that individuals, including nearby residents and occupants of nearby structures, will be sufficiently protected from radio frequency radiation under federal law.

Further -- we have to make further findings with regard to the Special Permit. This is a general finding that the only way that the petitioner can meet the requirements of the Ordinance is to obtain this Special Permit which it is seeking.

That the traffic generated or patterns of access or egress resulting

from these new antennas will not cause congestion, hazard, or substantial change in established neighborhood character.

And that the continued operation or development of adjacent uses will not be adversely affected by the nature of what is being proposed.

That no nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant of the proposed use or the citizens of the city, and that work being proposed will not affect the integrity of the district or adjoining districts or otherwise derogate from the intent and purpose of this Ordinance.

All those in favor of granting this Special Permit, subject to the conditions I've just enumerated, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Four in favor?

(Alexander, Sullivan, Scott, Best.)

CONSTANTINE ALEXANDER: Opposed?

TIMOTHY HUGHES: May.

CONSTANTINE ALEXANDER: One opposed.

ATTORNEY ANNE REYNOLDS: The Affidavit.

CONSTANTINE ALEXANDER: Yes.

ATTORNEY ANNE REYNOLDS: We may have talked about this, is it more sense to do this after the installation?

CONSTANTINE ALEXANDER: I thought it was after you get the receipt of the Building Permit.

ATTORNEY ANNE REYNOLDS: But my

only thought is before it's up they don't -- they can say it will be but I assume you may want it.

CONSTANTINE ALEXANDER: Okay, that's a good point.

ATTORNEY ANNE REYNOLDS: Just a thought. It just seems more practically speaking that it may be --

CONSTANTINE ALEXANDER: No, no, I like the idea that they to the --

ATTORNEY ANNE REYNOLDS: The compliance after it's up.

CONSTANTINE ALEXANDER: That they have to check, being sure giving the Affidavit that the installation works.

Going back to the condition rather than saying that D, intended it to say that the Building Permit within ten business days after completion of the

installation of the equipment in question.

ATTORNEY ANNE REYNOLDS: Okay,
thank you.

CONSTANTINE ALEXANDER: Thank you.

* * * * *

(7:30 p.m.)

(Sitting Members Case BZA-007204-2015:

Constantine Alexander, Timothy Hughes,

Brendan Sullivan, Thomas Scott, George S.

Best.)

CONSTANTINE ALEXANDER: Maria, do you have Reed Street?

We have two other continued cases. One is 26 Reed Street and the other involves 11 Cedar Street. Both of those cases are on our regular agenda. They were continued for purposes -- for technical purposes. We're not going to call those continued cases now. We'll call the regular cases at the time noticed. If relief is granted under the new application as advertised, I presume the petitioner will withdraw because you don't need the old one any longer. And if we deny, the petitioner can decide what to do with regard to the old application. But for right now there's nothing to be done.

So it's now 7:30, the Chair will call case No. 007204, 26 Reed Street.

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

GEOFFREY SHAFER: Geoff Shafer for Lynwood and Diane Marsh.

JAMES WILLIAMSON: To the extent possible, can everyone speak up, please? It's a difficult room.

GEOFFREY SHAFER: Sure.

CONSTANTINE ALEXANDER: It's on. Okay. I'm sorry, again your name, sir?

GEOFFREY SHAFER: Geoff Shafer.

CONSTANTINE ALEXANDER: And you are with the builder?

GEOFFREY SHAFER: I'm the builder, correct.

LYNWOOD MARSH: And I'm Lynwood Marsh, I'm the owner.

CONSTANTINE ALEXANDER: Okay. And you want to do various work to your structure on Reed Street?

LYNWOOD MARSH: Correct.

CONSTANTINE ALEXANDER: Why don't you just walk us through including the Zoning issues that you want to do.

GEOFFREY SHAFER: Sure.

So primarily the Variance we want is on a non-conforming lot. We're looking to add a dormer to the third floor which is the most major hard renovation. The dormer complies with the --

CONSTANTINE ALEXANDER: The dormer guidelines?

GEOFFREY SHAFER: -- dormer guidelines, correct, but the setback's too close. That being on the right side of the building.

CONSTANTINE ALEXANDER: Let me rephrase that. You substantially comply with the dormer guidelines particularly with regard to the size of the dormer.

GEOFFREY SHAFER: Correct.

CONSTANTINE ALEXANDER: And a technical non-compliance, i.e., too close to the setback?

GEOFFREY SHAFER: Correct.

And then we're also looking to make some minor changes to the covered porches on the front and on the sides.

CONSTANTINE ALEXANDER: That doesn't require any Zoning relief, though, does it?

GEOFFREY SHAFER: According to -- the Building Inspector asked me to have those in there.

CONSTANTINE ALEXANDER: Okay.

GEOFFREY SHAFER: In addition to that we're putting a box window in the front.

CONSTANTINE ALEXANDER: That's a Special Permit.

GEOFFREY SHAFER: He has it under the Variance because I went through it with the Building Inspector. He said to place all of those things under the Variance portion.

CONSTANTINE ALEXANDER: And what about the Special Permit? You're also looking for a Special Permit?

GEOFFREY SHAFER: A Special Permit are for some regular windows. Again, those are on the right side of the building. Again, too close to the setback. So we're adding two windows. We're pulling a window out, and then we're

just doing, just in place replacements with three on the second floor.

CONSTANTINE ALEXANDER: Okay.

Maybe the interesting thing I thought was FAR, which is usually an issue in older buildings like yours. You're slightly in non-conformance now and you're going to improve the FAR. You're going to reduce the size of the structure. You're still non-conforming, but you're going from 0.52 in a 0.5 district to 0.51.

GEOFFREY SHAFER: I'm taking a covered porch off.

CONSTANTINE ALEXANDER: I see why. But you need relief for FAR as well as the setbacks. But the relief is very modest in nature in my judgment in terms of what you're seeking.

Questions from -- anything further

you want to say at this point?

GEOFFREY SHAFER: No.

CONSTANTINE ALEXANDER: Questions from members of the Board?

TIMOTHY HUGHES: No.

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

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

DONNA VOLPE: I'm an abutting neighbor and I saw the plans and I thought --

TIMOTHY HUGHES: Can you identify yourself, please?

DONNA VOLPE: I'm not an architect.

CONSTANTINE ALEXANDER: You need to give your name and address.

DONNA VOLPE: Donna Volpe, 23

Montgomery Street in Cambridge, and my property abuts them on Reed Street. And I saw the design. April showed me the design they're gonna be doing, and a lot of upgrades on the house, which I think is a great idea, because if you've been to North Cambridge lately, we need a lot of that done. A lot of the houses are in disrepair. So, I'm definitely for it.

As far as architectural design, I don't know that, but the design looks really nice for the area, and it's not like some of the other places where they tore down houses and threw up a couple of townhouses which was completely different next-door to me. But I mean it looks nice. That's not -- but theirs, they're keeping mainly the structure of the house and adding the dormer for bedrooms and,

you know, updating electricity and all that important stuff.

CONSTANTINE ALEXANDER: And your comments triggered something in my mind. You've been building a deck sort of off the bedroom on the second floor?

GEOFFREY SHAFER: No, it would be off the kitchen instead.

CONSTANTINE ALEXANDER: Off the kitchen. How big is the deck? The issue with decks that we wrestle with is privacy for neighbors and noise. People can congregate on the deck, it will impact your property and the like. Is it a big deck?

GEOFFREY SHAFER: No, it's not. Eight-foot-three by eleven foot.

CONSTANTINE ALEXANDER: How much?

GEOFFREY SHAFER: Eight, nine by

eleven. I think it's actually smaller than the existing deck.

CONSTANTINE ALEXANDER: Okay. So there's an existing -- basically in terms of size replicating --

GEOFFREY SHAFER: Yeah, I have to move it -- I have to adjust it a little to be able to get in the driveway. But basically this deck's coming back and we're changing the stairs around.

CONSTANTINE ALEXANDER: And do you have any problems from your perspective with the deck that's there now, people congregating on the deck?

DONNA VOLPE: Not really. We have some really nice buffer on the properties between the houses the way the backyards come in and deep. So -- and they're very lovely people. There's never been, like,

any wild parties or anything like that,
no.

LYNWOOD MARSH: No.

CONSTANTINE ALEXANDER: Okay.

Comments from members of the Board?

THOMAS SCOTT: Are you generally
in favor?

CONSTANTINE ALEXANDER: I think
she said she is.

DONNA VOLPE: I am in favor, yes.

THOMAS SCOTT: Oh, okay.

DONNA VOLPE: It will look nice.
It will look really nice in the
neighborhood. It's nice to see people
updating.

CONSTANTINE ALEXANDER: It's nice
for neighbors like yourself to come down
and take the time and speak. We
appreciate it.

DONNA VOLPE: Well, they're very nice people so I wanted to do that.

LYNWOOD MARSH: Thank you.

GEOFFREY SHAFER: I would add so that we're -- I'm actually doing the work for his daughter and so they're gonna move back in with their parents.

CONSTANTINE ALEXANDER: I think I saw that in the file, yes.

DONNA VOLPE: And she was born and brought up in that house. He was born and brought up in the house and his -- her grandparents, his parents lived in that house. You're not seeing that a lot in North Cambridge anymore, three generations. Usually they move out.

CONSTANTINE ALEXANDER: This is not a two-family converted to a single-family or -- we have one of those

cases tonight. That's not this case.

Thank you.

DONNA VOLPE: Thank you.

CONSTANTINE ALEXANDER: Anyone
else wishes to be heard?

(No Response.)

CONSTANTINE ALEXANDER: No.

There are no letters in the file
that I saw so I think we can close public
testimony.

Anything else you want to add?

GEOFFREY SHAFER: No.

CONSTANTINE ALEXANDER: We're
talking just about the Variance right now.
We'll come back and take a separate vote
on the Special Permit.

Comments from members of the Board?

BRENDAN SULLIVAN: One of the
suggestions in the former guidelines is

that 50 percent of that wall be window.
And I'm just wondering how much of that is
window? I don't have a scale ruler with
me.

GEOFFREY SHAFER: I don't believe
that it quite makes 50 percent, but there
is a bathroom there, that's the main
purpose for that. We're getting -- that
dormer is to be able to get them a
bathroom on the sleeping floor.

BRENDAN SULLIVAN: So that those
two windows are just windows for the
bathroom?

THOMAS SCOTT: For the bathroom
right there.

BRENDAN SULLIVAN: Okay.
And then you got a shower?

THOMAS SCOTT: Here, yes.

GEOFFREY SHAFER: And a shower on

the right side from that stair.

BRENDAN SULLIVAN: And.... is that a stand-up something or other? Some kind of a closet?

THOMAS SCOTT: Maybe a linen cabinet or something?

GEOFFREY SHAFER: Cabinetry.

BRENDAN SULLIVAN: A linen cabinet or something like that. Yes, all right. All right, not impossible but you'd want to keep it the way it is, I guess.

GEOFFREY SHAFER: I think we could add another window then it wouldn't be centered with the shower.

BRENDAN SULLIVAN: You don't really have much wall space or anything. All right. It's only a guideline as one of our esteemed members always says.

CONSTANTINE ALEXANDER: I think

we're ready for a vote or, Tom, do you want more time to look at the plans?

THOMAS SCOTT: No, good.

CONSTANTINE ALEXANDER: The Chair moves that this Board make the following findings with regard to the Variance that's being requested:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner. Such hardship being that the structure itself is old, needs upgrading, and for the family situation, it needs to be reorganized so that the petitioner's daughter -- is it a daughter and her husband?

LYNWOOD MARSH: My daughter, yeah.

CONSTANTINE ALEXANDER: Daughter and her husband can move back into the

structure to join the petitioner and his spouse.

That the hardship is owing to the fact that this is a -- the shape of the -- the building is a non-conforming building built before the Zoning Ordinance was enacted, and it is irregular, the lot itself is irregular in shape.

And, lastly, 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.

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 submitted by the petitioner, prepared by Pegasus Design Build dated 8/20/15. The

first page of which has been initialed by the Chair.

Before we take a vote, sir, these are the final plans? Because if you modify them, we're going to have -- you have to come back to us.

GEOFFREY SHAFER: Those were the plans that were submitted with the second, because I submitted ones and that -- and, yes.

CONSTANTINE ALEXANDER: You're comfortable this is it? You're not going to need to make any further changes as far as you know?

THOMAS SCOTT: I think you have the date wrong. 6/8/2015. June 8, 2015.

CONSTANTINE ALEXANDER: June 8, 2015?

GEOFFREY SHAFER: Yes. I'm sorry,

I guess I missed the date the first time you said it.

CONSTANTINE ALEXANDER: Right.

GEOFFREY SHAFER: 6/8, correct.

CONSTANTINE ALEXANDER: 6/8.

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

(Aye.)

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

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

Now the Special Permit. Tell us a little bit about why you need a Special Permit.

GEOFFREY SHAFER: So, again -- so we're doing some pretty extensive renovations on the second and third floors. We're also doing some minor

renovations downstairs on Diane and Lyn's portion of the home. And so what we're looking to do is to relocate a couple of windows. I'm not sure exactly what it is.

CONSTANTINE ALEXANDER: You're adding more windows?

GEOFFREY SHAFER: There's a double hung that's -- that we'll be installing the second floor in the same position as the old window, and then two double hung windows, we're replacing an existing double hung window on the first floor.

So make sure I got that right. And then -- sorry. So two double hung windows are replacing the existing double hung window on the first floor, and then three double hung windows are being installed on the second floor in the same position as the old windows. And then one window on

the second floor will be removed.

CONSTANTINE ALEXANDER: So roughly the window, which -- is this going to be the same?

GEOFFREY SHAFER: We're dropping one but we're adding one down below. And then the three on the second floor are -- will be for all intents and purposes, exactly the same as they were.

CONSTANTINE ALEXANDER: Is the property that faces you with these new windows, is that your property?

GEOFFREY SHAFER: No, she's behind.

LYNWOOD MARSH: She's in the back, yep.

CONSTANTINE ALEXANDER: Have you talked at all to the person who --

LYNWOOD MARSH: On the sides?

CONSTANTINE ALEXANDER: Yes.

LYNWOOD MARSH: Yes.

CONSTANTINE ALEXANDER: And no objection?

LYNWOOD MARSH: They don't seem to mind.

CONSTANTINE ALEXANDER: Discussion or we ready for a vote?

TIMOTHY HUGHES: Ready for a vote.

CONSTANTINE ALEXANDER: The Chair moves that with regard to the Special Permit being sought for the windows that this Board make the following findings:

That the requirements of the Ordinance cannot be met without the Special Permit.

That traffic generated or patterns of access or egress as a result of what's being proposed will not cause congestion,

hazard, or substantial change in established neighborhood character.

That the continued operation of or development of adjacent uses will not be adversely affected by what is being proposed.

And in that regard you've testified that you talked to your neighbor?

LYNWOOD MARSH: I did.

CONSTANTINE ALEXANDER: And they have no problem?

LYNWOOD MARSH: Right.

CONSTANTINE ALEXANDER: No nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant or to 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 the Ordinance.

On the basis of these findings the Chair moves that we grant the Special Permit requested on the condition that the work proceed in accordance with these very same plans that we approved with regard to the Variance.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Relief granted. Good luck.

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

* * * * *

(7:40 p.m.)

(Sitting Members Case BZA-006867-2015:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, George S.
Best.)

CONSTANTINE ALEXANDER: Are you
going to withdraw the application for the
continued case?

LYNWOOD MARSH: Yes.

CONSTANTINE ALEXANDER: The Chair
moves that we accept the requested
withdrawal with regard to case No. 006867,
26 Reed Street.

All those in favor of accepting the
withdrawal request say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in
favor.

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

(7:40 p.m.)

(Sitting Members Case BZA-007322-2015:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, George S.
Best.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 007322, 11 Cedar
Street.

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

FRANK RIEPE: Good evening.

CONSTANTINE ALEXANDER: Please
give your name and address to the
stenographer.

FRANK RIEPE: My name is Frank
Riepe. My complete address?

CONSTANTINE ALEXANDER: Say it

again?

FRANK RIEPE: The complete address?

CONSTANTINE ALEXANDER: No.

FRANK RIEPE: My office is in Sudbury, Massachusetts. I'm the architect for the owner.

CONSTANTINE ALEXANDER: Okay. And the issue arises because you're adding a new double window and that's creating two feet of additional FAR according to my notes.

FRANK RIEPE: Yes, there are a few exterior alterations. Well, beginning at the front we have to rebuild a bay on the front because it's unsound, but it's all, all going back to the same place with just the new windows in it.

On the north side of the building

there are a pair of windows that we're going to remove and put in a new pair of windows shifted to the west by a couple of feet, but by a box bay, so it actually just projects about three inches where previously the windows were flush with the plane of the wall. But the Building Inspector, even though there's no actual floor, you know, at waist level there's a couple of, you know, a foot or two of space. So he deemed that requiring, to require a Special Permit.

On the south side of the building and the kitchen there's a pair of windows that we're removing and we're putting in a single window unit in just a slightly different position.

On the west side of the house there was a window that we're repositioning by

just a few inches.

CONSTANTINE ALEXANDER: Have you spoke -- not you, have you or your client spoken with the neighbors around who are affected by these changes?

FRANK RIEPE: Unfortunately my client was not able to be here tonight due to a scheduling conflict. I believe she has. And she actually lives next-door to her cousin so I mean that's one abutter --

CONSTANTINE ALEXANDER: Well, maybe yes, maybe no.

FRANK RIEPE: It seems to be fine with everything. I think they're using the same building contractor, so.... I cannot speak with authority as to how she has communicated with the neighbors. And I apologize, the documents were prepared by the attorney who's not here tonight,

so.... But I do -- otherwise I would know what's going on.

CONSTANTINE ALEXANDER: Well, in the past when people have not talked to a neighbor most affected by the window relocations, we've required them to -- we've continued the case and required the petitioner to go back and hear it, get the views pro or con from the neighbor because we don't want a neighbor to find out later on, oh, my God, I didn't realize what was happening, I would have opposed it. Personally I don't think we need to do that in this case, but if other members of the Board feel that to be the case, I will defer.

TIMOTHY HUGHES: It doesn't seem like they're changing the window locations --

CONSTANTINE ALEXANDER: That's the point.

TIMOTHY HUGHES: It wouldn't affect it one way or another. I mean, if there's no privacy now, there still would be no privacy. And if it's private now, it would still be private.

FRANK RIEPE: The alterations are very slight and to some people not even noticeable.

CONSTANTINE ALEXANDER: I agree. Let me open the matter up to -- anything further you wanted to add at this point?

FRANK RIEPE: No. I believe those are the points that the Building Inspector stipulated would require a Special Permit.

CONSTANTINE ALEXANDER: Okay. We're going to start with the Variance

first, though. You need a Variance according to your application --

FRANK RIEPE: Oh.

CONSTANTINE ALEXANDER: -- for the -- because of the size and depth of your new proposed double window. And then the Special Permit you're moving windows around.

FRANK RIEPE: Yes.

CONSTANTINE ALEXANDER: But it's a double window that requires the Variance.

FRANK RIEPE: Yes.

CONSTANTINE ALEXANDER: So we have to -- we'll take separate votes, different standards and the like. So I'm going to stay with the Variance.

I'm going to ask if there's anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently no one wishes to be heard.

I don't believe we have any -- there are no letters in our file. So I'm going to close public testimony and open it to discussion for members of the Board.

I'm fine.

TIMOTHY HUGHES: I've got nothing to say.

BRENDAN SULLIVAN: No, I think if we were introducing a new element on that wall, that might be a cause for concern, but we're not. We're rearranging the deck chairs a little bit.

CONSTANTINE ALEXANDER: And I have to say, sir, that the plans that you submitted are much sketchier than we usually see and require for Zoning relief. But, again, because of the nature of the

relief being sought -- but if you come back before us, we're going to need more detail with these for other cases.

Okay, ready for a vote on the Variance?

The Chair moves that we make the following findings 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 being as the petitioner is in need of upgrading the structure.

That the hardship is owing to the location of the structure on the lot, the size of the lot, and the shape of the lot and the structure.

And that relief may be granted without substantial detriment to the

public good or nullifying or substantially derogating for the intent or purpose of this Ordinance.

In this regard the Chair would note that relief in terms of Zoning is very, very modest. It's two feet -- technical basis, two feet of floor area have been added which this being already a non-conforming structure requires a Zoning relief.

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 plans submitted by the petitioner. They are dated July 23, 2015. They're three pages, all of which have been initialed by the Chair.

All those in favor of granting the

Variance on this basis say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. The Variance being granted.

(Alexander, Hughes, Scott, Best.)

CONSTANTINE ALEXANDER: And now the Special Permit. You addressed why the Special Permit and the nature of the Special Permit. I have nothing more to add or ask. Anybody else have anything they want to ask?

(No Response.)

CONSTANTINE ALEXANDER: Let's make a motion with regard to the Special Permit.

That the Special Permit relates to the relocation of windows as indicated in the application. It's relocating and adding windows within a setback.

That because of the fact that there's -- they're in the setback, that Ordinance requires that the Special Permit be obtained.

That traffic generated or patterns of access or egress resulting from this will not cause congestion, hazard, or substantial change in established neighborhood character.

That the continued operation or development of adjacent uses will not be adversely affected by what is being proposed with regard to the windows.

That 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 district or otherwise
derogate from the intent and purpose of
the Ordinance.

On the basis of these findings, the
Chair moves we grant the Special Permit on
the condition that the work proceed in
accordance with the plans identified with
respect to the Variance we just granted.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in
favor.

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

FRANK RIEPE: Thank you very much.

* * * * *

(7:50 p.m.)

(Sitting Members Case BZA-006662-2015:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, George S.
Best.)

CONSTANTINE ALEXANDER: We have a
continued case on this property. The
plans got changed and that case was case
No. 006662. I take it you can withdraw.
You move to withdraw that application?

FRANK RIEPE: Yes.

CONSTANTINE ALEXANDER: You got
the relief you wanted?

FRANK RIEPE: Yes, that will be
withdrawn.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that we grant -- we
accept the request to withdraw of this
case 006662.

All those in favor, please say
"Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in
favor. The case is withdrawn.

Thank you.

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

* * * * *

(8:00 p.m.)

(Sitting Members Case BZA-007151-2015:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, George S.
Best.)

CONSTANTINE ALEXANDER: The Chair
will call our next case now that it's
time, 007151, 66 Clay Street.

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

AL WEISZ: We have a big group so
do you mind if we bring up some more
chairs?

CONSTANTINE ALEXANDER: By all
means.

For each of you give your name and
address to the stenographer.

AL WEISZ: My name is Al Weisz,

W-e-i-s-z, I'm the architect. My address is 93 Hudson Street, Somerville, Mass.

DANIEL MADRI: My name is Daniel Madri, M-a-d-r-i. I am the general contractor and my address is 39 Avon Street in Somerville.

BERNARD DELVECCHIO: My name is Bernard DelVecchio, D-e-l-V-e-c-c-h-i-o. Our current address is 3 Yerxa Road, Cambridge, Mass.

DANIELLE MADRI: You're the owner.

BERNARD DELVECCHIO: Oh, yes, the owner.

RACHEL DELVECCHIO: Rachel DelVecchio, same address. Same owner.

CONSTANTINE ALEXANDER: Okay, the floor is yours. Tell us what you want to do and why we should grant you the relief to do it.

AL WEISZ: Sure. DeVecchios have been members of the Cambridge community since 2003. They have a house now. It's a second story, a three-family house -- or three floor house and they've outgrown it. They love the neighborhood they're in. And around the corner on Clay Street they found this nice little house for sale, and they want to move in there to let their family grow and expand to it.

The house was originally built in 1903. It has had some minor updates, was chopped up into a two-family house and is in dire need of updating and renovation. The electricity is very old and antiquated. The structure is old and antiquated. The siding is old and antiquated. So I was brought on board to help them convert the house back into a

single-family home and to modernize it to just to bring it back up to modern standards for energy and structural efficiency as well as egress and code compliance.

CONSTANTINE ALEXANDER: Okay.

And the house right now is non-conforming as to floor area ratio?

AL WEISZ: Correct.

CONSTANTINE ALEXANDER: But not substantially. It's 0.57 in a district where you're not supposed to be more than 0.5, and naturally you're going to --

AL WEISZ: 0.53, yes.

CONSTANTINE ALEXANDER: You're going to 0.54.

AL WEISZ: Yes.

CONSTANTINE ALEXANDER: So you'll still be non-compliant but less so.

Setback issues?

AL WEISZ: Yes. The house was built long before there were setbacks in the Zoning. And on the north side of the house is within the setback zone. Right now as it stands as is the front porch that's where the setbacks are.

CONSTANTINE ALEXANDER: Why don't you walk us through the nature of the proposed modifications of the structure.

AL WEISZ: Absolutely.

CONSTANTINE ALEXANDER: And talk about the dormer guidelines, too, as part of it.

AL WEISZ: Sure. Why don't I start off with just the four things that we're looking for for the Variance. And then the plans we've got, the existing and the proposed.

So when the house was originally built, there was a series of additions put on in the back corner. There was a deck I believe, and it was cantilevered over the foundation. It gotten closed and built up.

DANIEL MADRI: And that cantilever is not, it's basically supported by a single screw jack with no footing underneath it at all. The basement itself will never be -- have a space because it will never get the head height requirements to do so, so....

AL WEISZ: With that we want to fill it in the load bearing walls with the structure foundation. Part of that is in the setback it's not making anything worse it's just continuing the shape down to the ground. That was our first part of the

variance that we were looking for.

The second was, we wanted -- there were two back decks on the house being a two-family house. There was a larger deck with a stair and a second-story deck with a large for egress and access. We wanted to put a small I believe it's a four-foot by four-foot deck with five stairs coming down, and two or three of the risers are actually near the side setbacks. That's the second variance part that we're looking at.

CONSTANTINE ALEXANDER: This deck really is a platform?

AL WEISZ: Yes, it's smaller.

CONSTANTINE ALEXANDER: It's not a deck you're going to have parties.

DANIEL MADRI: It's for egress. We want the landing to be a code

(inaudible) and the risings on the stairs to be under code. And with the stairs conforming, some of those stairs will go into the setback.

AL WEISZ: The next part we're looking for is there was a -- there's bump out on the front. There was a first story porch and a second story room that comes out with a deck. We're getting rid of the second story deck which was part of the reduction in our FAR. But to help the house fit in more architecturally, I wanted to change it from a shed roof just to a gable roof mimicking more of what's going on with the shape of the house. That was the third variance because that is within the setback.

Lastly, the fourth thing that we're looking for, is a dormer. And the dormer

is for head height clearance for the stairs up to the third floor. It's not really adding any habitable square footage, it is adding to the FAR. It's just clearance over the stair so we can now have a code compliant stair for access up to the third floor. The third floor is two small bedrooms. The number of bedrooms isn't changing.

CONSTANTINE ALEXANDER: The dormer is 15 feet in width?

AL WEISZ: 15 foot, exactly.

CONSTANTINE ALEXANDER: It goes to the roof line.

AL WEISZ: It does go to the roof line. I took a look at the dormer guidelines and tried to maintain it as much as possible. On the very last sheet what I did is I did a sketch showing what

the guidelines recommend, how it steps back from the front wall, and how you step it down from the top. And it makes a lot of sense to do, but in this instance because the house is so small on such a narrow lot, I propose pushing it out to the exterior wall. I would like to very much continue the roof line across the edge so it does feel separate from the rest of the house. But I also wanted to keep a slope going up to the ridge so we could have a steeper roof. This past winter I think it scared everyone with snow. And, you know, one, 12 pitch is beginning to scare me now. Two and 12 I think more -- I feel more comfortable to mitigate.

CONSTANTINE ALEXANDER: Okay.

AL WEISZ: Also the front edge of

the dormer and back edge of the dormer, the guidelines state they should be about three foot, six inches. I believe we're almost five feet in the front and something similar in the back. A little more in the back. Those are very much respected. We put on a fair amount of window space, too, and facade of the dormer.

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

(No Response.)

CONSTANTINE ALEXANDER: No questions.

We have a Special Permit, we'll take that next.

AL WEISZ: Okay.

CONSTANTINE ALEXANDER: We'll stick with the Variance for right now.

I'll open the matter up to public testimony.

Is there anyone wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently there is none.

We are in receipt of correspondence which I will read into the record.

We have a letter -- a number of letters. We have one letter from Therese, T-h-e-r-e-s-e Girard, G-i-r-a-r-d, 72 Clay Street. (Reading) This letter is regarding the application for a Variance for 66 Clay Street. I am a resident of Clay Street and I am glad that 66 Clay Street is being renovated. In the past the upkeep of the house was not consistent and it is in need of updating. I am

excited that the house is getting a facelift and new life. It is important to me that the neighborhood retains its character and family friendliness, and I believe that the current plans for 66 Clay Street satisfy that. I understand, and I'm happy to support, those portions of the plans that require a Variance, including the third floor dormer over the stairs, changes to the windows on the right side of the house, in-filling the foundation under the back right corner of the house, placing a gable roof on the second story front of the house, and extending the back exterior stairs passed the edge of the house. Therefore, I support the Variance and look forward to the completion of the project.

We have the same letter from Wegley

T. W-e-g-l-e-y.

RACHEL DELVECCHIO: It's Wesley.

CONSTANTINE ALEXANDER: I'm sorry?

RACHEL DELVECCHIO: It's

W-e-s-l-e-y.

CONSTANTINE ALEXANDER: Okay. It looks like a G to me, but I'll take your word for it. Wesley G Ward and also from Linda Tai, T-a-i who resides at 62 Clay Street.

The same letter from the residents at 61 Clay Street. Josie Raycroft (phonetic) and Kate Tooke, T-o-o-k-e.

And the same letter from the occupant or the owner of 65 Clay Street, Paul Tremblay, T-r-e-m-b-l-a-y and that's it.

So all letters of support. No letters of opposition. And that's all we

have.

Any discussion on the Variance or
are we ready for a vote?

GEORGE BEST: Ready.

TIMOTHY HUGHES: Ready for a vote.

CONSTANTINE ALEXANDER: Do you
need more time?

BRENDAN SULLIVAN: No, no.

CONSTANTINE ALEXANDER: I just
need the plans when we do the vote.

The Chair moves -- we're talking
about the Variance again. The Chair moves
that the 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 being is that the
petitioner's need to upgrade the condition

of this rather old home and to make it suitable for their needs and their family.

The hardship is owing to the fact that this is a non-conforming structure built in 2003 -- 1903?

AL WEISZ: 1903.

CONSTANTINE ALEXANDER: Sorry, 1903.

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 it is in the interest of the City to have older homes upgraded, and that this project seems to have unanimous neighborhood support.

So on the basis of these findings,

the Chair moves that we grant the relief being sought on the condition that the work proceed in accordance with plans prepared by Al Weisz, W-e-i-s-z. They are dated June 01, 2015 -- June '15.

AL WEISZ: 2015, June 1st.

CONSTANTINE ALEXANDER: Oh, okay 2015, June 1st, thank you. Each page of which has been initialled by the Chair.

Before we take a vote, you haven't been before us I don't think, these are the final plans? Because sometimes people come with sort of first crack and then they find they have to modify them, then you're going to have to come back before us.

AL WEISZ: No, these are the plans. There was one drawing that for the Special Permit which we'll talk about

later which was revised, I sent along a few weeks back. But yes, these are the plans --

CONSTANTINE ALEXANDER: Just to make sure you don't get blindsided or your clients get blindsided.

AL WEISZ: These are them.

CONSTANTINE ALEXANDER: On the plans I just identified each page of which has been initialled by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. The Variance has been granted.

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

CONSTANTINE ALEXANDER: Now let's talk about the Special Permit.

AL WEISZ: Sure. The Special

Permit within the setbacks we propose adding on the north side, which is the -- as you're facing the house, the right side. Changing, relocating some windows and adding some windows, in part because the scope is -- not the scope, but the functionality of the house is changing. We're having some bathrooms on that side and adding two small windows, one for each of the bathrooms.

CONSTANTINE ALEXANDER: You don't need windows so you're adding two?

AL WEISZ: We're adding them for the bathroom, correct.

CONSTANTINE ALEXANDER: Any other windows you're adding to the side?

AL WEISZ: Yes. There were six windows originally and there's going to be a total of 11 proposed on that side if it

goes through.

CONSTANTINE ALEXANDER: Have you talked to the abutter who faces those windows?

RACHEL DELVECCHIO: Yes.

BERNARD DELVECCHIO: One of the letters was --

DANIEL MADRI: One of the letters, and she's in support.

AL WEISZ: And in fact since the drawings -- the revised drawing has actually the window has shrunk down a little bit and it has privacy glass.

CONSTANTINE ALEXANDER: Those are the drawings as part of this package here?

MARIA PACHECO: I think so.

AL WEISZ: They were submitted --

CONSTANTINE ALEXANDER: Part of this package.

AL WEISZ: Okay.

Two smaller windows in the
bathrooms.

The other window for the Special
Permit is in the front of the house. The
sides reduced just a little bit from what
was originally there.

CONSTANTINE ALEXANDER: Those are
also reflected?

AL WEISZ: Those are also
reflected, correct. And they're each one
is stated in the elevations and the plans.

CONSTANTINE ALEXANDER:
Discussion?

(No Response.)

CONSTANTINE ALEXANDER: No
discussion. I trust no one.

I'll ask anyone here wishes to be
heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: No one wishes to be heard.

We have heard from the neighborhood, the letters I've read into the record in connection with the Variance. Those apply equally to the Special Permit obviously.

So --

JAMES WILLIAMSON: Could I ask just one question?

CONSTANTINE ALEXANDER: Yes, sir.

JAMES WILLIAMSON: This area, as you may probably know, it was, was built with what are sometimes known as workers' cottages for the brickworks. Would this be considered -- is this a workers' cottage?

AL WEISZ: You know, I've thought about that as I've gone through there and

looked at a lot of the houses. If it is, it would be one of the biggest workers' cottages. I mean I know the ones you're talking about on Sherman Street that are really --

JAMES WILLIAMSON: There are a lot in that area.

AL WEISZ: But I think this is -- this was something a little different. It might have been more of a foreman's cottage.

BRENDAN SULLIVAN: It was the owner of the brickyard not the workers.

JAMES WILLIAMSON: The Historical Commission had a lot of interest in the workers' cottage, the fabric in this area.

CONSTANTINE ALEXANDER: If there was a workers' cottage, I would think the Historical Commission would have something

to say about this.

Do you need to -- have you spoken to the Historical Commission?

AL WEISZ: It was -- we're not in a historical --

CONSTANTINE ALEXANDER: If you haven't and have a problem down the road, you have to deal with the Historical Commission. I don't think it's going to make a difference for our Zoning decision tonight. If it is a workers' cottage as you suggested, there might be an issue.

BRENDAN SULLIVAN: It's not in a historic district.

JAMES WILLIAMSON: Only if it were demolition which it isn't.

CONSTANTINE ALEXANDER: I know.

JAMES WILLIAMSON: But they can be great consultants on, you know, if you

have -- if you're interested in sort of the context and the neighborhood history.

CONSTANTINE ALEXANDER: It's too late now.

JAMES WILLIAMSON: I don't mean that.

RACHEL DELVECCHIO: If I remember correctly, though, we did get it a response from the Historical Commission that they said that they had no concerns with our proposed plan.

CONSTANTINE ALEXANDER: It's mostly for your benefit as opposed to our decision.

RACHEL DELVECCHIO: Right.

CONSTANTINE ALEXANDER: Okay.

I think we're ready for a vote on the Special Permit with regard to the windows.

I propose we make the following findings -- I move that we make the following findings:

That the requirements of the Ordinance cannot be met without the requirement for the -- without obtaining a Special Permit given the setback issues on the property. Any windows are going to be within a proscribed setback.

That traffic generated or patterns of access or egress resulting from this will not cause congestion, hazard, or substantial change in established neighborhood character.

That the continued operation of or development of adjacent uses will not be adversely affected by the nature of the relief proposed.

In this regard we have letters of

support of the project from the people who would be most directly affected.

That no nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant. That's you guys. Or the citizens of the city.

And that what is being proposed will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of the Ordinance.

So on the basis of these findings the Chair moves that we grant the Special Permit being requested on the condition that the work proceed in accordance with the plans identified in connection with the Variance.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

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

* * * * *

(8:15 p.m.)

(Sitting Members Case BZA-007316-2015: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, George S. Best.)

CONSTANTINE ALEXANDER: The Chair will call case No. 007316, 15 Cornelius Way.

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

MATTHEW NEHS: Hi, good evening.

CONSTANTINE ALEXANDER: As you know, name and address for the stenographer, please.

MATTHEW NEHS: Matthew Nehs, M-a-t-t-h-e-w N-e-h-s, 15 Cornelius Way.

CHRISTA VAN DORT: I'm Christa Van Dort. Last name V-a-n-D-o-r-t. Also at 15 Cornelius Way.

ADAM GLASSMAN: Adam Glassman Cambridge Architects, 2 Worthington Street.

MATTHEW NEHS: So I'll start and say thanks for hearing our case. Christa

and I are really here for two reasons:
The reasons we're here are for our family
and our community. So we've been
Cantabrigians for seven years now. We
came here in '08 after we got married.
Christa took a job as a scientist at MIT
and I was a resident at Brigham and
Women's Hospital. And by good luck we
ended up renting this house at 15
Cornelius Way because Christa had a friend
who lived there and moved away. And very
quickly we loved this house. We planted
flowers and painted the walls and treated
the house like we owned the place. And we
fell in love with our community. And
Cornelius Way is a great street if you've
ever been there. It's quiet and safe.
It's tree lined and beautiful. And our
neighbors are great. They're the kind of

people that we barbecue with in the summer and we shovel with in the winter. And we spent a lot of time together this past February. And we really like the house so much that we wanted to buy it from our landlord Rob. So we offered to buy it from him. And he said no. And we think he said no because he really liked the place, too. But the truth was he wasn't coming back.

So a couple years went by and we had our kids; Hailey who is two-years-old and Alexander who is five months. And what turned out, the house isn't quite as good as we initially had it when we were just the two of us. So now we've got family of four and we've got all the kids' toys and their gear and our strollers and three dogs and visiting grandparents from

Michigan. And the two-bedroom house that we -- that was so great for the rest of us isn't so great now.

So one bedroom works great for our daughter Hailey but the other bedroom doesn't work so great. The two of us, we sleep there. Our little son Alexander sleeps there. Our office desks are there. Our treadmill is there. And even our laundry closet is there. So we're really jamming a lot of things into a single space and using any one of those functions and -- renders the rest of the functions useless. For my job I'm a general surgeon and I get called and paged all through the night and that's waking up our baby and that's not going over well. So we really are in need of more rooms and more space to do these different functions of life

for all the people in our house.

On top of that we only have a single shower to get ready in the morning.

Christa is a scientist, I'm a physician.

We're both trying to get ourselves to work and our kids to day care, trying to get

out of the house, and that creates a

stress. So we'd really like to use some

of this addition space to get another

bathroom in addition to another bedroom.

And on top of that we've got -- so Hailey

and Alexander are the first two grandkids

in the family, so all the grandparents

want to come and visit from Michigan, but

there's nowhere for us to stay except for

the middle of the living room right now on

a blow-up mattress. They're 65, and that

doesn't go over well. So really those are

the reasons that we're here primarily.

CONSTANTINE ALEXANDER: How many bathrooms are in the house right now?

MATTHEW NEHS: We have one and a half. So there's a half bath on the first floor and one shower on the second floor.

CONSTANTINE ALEXANDER: And the plans you're going to have three?

MATTHEW NEHS: What we'll have is a second full bath.

CONSTANTINE ALEXANDER: A master suite?

MATTHEW NEHS: A master suite. So we can have the kids in their own room before we have teenagers. We could have our kids and our own bathroom and have our own master suite for the adults. And if we need to get ready simultaneously, we can each use a shower at the same time to get ourselves to work and our kids to day

care. And that's the real agenda for why we need this space.

CONSTANTINE ALEXANDER: Obviously this is, this area is a townhouse development. If we grant you relief tonight for what you want to do, aren't we going to be hit with every person, that every neighbor wanting to do the same thing?

MATTHEW NEHS: I don't think so. But I think even if you did, that would be a good thing.

So we've talked to all of our neighbors, and you can see the letters of support, and we went actually neighbor by neighbor by neighbor to say "What is it that you think about this?" And nearly everyone was in favor of this, because what it does is it allows families to

stay, who want to grow. The gentleman next-door Peter Fisher, he has a daughter Olympia who is 11 or 12-years-old right now. He said when Olympia was growing up, she had to play by herself. She basically had no young children of her age. But right now we have a lot of little kids Hailey's age right now, two to four-years-old in the neighborhood, and we want to stay. We really need the extra space to grow as a family. And I think there's other families maybe who would want to do the same thing, but there's been several families who built on one-story additions to try to accommodate their family. The real issue is that our house is a two-bedroom house, and the vast majority of this townhouse development are three bedroom. So there are 50 some

houses and about 45 of them are three bedroom.

CONSTANTINE ALEXANDER: Let me ask a question of the architect. Is there a -- can you give them additional space that are conforming additions? You have plenty of FAR. The issue here is the setback.

ADAM GLASSMAN: Well --

CONSTANTINE ALEXANDER: Is there a solution that doesn't require zoning relief?

ADAM GLASSMAN: We looked at it a couple different ways and there is no way to maintain an access to the upstairs bedrooms if we conform to the setback on the shared wall. Ten and a half feet's required. We're at eight feet. We're not making it any worse. Both -- the only two

families that can see the addition would be from the neighboring properties and they're both in favor of it. And so I think sort of the beauty of this development is it's been down the street -- there's been kind of -- there's a rhythm to the scale and it's very tidy. It's well maintained. And the backyards are so private that as people add one- or two-story additions, as long as they're supported by neighbors.

BRENDAN SULLIVAN: It's on that very note, and I have the original decision going back to 1982.

ADAM GLASSMAN: Well --

BRENDAN SULLIVAN: I remember it very well. And it's that rhythm of scale --

ADAM GLASSMAN: It's the rhythm of

scale, but I just want to finish my thought which is --

BRENDAN SULLIVAN: -- that, that if you go back through this and it was through the Wellington-Harrington Development Authority, Cambridge Redevelopment Authority, the Planning Board, and this was a very well thought out, very well scaled development back then. It used to be a park. And it's that rhythm of scale that --

ADAM GLASSMAN: We completely agree, and that's part of it --

BRENDAN SULLIVAN: -- I get nervous that we're tinkering with. And if we can take you in the abstract, and I have all the sympathy in the world for your situation and for what you want to do, but this is the first of 62 units that

are in that development. And, again, reading through this, it was all very well designed, very well planned, and we are tinkering with that. And I think your violation is two feet. And, you know, if you could do something as of right, then, you know, good luck to you, but it's that tinkering with that and the Zoning and granting relief that gives me pause.

ADAM GLASSMAN: I would say you're correct in everything that you just spoke of, and I think part of the beauty of this design in this neighborhood is that there's a density that makes the backyard so private that when people do tinker in the back in a way that's tasteful and respectful, it doesn't change the experience of the neighborhood from the street view.

MATTHEW NEHS: Yeah, our
property --

ADAM GLASSMAN: Let me just walk
through some --

MATTHEW NEHS: Please.

BRENDAN SULLIVAN: Again, you're
looking for a two, two and a half foot
encroachment?

ADAM GLASSMAN: Yes.

BRENDAN SULLIVAN: All right.

ADAM GLASSMAN: So the yard is
very narrow. It's a big yard but it's
very narrow.

BRENDAN SULLIVAN: Right. But
then the next guy comes down and says
well, I just want three feet. You know,
and you just granted them two and a half
feet and what's six inches?

ADAM GLASSMAN: Well, I would

say --

BRENDAN SULLIVAN: And the next guy comes down and he wants three and a half feet. And then at some -- what's the yardstick that we use? And it's easy to say yes, but at some point we have to say no. And, you know, not to -- not to --

CONSTANTINE ALEXANDER: That's the danger here. We welcome comments from neighbors, as you've heard from earlier cases, and letters of support mean something to us. Here, I don't want to put too fine a point on this, but here the letters of support are a little bit of a conflict of interest. Because if you can do it, they know that they can -- should be able to do it themselves down the road. And then the question is is that a bad thing or not? That's the second question.

And I'm not convinced yet that it's a bad thing if everybody builds out to their backyard, because you do have very ample backyards. There are no FAR issues in the area. Still would not be that densely populated. But that as said, and I think that's the point that Brendan is making and I think it's worthy of putting it to the record, that that's a concern, you know, is that this is not a typical one all situation.

ADAM GLASSMAN: I understand. And I would say that if others in the neighborhood decide to pursue additional acquiring a Variance in the back, with a respectful approach to the scale and what's visible from the street, then these kinds of improvements can go forward. And a hundred years from now the streetscape

will be virtually unchanged from the way it is now because the views to the rear are so obscured by other homes, it's really part of the charm of this neighborhood, is that it will always have this frozen in time, I think, quality to it as long as these additions are approached respectfully. And the people who live in this community, they love it, they're there to stay and they love their homes. They're just trying to make it so that they --

BRENDAN SULLIVAN: And, again, I come out my back door tonight and I happened to look to my right and two doors down from me a guy added on a townhouse. And, again, it was it was two-foot encroachment, okay? And he came to me and pleaded with me that he could do it, so on

and so forth. He was going to live there. He never lived there. But anyhow that's beside the point. And now I come out and all of a sudden here is a structure where before it was open space with trees, with sky, with sunlight, so on and so forth. So, again, I have a hard time connecting the dots that this, even though it's in the back, doesn't affect the streetscape, that it is going to affect that openness all the way up and down the back of all of those buildings.

ADAM GLASSMAN: That's true. I understand --

BRENDAN SULLIVAN: And if everybody -- and, you know, it's one thing, if everybody does that, then, okay, then you just move a little bit further to look at that open space. But if it's a

haphazard, and not everybody is going to be as sensitive, again, it's a road that I'm not sure I want to walk down.

ADAM GLASSMAN: Okay. I would say we've done our best to be extremely sensitive to the quality of the neighborhood. The neighbors, I wouldn't -- myself, I'm not so cynical to think that this is just well, if they can do it, we can do it later. And I would say that if the people living in the community don't feel bothered by the changes of their sight line in their backyards and no one walking out their front door will never be negatively impacted by this, then I share your concerns but I don't, I don't --

CHRISTA VAN DORT: Like, is it a bad thing if other people try and improve

their property and try and make it better for young families.

CONSTANTINE ALEXANDER: And that's a fair question. I mean, the thing is we're just multiplying the violations of our Zoning Ordinance. In other words, you know, we -- for whatever reason and when the Planning Board created this thing, they wanted a certain scale.

CHRISTA VAN DORT: So well, when they planned it, though, this would not have been a setback issue because it was in C-1 when it was planned. It was a planned unit development. So later it was Zoned a C-1 so it was not built non-conforming.

CONSTANTINE ALEXANDER: No, no, it was not built non-conforming.

BRENDAN SULLIVAN: It was built

under the Townhouse Ordinance.

ADAM GLASSMAN: So the short of it is how can we --

CONSTANTINE ALEXANDER: Well, let me ask a related question. You want to put a roof deck up there, too. It looks like a substantial one. Am I right?

MATTHEW NEHS: The reason for that is because the sun arcs in the south and it faces south. We like to grow our garden. We've got a beautiful above-ground garden where we grow our tomatoes and our crops. And if we build this addition, we lose exactly where we grow our garden. So we were really disappointed about this. Adam came up with this design in order to get us a roof deck garden so that we can grow our garden. That was the point of that.

ADAM GLASSMAN: Actually, I just want to say it was somewhat secondary to maintaining a third compliant ceiling height. It's just extending. It's not a high ceiling to have on the existing house. We basically just extended the ceiling height over and we were trying to keep the scale down. We weren't looking to put a gable roof on or extending attic space or anything like that. So it seemed an opportunity to utilize a flat roof that we basically needed.

CONSTANTINE ALEXANDER: And it's off what, off your bedroom?

MATTHEW NEHS: I'm sorry?

CONSTANTINE ALEXANDER: The roof will be off your bedroom?

MATTHEW NEHS: Yes.

ADAM GLASSMAN: Let me revise

that. It would be off a third floor office space.

CONSTANTINE ALEXANDER: Okay, but not off a living area --

ADAM GLASSMAN: No.

CONSTANTINE ALEXANDER: -- for parties --

ADAM GLASSMAN: No.

CONSTANTINE ALEXANDER: -- and spill out on to the roof deck.

ADAM GLASSMAN: No.

MATTHEW NEHS: There will not be parties on the roof deck, not with kids in the house, no way.

CONSTANTINE ALEXANDER: Other comments from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: While people are still looking at the plans,

I'll open the matter up to public testimony.

Is there anyone wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently none.

We are in receipt of correspondence which I will read into the record.

We have a letter from City Councillor Timothy J. Toomey, Jr.

(Reading) I am writing to you in support of case 007316 submitted by Matthew Nehs and Christa Van Dort to build a two-story addition at the rear of their house. I understand that the owners have support of their neighbors and have not heard of any opposition. I support their efforts of improving their home to better accommodate

their needs. I hope you will find favor with this application and thank you for taking my comments under consideration.

We have a letter from Peter Fisher, referred to before, and Jane Ann Fisher who reside at 13 Cornelius Way. (Reading) We live at 13 Cornelius Way and are next-door neighbors of Matt and Christa Nehs. We are not opposed to their proposed extension.

We have a letter from Grace Foti. Foti, F-o-t-i, 17 Cornelius Way. (Reading) I live at 17 Cornelius Way and my house shares a common wall with the house at 15 Cornelius Way. Matt and Christa have reviewed with me their plans for the proposed addition to be attached to the back side of their house at 15 Cornelius Way. I support their project

and hope that they can continue to be my neighbors in the years to come.

A letter from Tom Volkert, V-o-l-k-e-r-t who resides at 10 Cornelius Way. (Reading) I own the house at 10 Cornelius Way which is across the street from 15 Cornelius Way where Matt and Christa live with their family. They have reviewed with me their plans for the proposed addition to be attached to the backside of their house at 15 Cornelius Way. I am in support of this addition as this will provide them the space they need for their growing family. Furthermore, I think the design is in line with community standards and would not negatively impact the liveability of the neighborhood.

We also have a letter from Lino, L-i-n-o, Becerra, B-e-c-e-r-r-a and

Isabelle Caceres, C-a-c-e-r-e-s, 6
Cornelius Way. (Reading) We are residents
of Cambridge for 24 years now and 16 of
them on Cornelius Way. The area known as
Linden Park Neighborhood consists of 54
townhouses consisting of two- and
three-bedroom units. Matt and Christa are
neighbors living in a two-bedroom
townhouse. They have reviewed with us the
plans for the proposed addition to be
attached to the backside of their house at
15 Cornelius Way. They are considerate
and thoughtful neighbors and they an asset
to our community that has been changing
demographics with young families with
children moving in. Matt and Christa's
family is growing, they clearly need
additional space. We understand the
proposed design and fully support their

application for BZA relief in order to realize this project. We believe that the proposed design is in keeping with the scale and aesthetics of our neighborhood. It is both attractive and modest, and it will be almost entirely out of public view since it is on the backside of the house. We can see no reason to oppose this Variance and hope very much that they can continue to be our neighbors in the years to come.

And one more letter I think. No. More than one more.

A letter from Miaja, M-i-a-j-a Pratt-Rojas, R-o-j-a-s and Jose Louis, L-o-u-i-s Rojas, 19 Cornelius Way.

(Reading) We live in 19 Cornelius Way and our neighbors are Matt and Christa. They have reviewed with us their plans for the

proposed addition to be attached to the backside of their house at 15 Cornelius Way. We understand the proposed design and fully support their application for BZA relief in order to realize this project. A design that Matt and Christa have customized will blend nicely with the aesthetic of the neighborhood and will provide them with sufficient living space for their growing family. We are hopeful this Variance will be approved and they continue to be our neighbors for the years to come.

And last I think -- no, not last. A letter from Paul Myers, M-y-e-r-s, 14 Cornelius Way. (Reading) I live at 14 Cornelius Way, which is directly across the street from 15 Cornelius Way where Matt and Christa live with their family.

They have reviewed with me their plans for the proposed addition to be attached to the backside of their house at 15 Cornelius Way. I understand the proposed design and fully support their application for BZA relief in order to realize this project, especially with their growing family.

And the rest is like other letters that they think -- he thinks that the proposed design is in keeping with the scale and aesthetic of the neighborhood and won't be entirely -- almost entirely out of the public view.

And the identical letter has been written by Ethan -- I'm just going to spell the last name Y-i-J-e-n Wang and Jane Kuo, K-u-o who reside at 18 Cornelius Way.

And last a letter from -- the same letter, from Ralph Chadis, C-h-a-d-i-s who resides at 12 Cornelius Way.

So we have unanimous and substantial neighborhood support for the project obviously from these letters.

Any final comments?

ADAM GLASSMAN: I guess I would say, you know, because there's a process with granting BZA relief, that this is not a slippery slope that could evolve into horrible looking additions that people don't need, that don't respect the scale, because ultimately BZA has the final say. And if there is a standard, I think we're -- we are creating a very high and appropriate standard for this kind of addition in this neighborhood that allows a family to stay. Maybe a single person

trying to add on extra space when they clearly don't need it wouldn't meet the bar or perhaps proposals that weren't met with such unanimous support wouldn't meet the bar. But really this is such an ideal community for a family. And as Matt said, most of the homes have three bedrooms. This home has two. We can't accommodate the extra space without coming here. And, you know, if not, if we can't grant this, then what can we grant?

CONSTANTINE ALEXANDER: Okay.

Further comments from members of the Board?

TIMOTHY HUGHES: I actually -- Mr. Glassman just said what I was going to say is that we don't have to, you know, be convinced by the next person that comes down for the extra six inches

or the next one after that for the extra six inches. I believe that this is a pretty tasteful addition to this spot. I'm not fixed in time in terms of what they decided or what they thought about in 1982 or '84 when they built this stuff. I think we're an evolving city. We have to face that, you know. And I think that we do have the power to make sure that if other people want to do something similar in this development, that we don't let them get out of hand. That it stays as tasteful as this one is and I would be willing to support this one.

CONSTANTINE ALEXANDER: Thank you. George?

GEORGE BEST: I'm just thinking because we are coming on to a dearth of two-bedroom apartments and two-bedroom

adding a third-bedroom for family I think is adequate and I like, I like the way the building looks as revised.

CONSTANTINE ALEXANDER: I'll say for the record that I'm also in support. I'm pushing a little bit just to probe and -- but I think both George and Tim have said what I would have said.

Any further comments or go for a vote?

THOMAS SCOTT: It might involve the support I would say. And I think, you know, the ask is really relatively small for -- it is way under the FAR. All the other setbacks are met. And given all the support that they have, I'd be in favor of it.

CONSTANTINE ALEXANDER: Brendan, do you want to comment with our vote or do

you want to comment?

BRENDAN SULLIVAN: No, you can make a motion.

CONSTANTINE ALEXANDER: Okay.

The chair moves that we make the following findings with regard to the Variance being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being that the petitioner needs additional living space and without relief will have to move to a different neighborhood and a different home.

That the hardship is owing to the nature of the townhouse development with no setbacks and, therefore, is not typical of our city in terms of other than for other townhouse developments.

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

So on the basis of these findings, the Chair moves that we grant the Variance being requested on the condition that the work proceed in accordance with plans prepared by GCD Architects. They are numbered A1 through A6. Each page which has been initialed by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Four in favor.

(Alexander, Hughes, Scott, Best.

CONSTANTINE ALEXANDER: Opposed?

BRENDAN SULLIVAN: Opposed.

CONSTANTINE ALEXANDER: Variance
is granted. Thank you.

* * * * *

(8:40 p.m.)

(Sitting Members Case BZA-007258-2015:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, George S.
Best.)

CONSTANTINE ALEXANDER: The Chair
calls case No. 007258, 69 Rindge Avenue.

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

MARIA PACHECO: That's a continued
case.

CONSTANTINE ALEXANDER: Oh, it's a
continued case?

UNIDENTIFIED AUDIENCE MEMBER: I'm
not part of it. I'm here to voice an
opinion.

CONSTANTINE ALEXANDER: Oh, okay.
You have to hold that opinion for now.

UNIDENTIFIED AUDIENCE MEMBER:

Yeah, I know.

CONSTANTINE ALEXANDER: We have a letter in the file from the petitioner, petitioners. (Reading) We are writing to request a continuance for an appeal to the Cambridge Board of Zoning regarding our property at 69 Rindge Avenue. We were unable to post the required placard regarding notice of public hearing until August 4, 2015, due to having been out of the country on our honeymoon until August 3rd. We are writing to kindly request a continuance in light of these circumstances such that our case may be heard on the next available date.

I want to find out what date is good and then I want to find out if it works for you. You might want to come back. I don't want to take any testimony tonight.

UNIDENTIFIED AUDIENCE MEMBER: Oh, all right.

CONSTANTINE ALEXANDER: If you don't mind. If you have a letter, you can leave it in the file.

UNIDENTIFIED AUDIENCE MEMBER: No, no, no. There was no placard. There was -- I have no information about this. I'm an abutter.

CONSTANTINE ALEXANDER: Well, that's the problem. There was no placard and that's why we're not going to hear the case tonight.

UNIDENTIFIED AUDIENCE MEMBER: Oh, all right.

CONSTANTINE ALEXANDER: The petitioners were notified.

What's the next available date?

MARIA PACHECO: The next one is

August 27th. We already have four continued.

CONSTANTINE ALEXANDER: No.

MARIA PACHECO: September 10th we have three continued. Or we have September 24th.

CONSTANTINE ALEXANDER: I'm sure the petitioner won't be too happy waiting until September 24th, but I think we should do it because we have a pretty busy schedule between now and then.

Does September 24th work for you, Ma'am?

UNIDENTIFIED AUDIENCE MEMBER: At the moment, yeah. Yes.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that this case be continued as a case not heard on the -- subject to the following

conditions:

GEORGE BEST: I won't be here on the 24th.

CONSTANTINE ALEXANDER: It's not heard, that's okay.

UNIDENTIFIED AUDIENCE MEMBER:
Twenty?

CONSTANTINE ALEXANDER: Fourth.

UNIDENTIFIED AUDIENCE MEMBER:
24th? Thursday?

CONSTANTINE ALEXANDER: Thursday.
Always on a Thursday.

On the following conditions:

That the petitioner has signed a waiver of time for decision.

That the posting sign that has not been maintained be maintained for the 14 days required by our Ordinance except that the sign should be modified to reflect the

new date, September 24th, and the new time, seven p.m.

And then lastly, that to the extent the petitioner wants to submit new plans or modified plans, they must be in our files no later than five p.m. on the Monday before the September 24th.

This, Ma'am, is for the benefit, you can go to the Zoning office --

UNIDENTIFIED AUDIENCE MEMBER:

That's my -- I have a question.

CONSTANTINE ALEXANDER: Yes.

UNIDENTIFIED AUDIENCE MEMBER:

What's the process for -- is it up to me to get their plans and drawings?

CONSTANTINE ALEXANDER:

Technically, yes. They're a matter of public record. They file them. Any citizen can come and review the files.

UNIDENTIFIED AUDIENCE MEMBER:

Okay.

CONSTANTINE ALEXANDER: And then they make their presentation at the hearing on the 24th.

UNIDENTIFIED AUDIENCE MEMBER: How do I know if they're posted or available?

CONSTANTINE ALEXANDER: Well, they have to be there -- I would suggest you come there sometime after five p.m. on the Monday before September 24th, because if they're not there by then, we're not going to hear the case on September 24th.

BRENDAN SULLIVAN: It would behoove them to reach out to you.

CONSTANTINE ALEXANDER: Yes.

BRENDAN SULLIVAN: So you don't have to be a search and destroy mission.

UNIDENTIFIED AUDIENCE MEMBER:

I've been a resident for over 20 years and I applied for a Variance 10 years ago and we went to every neighbor, we showed them drawings, we posted stuff, and I've seen nothing.

CONSTANTINE ALEXANDER: That's the way people should proceed.

UNIDENTIFIED AUDIENCE MEMBER: I understand.

BRENDAN SULLIVAN: Well, they're on their honeymoon. They may still have stardust in their eyes so give them a week or two.

UNIDENTIFIED AUDIENCE MEMBER: I get it.

CONSTANTINE ALEXANDER: You could always reach out to them. You might suggest that they talk to the other neighbors as well.

UNIDENTIFIED AUDIENCE MEMBER: I still have stardust in my eyes 20 years later.

CONSTANTINE ALEXANDER: All those in favor of continuing the case on this basis, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

* * * * *

(8:45 p.m.)

(Sitting Members Case BZA-007308-2015:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, George S.
Best.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 007308, 300 Broadway.

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

DERICK SNARE: Hi. I'm Derick
Snare. I'm the architect for the project,
and this is the owner.

FUAT E. KORKMAZ: Fuat, F-u-a-t
middle initial E. Korkmaz, K-o-r-k-m-a-z.

I'm the owner of the building.

CONSTANTINE ALEXANDER: Of the building? This is a condominium?

FUAT KORKMAZ: No.

CONSTANTINE ALEXANDER: This is a rental unit? The renter? I'm sorry, I don't understand.

FUAT KORKMAZ: I'm the owner of the building.

CONSTANTINE ALEXANDER: Right.

FUAT KORKMAZ: And, you know, I went in this project in this particular unit and I move in there myself.

CONSTANTINE ALEXANDER: I understand. Thank you.

We could start with the project, but let me start with a little bit of a speech. I don't know, you're an architect, you should know, I trust you

know how variances work. We grant variances. We have the authority to grant variances only subject to a very stringent condition. It's imposed by the state. There has to be a substantial hardship that warrants granting the relief, and that the hardship must result from soil conditions, shape, or topography of the structure or the land on which it sits. Key is "substantial hardship." This is a three-bedroom unit now. You want to add a fourth bedroom on another floor which I gather would be a nice suite. I could understand why you want to do it. There's no hardship, in my judgment, that would warrant us granting the Variance or would allow us to grant the Variance.

And, also, you've got to take into account the nature of the building itself.

Right now we had this building as a very dense building. We -- densely occupied building. The FAR, floor area requirements for this area, your zone is 1.5. You're right now at 2.59, almost twice what's admitted, and you want to go to even more, 2.76. You're going to add nine feet to the structure. Although the nine feet still keeps you within the Zoning requirements. You're not asking for a Variance for height.

But I come back to where I started. What is the substantial hardship that would warrant -- I mean warrant us granting relief? You don't have a family that needs, like these other folks, only one bedroom and they've got a couple of kids and they need to have more space.

FUAT KORKMAZ: Yeah, I mean I

purchased this building in 19 -- sorry.

Oh. I purchased this building in 1996 and it was in quite, you know, troubled building when I purchased it. It was on receivership. There was all kinds of fights going on there. And I purchased it. And ever since I put lots of renovations, lots of money, took lots of energy in it, you know, I still doing so. And I got rid of very ugly siding and I kept as original as possible from outside. And even now you see I receive a preservation award doing the work. And I mean, I spent all my time and money on this building and I have been -- I have lived or worked in the same block beginning of, you know, since my early 1990s. Either worked or lived in the same block. And I, you know, this is my

neighborhood. And so I'm in -- right now I have a special needs son and I have a daughter and then, you know, we cannot really travel to see my family overseas and they often come to -- they often come to see us. And when my parents come, I have brothers that come, and we always have issues with space. And so this is, you know -- and I cannot really, I don't want to leave Cambridge. You know, I always, you know, in the past maybe 25, 26 years I've been in Cambridge. I only want to live in Cambridge. You know, I made this my home. And I cannot afford to buy, you know, with this price, I cannot afford to buy a larger place. So -- and this is the, this is the, you know, so this is the idea behind it. I have all these hardships and I want to, I want to build

this, you know, other extension there so I can continue living there while, you know, my family visits and I have the room.

BRENDAN SULLIVAN: Why not just take over unit 3?

FUAT KORKMAZ: You mean three units?

BRENDAN SULLIVAN: Take over unit 3. Make 3 and 4 one unit? You have the ability to do that if you need more room. And then you can --

FUAT KORKMAZ: That would be too much room. That would be, you know, too many rooms. Adding another room, it would be, you know, financially and space-wise I think it would be, you know, more -- it would work out better for me.

BRENDAN SULLIVAN: Well, if it flies in the face of Zoning that's the

problem.

CONSTANTINE ALEXANDER: You should be congratulated for what you've done for this building. But the Zoning relief of the sort you're requesting is not an appropriate reward for what you've done. We have a Zoning Ordinance, and the Ordinance says we've got certain restrictions on how you can use your property, and we can give a Variance from that. We can vary the requirements if there's a substantial hardship and there's unique soil conditions, shape, topography. That's not your case. It's not -- in my judgment anyway.

FUAT KORKMAZ: You know, I've been in this neighborhood. I have been done lots of things for the neighbor -- you know, the neighborhood. All my neighbors

also support me on this, you know. I have all my neighbors, all the immediate neighbors, they came and they showed support. They really -- you know, they have no problem with it.

DERICK SNARE: I went and talked -- speak with the planning department just to see, you know, what they thought and came away with the thought that if the neighbors weren't opposed to it, you know, there was a chance that --

CONSTANTINE ALEXANDER: A chance. There's always a chance.

DERICK SNARE: Understood, there's always a chance.

CONSTANTINE ALEXANDER: Just like anything.

DERICK SNARE: And that's why we

proceeded.

CONSTANTINE ALEXANDER: And not being critical of your proceeding, I'm trying to suggest to you, it seems to me that this is an open and shut case for not granting relief because there's no hardship here. There are other ways of getting to what you want to get to. The fact that you may have family from overseas come visit. We all have -- need additional space for visitors, family visitors in all of our homes. That doesn't warrant, in my mind, modifying our Ordinance to a substantial extent. FAR, you're way over already and you want to do even more. And, you know, you have a three-bedroom unit. It's not like you're a one-bedroom unit, maybe two. You've got three bedrooms and you want to add a

476-foot bedroom on a separate floor? I understand why you want to do it, I just can't see any Zoning that will allow you to do it.

DERICK SNARE: I mean, in terms of this, because he has a special needs son he really can't travel to visit that's why he has visitors coming in. So it is a little unusual in that sense.

CONSTANTINE ALEXANDER: Anyway, I've sort of preempted your presentation to some extent. Anything else you want to add?

DERICK SNARE: I was only going to say that we attempted to minimize the impact of this by essentially sinking it into the roof.

CONSTANTINE ALEXANDER: I saw that in your plans.

BRENDAN SULLIVAN: Where do you live now?

FUAT KORKMAZ: I live at 292.

THOMAS SCOTT: Is the addition visible from Broadway?

DERICK SNARE: No.

CONSTANTINE ALEXANDER: A little bit, the roof.

DERICK SNARE: Well, all the way around, I took pictures which I submitted. It's appeared to be virtually invisible.

BRENDAN SULLIVAN: Well, I think there is, it may not be the first choice, but, you know, you could take over some of the retail in the first floor, turn that into a unit and then capture the part of the apartment upstairs. There's all kinds of reconfigurations on the interior of the building that would accommodate your --

FUAT KORKMAZ: I mean also, I also own a retail space. I also work there. It's part of most of my business.

BRENDAN SULLIVAN: Which one?

FUAT KORKMAZ: At 300. The one retail. Which number is it?

DERICK SNARE: You know better than I do.

FUAT KORKMAZ: The one not on Elm Street side but on the other side.

BRENDAN SULLIVAN: I think there are options that --

CONSTANTINE ALEXANDER: You're living in the unit and you need more space is one thing. You're not even in the unit now. You want -- you can move into -- if it's your desire and that's fine. But you're asking us to change the Zoning Ordinance just to allow to you move in.

FUAT KORKMAZ: This extra space really, you know, we make my life much easier.

CONSTANTINE ALEXANDER: I have no doubt. I'm not being critical of that. Our problem is that we have -- we're bound by a legal standard. You know? We can't -- we can only do so much from the Zoning point of view with regard to variances.

Anyway, since you just joined us.

CHRIS WALTER: We are -- I'm a trustee of the same trust from the very beginning and we bought the property.

CONSTANTINE ALEXANDER: And the two of you are the owners of the structure?

CHRIS WALTER: Yes.

CONSTANTINE ALEXANDER: Is it a

condo or is it a rental?

FUAT KORKMAZ: Rental.

CHRIS WALTER: Rental.

CONSTANTINE ALEXANDER: So the two of you own this property?

CHRIS WALTER: Yes.

THE STENOGRAPHER: Okay, can you give us your name?

CHRIS WALTER: Chris Walter.

I own the building across the street and I've been operating that business now for the past 25 years.

CONSTANTINE ALEXANDER: Let me 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.

I don't think we have -- you said you have neighborhood support and I believe you. And I don't think we have any letters. And there's nothing for me to read into the letter.

FUAT KORKMAZ: I have no objections from any of my neighbors.

CONSTANTINE ALEXANDER: And I accept that. Nobody's questioning that. We have no letters to read into the record.

CHRIS WALTER: Have you mentioned about your family?

CONSTANTINE ALEXANDER: Yes, he has.

CHRIS WALTER: I know them well and I know the situation.

CONSTANTINE ALEXANDER: Again, I'm not being repetitive, this is not a reward

situation. This is not a "what we would do if we had -- we're writing a new Zoning Ordinance." We have an Ordinance that was given to us by the City Council. We have a procedure to give variances from that Ordinance, but it is a very tightly circumscribed procedure and, you know, people have been living there for years and the family has grown and they need more space or they have a sick parent all of a sudden and need to have the parent move in with them, that's something that we, we look -- we take into consideration. None of that applies here, so I'm sorry.

TIMOTHY HUGHES: I would add that Brendan made a good point, is that the building is big enough for you to -- if that stuff did apply, the building's already big enough for you to accommodate

that kind of thing without adding to the top floor of it. I mean, it's a big building.

CHRIS WALTER: Well, it is a big building, but I mean each, each unit is somewhat circumscribed.

TIMOTHY HUGHES: That's what architects do. They uncircumscribe those things for you.

CONSTANTINE ALEXANDER: You reduce the size of one unit. I don't know how big the other units are. But take a way a bedroom from another unit and then add that to yours with a staircase or something. As Tim has said, there are architects are smart enough to come up with some plans that allow to you do what you want to do without needing Zoning relief.

I'm going to close public testimony.
Anything further you want to add at this
point?

FUAT KORKMAZ: You know, as I
said, you know, from the beginning this is
really -- I mean I cannot, I wouldn't stay
in Cambridge. I cannot afford to buy, you
know, anything bigger in Cambridge. And I
think this is, you know, given, you know,
I give this lots of consideration. I
think, you know, this is the best project
really, you know, for me to have in order
to have extra room without really --

CHRIS WALTER: I think it's more
relevant to talk about the hardship. How
old are your parents?

FUAT KORKMAZ: They are in
seventies.

CHRIS WALTER: They want to come

and stay with him.

CONSTANTINE ALEXANDER: Yes, but if we allow this to happen, it will be perpetual. We'll have a four-bedroom unit forever more. The hardship is not supposed to be peculiar to the current occupant. There's got to be a hardship that runs with the land -- the structure.

Anyway, are we ready for a vote or further discussion?

BRENDAN SULLIVAN: I'm all set.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that we make the following findings 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.

That the hardship is owing to

circumstances relating to the soil conditions, shape or topography of such land or structures, and especially affecting such land or structures but not affecting generally the Zoning District it's located. And that relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent and purpose of this Ordinance.

On the basis of these findings the Chair moves that we grant the Variance being requested on the condition that the work proceed in accordance with plans submitted by the petitioner, the first page of which has been initialled by the Chair.

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

(No Response.)

CONSTANTINE ALEXANDER: No one in favor. So the motion does not carry. The Variance is not granted I'm sorry to say.

And I should -- I suggest we need as a Board to take a further vote as to why we didn't grant the Variance.

The Chair moves that we determined that the Variance is not granted because the petitioner has not demonstrated a substantial hardship that would warrant within the meaning of the Zoning laws that would warrant relief.

That there are no special circumstances relating to soil conditions, shape, or topography of the land and structures.

And that relief may be -- could not be granted without substantial detriment

to the public good because of the fact that this property is already in substantial non-conformance in terms of floor area and will be further, almost twice as what is permitted if we were to grant the relief.

So on the basis of all of these, that is why we denied the relief.

All those in favor of that granting addition.

(Aye.)

CONSTANTINE ALEXANDER: Sorry, case is over.

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

DERICK SNARE: Thanks.

* * * * *

(9:05 p.m.)

(Sitting Members Case BZA-007457-2015:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, George S.
Best.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 007457, 318 Harvard
Street.

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

ATTORNEY JAMES RAFFERTY: Good evening, Mr. Chair, members of the Board. For the record, my name is James Rafferty appearing this evening -- with an office address at 675 Massachusetts Avenue. Appearing this evening on behalf of the applicant, Christopher and Pamela Willis, W-i-l-l-i-s. Mr. Willis is seated to my right. He's the owner of the property. And seated to Mr. Willis's right is Marianne Thompson, the project architect, and her colleague Eleanora Peretti, P-e-r-e-t-t-i.

So this is an application filed by Mr. and Mrs. Willis to convert and do some renovation to a handsome home in mid-Cambridge at the corner of Hancock Street and Harvard Street. It has some very refined and elegant features to it,

but frankly it has been in a state of decline for a period of time.

Mr. Willis grew up in the Boston area. He somehow managed to move to New York City and was raising his family in Brooklyn. He has seen the error of his ways and he and his wife have returned to Cambridge. They have two young children. They are going to turn this into a family home. It has been used and approved as a two-family. They intend to convert it to a single family.

The house is non-conforming in one notable respect, and that is the side setback. It's a corner lot. It has two fronts. The side, as you face the house from looking at it from Harvard Street, it's very close. And actually the rear portion is nearly on the lot line. So for

that reason, any addition would be subject to the provisions of Article 8.

In this case there have been prior additions. And what's being proposed here is a conforming addition to a non-conforming structure that exceeds the 25 percent. But of significance, I would suggest to the Board, is the fact that the house -- the home does remain below the allowable FAR. And a portion of the proposed FAR is located in the basement. So the house really -- the central part of the home is largely unchanged, but the house almost has three elements to it; the principal structure, a secondary L, and then a third component.

The house has been the subject of proceedings before the Mid-Cambridge Neighborhood Conservation District which

issued a Certificate of Appropriateness for this work.

The Willis's have also done extensive outreach to their abutters and neighbors. They don't yet live in the home, but they did host an event early this summer to get to know their neighbors, introduce them to their children, and share with them their thinking. And pleased to report that the abutters, particularly the condominium owners next-door, have expressed support to this.

In nearly every respect with the exception of the increase in GFA, the improvements to the property represent a move towards greater conformity with the Ordinance. The site today is dominated by a significant amount of asphalt. On the

Hancock Street side it would appear to be able to park a number of cars. They're going to cut that back considerably, reduce the driveway, add significant amounts of open space in the area. Go from about a four car driveway. They're going to remove parking in the front yard setback. If you looked at the house today as you approached it on the Hancock Street side as you come across the curb cut, entire area to the right is entirely asphalt. You can see on the site plan that's being returned to yard.

It's in at that area where there is going to be a small movement forward and that's going to be a family room, expanded kitchen that will accommodate the living for this family.

So Ms. Peretti is intimately

familiar with the moves and gestures that are being made with the renovations and would be happy to go through those details, but the issue frankly for the Board is the addition. There are two components to the Variance request.

The addition, we are -- there is a slight increase on that back, that back portion of the house where the wall, the non-conforming wall will raise an additional feet in height. It doesn't change the number of stories there, but it's a very low ceiling in that section. And there was a lot of time spent with the abutters because it's closer to them. But it's worth noting if you've seen the Assessor's Plot that the area that this abuts, there is a driveway for that condominium and they have a, they have a

good distance from their own home from that location. So the sun study shows that the impact is negligible. And a neighbor who had expressed concern, frankly, and asked for that analysis to be performed, has written to Mr. Willis that he's in support. And the balance is the addition that's occurring between the main house and this rear section. So it --

CONSTANTINE ALEXANDER: This is also a Special Permit.

ATTORNEY JAMES RAFFERTY: This is a Special Permit for --

CONSTANTINE ALEXANDER: Not yet.

ATTORNEY JAMES RAFFERTY: I always wondered if you're in for a Variance why you just can't do the whole thing.

CONSTANTINE ALEXANDER: Don't ask me.

Why don't you just talk briefly about the modifications to the structure.

ATTORNEY JAMES RAFFERTY: Perhaps the elevations, Eleanora can tell the story best in terms of the changes in the appearance here.

ELEANORA PERETTI: You can talk. We need the other elevation that's -- we need the proposed ones.

CONSTANTINE ALEXANDER: These are all the same as in our files?

ATTORNEY JAMES RAFFERTY: Yes.

ELEANORA PERETTI: Yes.

So what we looked at when we first looked at the house was exactly mainly, like, the three parts of the house. So this -- what we call, like, the main sort of the building, which is the one that's facing Harvard, we wanted to maintain the

way it is. We feel like it would be a wonderful renovation and try to get the fines out of making it beautiful again.

MARIANNE THOMPSON: That's this section here.

ELEANORA PERETTI: Exactly.

The connecting part is this middle portion. That portion is mainly going to stay the same. We're raising it a little bit because right now it's below the six feet, eight and so we're making it liveable. And then the back portion, as you can see, it's kind of two little additions right now, and they were made, like, at different times they added a stairway on one of the portions. What we're trying to do now is build the volume here that is on the same level on the second floor. So that's why we're going

so, like, we're going taller with the house because you want to have the whole second story on the same level. We have the steps in the middle because they have kids. There might be their mom in there. We don't want to make it hard for them to go through the house.

ATTORNEY JAMES RAFFERTY: The second floor is on the line, the rear of the house.

ELEANORA PERETTI: Right, they're all different. And right now this back portion has bushes that are below the six feet, eight so they're really, really low actually.

MARIANNE THOMPSON: And then the wall that is --

ELEANORA PERETTI: Non-conforming.

MARIANNE

THOMPSON: -- non-conforming is what we're -- you can see here, this is the existing wall.

CONSTANTINE ALEXANDER: Yes, yes.

MARIANNE THOMPSON: There's a number of windows. And this is how it steps down. And then this is what we're proposing. So this is what is most affecting the neighbors, this wall. And we're taking up a number of windows. We changed a little bit of the roof, but it's a little bit more prettier to look at. And we've added skylights and they're non-conforming and we're asking permission to do that.

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

(No Response.)

CONSTANTINE ALEXANDER: Appear to

be none.

Let me open the matter up to public testimony and then we'll return to the Board itself to discuss this further.

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

(No Response.)

CONSTANTINE ALEXANDER: No one wishes to be heard. We are in receipt of one letter from Susan Wood who resides at -- well, Susan Wood, Barbara Halporn, H-a-l-p-o-r-n, and Kathleen Coleman, C-o-l-e-m-a-n, all whom reside in three different condominium units at 320 Harvard Street. (Reading) We are neighbors at 320 Harvard Street writing in full support of the Variance and Special Permit being sought from the Board of Zoning Appeal by Christopher and Pamela Willis for their

property at 318 Harvard Street. Chris and Pam have been generous in sharing their plans for the renovations in seeking input from neighbors. We are eager for their project to begin as it will reclaim a sorely under-maintained property in a way that respects the building's heritage.

Those are the shadow studies.

ATTORNEY JAMES RAFFERTY: Those are shadow studies, but it also shows the relationship of the condo that the author of that letter lives in the row house condo. You can see the relation of the driveway. While it is close, it is not close to the structure itself. And obviously that driveway is always going to be there because it's -- so there is separation between the properties.

CONSTANTINE ALEXANDER: I'm aware

of that. I know the site. Can we keep this in our files?

ATTORNEY JAMES RAFFERTY: Sure.

CONSTANTINE ALEXANDER: Anyway that's -- that one letter and no one has appeared tonight to give further comments.

Discussions from members of the Board?

BRENDAN SULLIVAN: The six-foot fence along Harvard Street or is it Hancock? Along Harvard? What is the length? Because it looks like there are two different fences there; is that correct? There's a four-foot fence and --

ELEANORA PERETTI: There's a four foot on Harvard, and the first portion is a four-feet fence and then it becomes a six feet when it gets closer to the corner.

BRENDAN SULLIVAN: All right. Is that iron also?

ELEANORA PERETTI: No, that's wood.

MARIANNE THOMPSON: Stockade.

BRENDAN SULLIVAN: It's going to be solid at the corner?

MARIANNE THOMPSON: And we're proposing to chamfer it.

BRENDAN SULLIVAN: I'm sorry?

CONSTANTINE ALEXANDER: He didn't hear you.

MARIANNE THOMPSON: We're proposing to chamfer it so that you can see around the corner better.

ATTORNEY JAMES RAFFERTY: It doesn't go to a right angle. It cuts back at a --

BRENDAN SULLIVAN: Right. Because

I am totally, totally, totally opposed to six-foot fences on corners or facing the streets.

MARIANNE THOMPSON: That fence is an existing fence.

ELEANORA PERETTI: That's there.

BRENDAN SULLIVAN: I know it. I just wonder if people are trying to fence things in or fence things out by six-foot fences on the --

ATTORNEY JAMES RAFFERTY: Well, it's been there historically. It is an area for the yard. It has been a subject of discussion. Currently there's a lot of overgrown evergreens that impact the sight line negatively as you approach Harvard from Hancock Street. Part of the landscape plan here is to pull that back and improve the sight lines. It was a

subject of focus and discussion at the neighborhood conservation commission. So this will represent an improved condition over the current conditions.

BRENDAN SULLIVAN: There is a plethora of six-foot fences along Huron Avenue lately, on corners of houses, and it's awful.

ATTORNEY JAMES RAFFERTY: It's not ideal I agree.

BRENDAN SULLIVAN: No, it's just awful.

ATTORNEY JAMES RAFFERTY: And in some of the conservation districts --

BRENDAN SULLIVAN: And whenever I have an opportunity to dis-encourage six-foot fences --

ATTORNEY JAMES RAFFERTY: Well, I would say Mr. Willis would take note of

that. I don't think that they've settled it. I think the assumption was that since it was there, they would replace in kind which is actually a practice that the conservation district permits without deviation, but I imagine at least at the corner, but understand the landscaping focus here will be significant. I'm sure you would be willing to take a look at that.

BRENDAN SULLIVAN: We don't have an elevation of that, right, just in plan?

ATTORNEY JAMES RAFFERTY: An elevation of the fence?

BRENDAN SULLIVAN: Of that --

ATTORNEY JAMES RAFFERTY: No, we have photos of the existing condition.

BRENDAN SULLIVAN: I know that. Let me see that again. I went by it a

hundred times.

MARIANNE THOMPSON: We have a landscape architect who's just been hired who is going to be working on the landscape and the fencing.

THOMAS SCOTT: The six-foot fence extends around all the way to the driveway?

MARIANNE THOMPSON: It becomes four feet.

THOMAS SCOTT: And then it's six foot?

ATTORNEY JAMES RAFFERTY: It's six on Hancock and not on Harvard.

They're not the best photos for that purpose.

BRENDAN SULLIVAN: There's a snowbank.

ATTORNEY JAMES RAFFERTY: No, but

behind -- there's also -- there's also a shed in the front yard that's going to be removed in the Hancock Street yard and turned into open space. And as I said, areas where there's parking now is going to be eliminated. I think the visual, the curb appeal will be, will be quite an improvement.

CONSTANTINE ALEXANDER: It's got to be an improvement over what's there now. It's a jungle right now.

ATTORNEY JAMES RAFFERTY: Right. And that perhaps -- and to suggest and I think the effort that's being taken here to really restore this house, and there are elements certainly worthy of restoration, significant portions of the principal structure will be brought back. I would say.

BRENDAN SULLIVAN: No, I congratulate you for -- it's a nice house and it can be a very lovely house again, you know. I think that's what you're -- you will do. But anyhow, that's just putting in my two cents.

ATTORNEY JAMES RAFFERTY: I will be certain to advise Mr. Willis as to how life is always easier when people are happy around here. So we'll strive to create happiness.

GEORGE BEST: So I'm just saying that if you're going to make the yard beautiful, share that with the community and you can't really see the yard and all of that behind the six-foot fence.

ATTORNEY JAMES RAFFERTY: Okay. I think we can take that under advisement. I think they're trying to balance the need

of having a little privacy to enjoy the yard. Because it's a corner lot and the way it's sited there is no backyard. So it's all really front yard.

CHRISTOPHER WILLIS: We have two young children and my wife is concerned for their safety.

CONSTANTINE ALEXANDER: What if we said that on Hancock Street the fence cannot be higher than four feet?

ATTORNEY JAMES RAFFERTY: Well, it might be suggested that is slightly beyond the purview of relief being sought, but I think we would work towards that. I mean....

BRENDAN SULLIVAN: Now that I've stirred up a storm, I would take into consideration the comments and do the right thing, I guess that would be my

final take on it.

ATTORNEY JAMES RAFFERTY: I know sometimes the combination of landscaping and fencing, one or the other can obscure. And the house is worth seeing and the approach certainly be opened up, but I would, are you prepared to consider that?

BRENDAN SULLIVAN: Just relook at it.

CONSTANTINE ALEXANDER: Yes. We will not condition it, we will not make it a requirement of the Variance, but it is something that we would urge you.

GEORGE BEST: Not to be smart but there's always hiding spaces behind a six-foot fence that you wouldn't have behind a four-feet fence.

ATTORNEY JAMES RAFFERTY: Right.

GEORGE BEST: And on the corner --

ATTORNEY JAMES RAFFERTY: Unless these are young circus performers, they shouldn't have any trouble getting over a four-foot fence. They should be able to achieve -- if I can say in all candid that both Mr. and Mrs. Willis I've been impressed with the level of detail and responsiveness that have been raised to issues both in the conservation process and in views expressed by the neighbors. I think it's a very legitimate point, and I think Mr. Willis will acknowledge that they will revisit the fence and with an eye towards mitigating its impact and allowing for greater visual permeability into the yard.

GEORGE BEST: How many corner houses can we really view that are nice looking? That's -- it's well landscaped

and it keeps the kids away, you know, from the fence itself. Just a suggestion.

ATTORNEY JAMES RAFFERTY: No, I think it's a good suggestion. As I said, I have a high level of confidence that, I would say that -- I wouldn't say that all the time when I'm here with people, but I would say from what I've seen to date, the attention, the skilled professionals, and they brought their architect over from Italy to work on this case.

Eleanora is from -- where are you from?

ELEANORA PERETTI: Verona.
Northern.

ATTORNEY JAMES RAFFERTY: Diverse team here.

CONSTANTINE ALEXANDER: Ready for a vote?

ATTORNEY JAMES RAFFERTY: It could have been a stonewall.

TIMOTHY HUGHES: I'm ready for a vote.

CONSTANTINE ALEXANDER: I just caught that.

TIMOTHY HUGHES: A six-foot stonewall?

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

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

Such hardship being that this structure is in need of modification to restore it to its former historical stature.

That the hardship is owing to the

fact to the shape of the lot. It's a corner lot that makes -- with no rear yard setback. So it makes relief necessary.

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 the relief being sought is modest in nature, just a rear yard setback. That it's got the support of the abutters who are directly affected by this.

That the project has the support or approval of the Mid-Cambridge Historical Commission.

So on the basis of these findings the Chair moves that we grant the Variance being requested on the condition that the

work proceed in accordance with the plans submitted by the petitioner. They're all attached to a certified plot plan which I have initialed. They have been prepared by Marianne Thompson Architects.

All those in favor of granting the Variance, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

CONSTANTINE ALEXANDER: Special Permit.

ATTORNEY JAMES RAFFERTY: So the existing conditions show a number of windows. There's a significant reduction in the amount of openings but there are two areas, and I've circled the elevation,

where the windows are being relocated. Proportionally they're in one case I think they're actually reusing a window, but the size of the opening is unchanged, but the alignment -- I've circled in the blue here where these windows are. They don't currently exist. They're on a non-conforming wall, but if you look at the current fenestration on that non-conforming wall, they're probably reducing by more than 50 percent those openings.

CONSTANTINE ALEXANDER: And these face the -- those are the rear of the lot.

ATTORNEY JAMES RAFFERTY: The driveway. There's no rear. So this faces the side.

CONSTANTINE ALEXANDER: Side, right.

ATTORNEY JAMES RAFFERTY: It's the right side as you face the property from Harvard Street.

CONSTANTINE ALEXANDER: And therefore its impact, the windows impact on to the apartment house where the people who are in support of your petition?

ATTORNEY JAMES RAFFERTY: Right.

CONSTANTINE ALEXANDER: So the people affected by these windows say they are affected are in support of the project?

ATTORNEY JAMES RAFFERTY: Right. And I think they've acknowledged that the overall effect is a reduced -- a reduction.

CONSTANTINE ALEXANDER: Yes.

ATTORNEY JAMES RAFFERTY: So I think that had much to do with their

support.

CONSTANTINE ALEXANDER: That's why. Right.

Discussion or ready for a vote on the Special Permit?

TIMOTHY HUGHES: Ready.

GEORGE BEST: Ready.

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

That the requirements of the Ordinance cannot be met without the Special Permit.

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

That the continued operation or

development of adjacent uses will not be adversely affected by what is being proposed.

That 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 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 requested on the conditions that work proceed again with the plans that were identified with regard to the Variance that we granted.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

ATTORNEY JAMES RAFFERTY: I was going to share Mr. Willis is going to be opening a restaurant in Cambridge. He said he couldn't share the name yet.

CONSTANTINE ALEXANDER: Oh, good. We need one more restaurant.

* * * * *

(9:25 p.m.)

(Sitting Members Case BZA-007382-2015:

Timothy Hughes, Brendan Sullivan, Thomas Scott, George S. Best, Andrea A. Hickey.)

TIMOTHY HUGHES: The Acting Chair will call case No. 007382, 28 J.F.K. Street.

ATTORNEY JAMES RAFFERTY: Good evening, Mr. Chair and members of the Board. For the record, James Rafferty on behalf of the applicant, Capital One. To my right is Michael Welsh, W-e-l-s-h. Mr. Welsh is with Capital One. And

Capital One is probably known to the Board as a financial services company, more of a bank, new age approach to finances, and they have acquired a lease on a space on J.F.K. Street on that first block between the Cambridge Savings Bank and Mount Auburn Street. The space has previously been some type of retail that escapes me, but actually if you look at the plans --

CONSTANTINE ALEXANDER: Radio Shack.

JAMES WILLIAMSON: Vitamins wasn't it?

CONSTANTINE ALEXANDER: That was one of them.

MICHAEL WELSH: It was both.

ATTORNEY JAMES RAFFERTY: It was both.

In going through the permitting on

this we learned a little bit about the building and the Historical Commission's view of it. It is part of an ensemble that has a rather distinctive semi-circular opening where currently Papyrus is there, and they're the first storefront. They actually brought that facade back. And when Capital One met with the Historical Commission, they expressed a similar willingness to do that. And so in fact that is one area where alterations in the Harvard Square historic overlay district are allowed as of right if you're restoring to a previous condition. So the Historical Commission staff has been very helpful in providing some design consultation.

So this will be two spaces operating as a single space. There will be a single

point of entry. One half of the space, if you look at the floor plan is, it has some of the vestiges of a bank, not so much tellers, but with seating areas and conference rooms where people can come and meet with Capital One staff and discuss financial matters and handle financial transactions. And then within this space will be a Peet's Coffee. This is a model that Capital One has in Boston now in three or four locations, in the Back Bay and the South End. And this is a national relationship that they have formed with Peet's.

So depending on one's perspective there are a lot of banks around, and as Mr. Welsh's colleague told us that the -- Ms. Rinada Curtis (phonetic) when we were at the advisory committee, the

idea was to create a little bit more out of the banking experience. So you can go there and take care of your financial matters and get a cup of coffee. If you use your Capital One card to purchase your coffee, you get a discount.

MICHAEL WELSH: As well as students.

ATTORNEY JAMES RAFFERTY: As well as students.

And the hours of the Peet's Coffee are going to be the same as Capital One. So it's not a -- it's not a place where there will be late night activity, and it's not a place where they anticipate the coffee shop operating independently from the bank, the financial services. So it is somewhat unique, and at least to my understanding, that to have a combined

coffee and financial services establishment in Harvard Square or in Cambridge for that matter, so it's not the banking portion of it as I'm sure the Board recognizes that seeks the relief, it's the portion related to the coffee shop.

The Ordinance talks about, in defining a fast order food establishment, whether that's the principal business of the establishment. And I've spent a fair bit of time analyzing this with the Building Commissioner to see whether or not Capital One really is in that business.

Point of historical reference, there's a Peet's Coffee around the corner. They operate without a fast food Special Permit for reasons that were never clear

to me. I followed that closely, wished them well, but at the time I questioned because I represent a number of other similar operators that wondered why they didn't need a Special Permit. And we learned that Ms. Gifford and the Harvard Square Defense Fund had determined at that time that Peet's was a coffee retailer; that they sold coffee beans and espresso machines and other things. So this is -- this will not have that aspect of it, but at any rate, admittedly there is a Peet's Coffee in short distance of one took a narrow view and said well, this would be a second Peet's Coffee in Harvard Square. That is true. But as we know, there are many operations that have multiple locations in Cambridge and even in the square itself. So, the idea really

here is Capital One is very much in the financial service business. It is -- the focus here is to provide an amenity to Capital One customers and to perhaps draw from people that might not otherwise find themselves going into a Capital One location. So while certainly not the principal business of Capital One, they believe there's a synergy here, it has worked well in these four other locations, and it's an innovative concept and they're seeking a Special Permit to allow for the Peet's Coffee.

Peet's will be a subtenant of Capital One. Capital One has the lease on the space. They will build out the space. They're responsible for the space, but there is a subtenancy relationship where Peet's Coffee will operate the cafe

portion. They call this a Capital One Cafe.

MICHAEL WELSH: Capital One 360 Cafe.

ATTORNEY JAMES RAFFERTY: Capital One 360 Cafe. 360 because?

MICHAEL WELSH: It's a theory of circular.

BRENDAN SULLIVAN: What goes around comes around I guess?

ATTORNEY JAMES RAFFERTY: That applies in banking as well as other --

MICHAEL WELSH: Just to clarify one thing, though, is we offer financial advice, services there. There is no cash. The only cash there is in the ATM. So you can't come deposit or withdraw other than through the ATM.

BRENDAN SULLIVAN: It's not a

retail banking establishment? It's more of a financial services arm of Capital One?

MICHAEL WELSH: Yes, exactly.

BRENDAN SULLIVAN: The Peet's is a draw.

MICHAEL WELSH: Exactly, yes.

BRENDAN SULLIVAN: I could go to Peet's and get a coffee and whatever else they have and walk out. And while I'm there be attracted to some offers of Capital One or something like that.

MICHAEL WELSH: Yeah.

BRENDAN SULLIVAN: Arrange for an appointment or whatever --

MICHAEL WELSH: Yeah, you can sit down -- I mean the associates that are there are very knowledgeable about the financial. They could arrange loans for

you. They could get things started for you. Eventually you'll have to sit down and meet with someone obviously. But there are no exchanges there. There's no document signing going on there, that kind of stuff. It's strictly a, a financial advisory.

BRENDAN SULLIVAN: A drop-in center in a sense?

ATTORNEY JAMES RAFFERTY: Back in the day they give out the toasters, but apparently this is, you know, the next generation of --

GEORGE BEST: Coffeehouse.

ATTORNEY JAMES RAFFERTY: Right.

So they're -- when we discussed this at the Advisory Committee, Ms. Curtis did speak with some experience about how they used this space. If you look at the floor

plan, there are, there's a community room, a meeting room. She said people can come in and make an appointment and reserve the room. She said they're looking to find ways to connect with the community.

They've joined the local business association, and they've got an expressed interest in making the place a bit of a gathering spot. So people might come in and talk to someone or they may simply come in and have a cup of coffee and use the table or make arrangements to use one of the conference rooms for a small meeting. As I said it's somewhat innovative and it will be Cambridge's first Capital One 360 Cafe.

BRENDAN SULLIVAN: Five days a week, six days?

MICHAEL WELSH: Six days.

BRENDAN SULLIVAN: Okay.

MICHAEL WELSH: Partial Saturday.

BRENDAN SULLIVAN: Yes.

MICHAEL WELSH: I think they close
at one o'clock.

BRENDAN SULLIVAN: Half day.

MICHAEL WELSH: Yeah.

TIMOTHY HUGHES: Further questions
from Board Members?

ANDREA HICKEY: Can I see the
floor plan from our file?

ATTORNEY JAMES RAFFERTY: Same
one.

THOMAS SCOTT: So I guess do we
have to concern ourselves with trash? It
is a coffee shop.

TIMOTHY HUGHES: Oh, do I have to
go through -- do I have to go through the
fast food order rigamarole?

Yes? Do I have to run through the checklist on that?

ATTORNEY JAMES RAFFERTY: 11.30, 11.31 the criteria. It's addressed in the application, but I would suggest that particularly when it talks about the second criteria, compatible and sensitive to the visual and physical characteristics of the buildings, the Historical Commission staff, the Advisory Committee spoke strongly about that. That the facade restoration, that bringing these storefronts back to their original condition is very much consistent with that requirement.

Tracking patrons from walk-in trade, similarly Harvard Square is perhaps our most pedestrian active neighborhood. Every reason to believe that the number of

visitors and students and others here, this will continue in that trend. And then the limitations upon use of non-biodegradables and handicap accessibility will be met.

THOMAS SCOTT: Is there any food prep or other food items that are sold besides coffee?

MICHAEL WELSH: No food prep. There is prepackaged food: Muffins, danishes that kind of stuff. All prepackaged and sold.

THOMAS SCOTT: No prep on-site?

MICHAEL WELSH: No prep at all. The only thing they do is, they will warm up a muffin or a danish but that's it.

TIMOTHY HUGHES: Any other questions?

Andrea?

ATTORNEY JAMES RAFFERTY: The question of need. As far as I know in Harvard Square you can't get a mortgage and a cup of coffee in the same place. So there clearly is a need for that. And Capital One is going to be responding to that need with this cafe.

TIMOTHY HUGHES: You can get advice for a mortgage here but you can't get the mortgage.

ATTORNEY JAMES RAFFERTY: Once we --

TIMOTHY HUGHES: You have to sign papers for that, don't you?

ATTORNEY JAMES RAFFERTY: Look, at Capital One once we shake hands we have a deal.

TIMOTHY HUGHES: Okay.

BRENDAN SULLIVAN: Wainwright Bank

started that concept. They did it actually in Davis Square. And Eastern Bank bought them out, but it was the whole area of having a lounge area off to the side and refreshments and so on and so forth. They would allow people to sort of sit and read the paper and yadda-yadda, so on and so forth. Part of a retail establishment, part of retail banking. But Wainwright did and it was fairly successful as part of a gathering spot. Bought out by Eastern Bank and I don't know that Eastern did.

CONSTANTINE ALEXANDER: A bank in Winchester that does that, free coffee and doughnuts for people that come in whether they're patrons of the bank or not. So it's not --

ATTORNEY JAMES RAFFERTY: Could

you give us the name of that? Free doughnuts?

BRENDAN SULLIVAN: We would want croissants.

CONSTANTINE ALEXANDER: Especially Harvard Square.

ATTORNEY JAMES RAFFERTY: Doughnuts? Shame, shame.

TIMOTHY HUGHES: I'm going to open this up to public testimony.

Anybody want to be heard? James, since you're the only one in the room that's not sitting at the table already.

JAMES WILLIAMSON: My name is James Williamson, 1000 Jackson Place. Thank you.

I guess I regret that it's about a fast food unless -- I'm not exactly sure what the Variance is for but it sounds

like it has something to do --

ATTORNEY JAMES RAFFERTY: Special Permit, excuse me.

JAMES WILLIAMSON: For fast food.

CONSTANTINE ALEXANDER: James, for your information the Ordinance defines as a special category called fast order food establishments, and it sets a criteria that makes someone that -- and if that's the case, in Harvard Square --

JAMES WILLIAMSON: They have to apply for a Special Permit.

So I guess I regret that it's focussed maybe more on that than on more banks in Harvard Square. I don't think we need any more banks in Harvard Square. Maybe some people do, but I do have a concern about the ATM. It looks from the plan like there is gonna be a door where

you can just go in to the ATM machine and a separate door for the space -- the rest of the space so that in fact you're going to have a 24-hour -- it appears there's going to be a 24-hour ATM facility. I know there have been some issues with the Citizens Bank ATMs. I have a concern about that. I'm not saying I'm against this, but I have a concern about that.

As far as whether Capital One are new age, I'm not sure exactly what that means. That would -- I would rely on the Board. I might be interested in exploring that a little.

As for Peet's, I did go in and talk to one of the managers at Peet's and I asked about this and I was -- it was explained that Peet's will control the management. They typically do, and

apparently will have control over who the manager is. And the manager will have control over the hiring Peet's through -- the manager will have control over the hiring which seems like a reasonable arrangement, but I do kind of wonder if this -- I don't know, it just seems a little odd. There is this sort of what was sort of a flagship piece. There are -- Peet's are all about where they had only about 30 of them all over the country. They were not the Starbucks. We are the not Starbucks. And now, it's a new arrangement between Peet's and Capital One. But I don't know, that's not a question for you I guess, but it is a question that anybody would have is how successful is it going to be when you've got a real more authentic Peet's right up

the street. Are you gonna want to go here and you can get your Peet's Coffee and walk it down a half a block. But that's not a reason to deny the permit, but I do have a question. I guess the biggest question I have would be probably be about the ATM machine.

Thank you.

TIMOTHY HUGHES: Do you know?

MICHAEL WELSH: I'm not sure what the concern of the ATM was.

BRENDAN SULLIVAN: On that note every bank has 24-hour ATM machines.

JAMES WILLIAMSON: Right.

ATTORNEY JAMES RAFFERTY: With all due respect, the issue of the bank is not before the Board.

JAMES WILLIAMSON: Right, but it's --

THE STENOGRAPHER: One at a time, please. Mr. Rafferty, can you please say your statement again?

ATTORNEY JAMES RAFFERTY: With all due respect, the issue of the operation of the bank is not what brings the case before the Board. The matter is before the Board for the portion of the use related to fast food, which is the coffee operation being conducted by Peet's. I was just responding to the relevance of the ATM issue addressed by the member of the public.

JAMES WILLIAMSON: And the reason I brought it up is because it sounded like, and maybe I misheard what was said, it sounded like a statement was made that this is gonna be limited banking. But it's not gonna be limit banking if you

include the ATM 24 hour access to the ATM and a separate entrance that would be available, and if that's not -- if none of that is before the Board, that's fine. I wonder if -- I guess there's gonna be a way for people to get into the ATM section of this, but a side door that is in the plans that would be presumably open during the day, will be closed, and then Peet's will be off, you know, no one will be able to get into Peet's portion of this after whenever the hours are.

BRENDAN SULLIVAN: Right.

JAMES WILLIAMSON: Which, you know, is how they're going to do it I guess.

BRENDAN SULLIVAN: That's a business decision. That's fine. And the only reason that you actually come in

under the fast food would be the dissemination of food without -- I think it's table service or something. Is that what they have, without table service, without -- they have determined what differentiates fast food from not so fast food I guess or something.

CONSTANTINE ALEXANDER: Table services linens, I think.

BRENDAN SULLIVAN: Right.

CONSTANTINE ALEXANDER: A bunch of requirements.

BRENDAN SULLIVAN: And plates and real forks and stuff.

ATTORNEY JAMES RAFFERTY: A definition of fast food talks about a business that -- a location that has as its primary business, the sale to the public of fast order food for consumption

on or off the premises.

I suggest that that was not the primary business of the cafe, but nonetheless, I can understand the more cautious approach was well, why not get the Special Permit but the -- it is, I would suggest a somewhat limited fast food and somewhat different than other fast food, because while one does not need to be a banking customer to use the premises, it's very clear that the, that the hours of operation and the environment there is a Capital One setting. And this, I would suggest almost fits in the category of a subordinate as opposed to square footage use. But if you look square footage use, I understand where the Commissioner came down on this, but I thought it was somewhat unique and that's why I question

whether the Special Permit was required.

JAMES WILLIAMSON: And if I may?

TIMOTHY HUGHES: Sure.

JAMES WILLIAMSON: One last question that I have would be about the signage. Is it all -- is it anticipated --

TIMOTHY HUGHES: Signage isn't an issue right here.

JAMES WILLIAMSON: Okay.

TIMOTHY HUGHES: If they want relief from signage, that would be a separate case. It's not been posted. It's not something we're talking about.

JAMES WILLIAMSON: Okay.

TIMOTHY HUGHES: Any further discussion or questions from the Board?

I'll close public testimony.

BRENDAN SULLIVAN: There's a

letter there from Harvard Square Advisory you may want to read into the record.

ATTORNEY JAMES RAFFERTY: Right.

I was just going to note that in the Harvard Square Overlay District the application, as the Board knows, for Variances and Special Permits before this Board require a report or comment from the advisory committee, and we did appear before the advisory committee on August 3rd. There's a report contained in the file addressed to the Board. And reading from the last sentence of the report it says: Overall the attending committee members find the proposal to be consistent with the goals of the overlay district. The restorations of the facade of the original storefront will contribute to the streetscape.

TIMOTHY HUGHES: And was that a condition of the Historical Commission or was that -- the restoration or what that -- was there approval?

ATTORNEY JAMES RAFFERTY: No, they approved a set of plans, elevations. Storefront elevations were reviewed by the Historical Commission. And because they're returning to the circular openings --

TIMOTHY HUGHES: Right.

ATTORNEY JAMES RAFFERTY: They didn't, they didn't require a public hearing for that approval.

TIMOTHY HUGHES: Right. So their comment was just about the storefront changes, not -- they didn't have a meeting about the use because it's really irrelevant to them, right?

ATTORNEY JAMES RAFFERTY: Right.
The Advisory Committee had a meeting, but
the Historical Commission dealt with it
administratively.

TIMOTHY HUGHES: I think
Mr. Rafferty summarized the Advisory
Committee minutes so I don't think I'll
belabor the point.

Any other questions from the Board
or we ready for a motion?

THOMAS SCOTT: Just one.

Will there be internet access? Will
the public be encouraged to come in and
have a cup of coffee and sit there even if
they're not doing any business with 360?

MICHAEL WELSH: Yes, we have free
Wi-Fi.

THOMAS SCOTT: Okay.

TIMOTHY HUGHES: The Chair would

move that the Special Permit be granted for a fast order food contingent at the address at 28 J.F.K. Street as a part of an amalgam, I guess you'd would say, of banking services and coffeehouse. It's safe to say they won't be fermenting a lot of radical ideas.

But the permit would be granted on the condition as outlined in Mr. Rafferty's testimony adhering to the fast order food establishment guidelines in 11.31 of the Ordinance.

And in addition, the Special Permit would be granted for the requirements of the Ordinance would not be met for the following -- and if this permit wasn't granted, the use of the portion of the premises as a Peet's Coffee located within a retail use providing financial services,

meets all the criteria of Article 11.31 and then will attract walk-in patrons from adjacent offices, academic, and multi-family buildings.

Traffic generated or patterns of access or egress would not cause congestion, hazard, or substantial change in the established neighborhood character for the following reasons:

It's already traffic generated and congested area. No, this section of Harvard Square contains a wide range of retail and restaurant uses and the proposed use will not change existing traffic patterns.

The continued operation of or development of adjacent uses as permitted in the Zoning Ordinance would not be adversely affected.

The surrounding uses will not be adversely affected by the operation of this use. This will attract banking customers and cafe patrons.

Nuisance or hazard would not be created to the detriment of the health, safety, and welfare of the occupant of the proposed use or the citizens of the City of Cambridge for the following reasons:

The petitioner will operate its premises in complete compliance with all health, safety, and sanitary code requirements.

And the proposed use would not impair the integrity of the district or adjoining district or otherwise derogate from the intent or purposes of the Ordinance for the following reasons:

The unique aspect of this cafe that

combines banking service within a cafe setting will contribute to the diversity of use that's encouraged by the Harvard Square Overlay District.

So on that basis the Chair would move that the Special Permit be granted.

All those in favor?

(Show of hands.)

TIMOTHY HUGHES: That's five in favor.

(Hughes, Sullivan, Scott, Best, Hickey.)

ATTORNEY JAMES RAFFERTY: Thank you very much.

(Whereupon, at 9:50 p.m., the
Board of Zoning Appeals
Adjourned.)

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ERRATA SHEET AND SIGNATURE INSTRUCTIONS

The original transcript and Errata Sheet has been delivered to Inspectional Services Department.

INSTRUCTIONS

After reading this volume of the Zoning Board of Appeals transcript, note any change or correction and the reason therefor on this sheet. Sign and date this Errata Sheet.

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I have read the foregoing transcript of the Zoning Board of Appeals, and except for any corrections or changes noted above, I hereby subscribe to the transcript as an accurate record of the statement(s) made by me.

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 the hearing herein before set forth is a true and accurate record of the proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of August, 2015.

Catherine L. Zelinski
Notary Public
Certified Shorthand Reporter
License No. 147703

My Commission Expires:
April 29, 2022

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