

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, AUGUST 27, 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
Slater W. Anderson, Associate Member
Jim Monteverde, Associate Member
Andrea A. Hickey, Associate Member

Sean O'Grady, Zoning Specialist

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PROCEEDINGS

(7:00 p.m.)

(Sitting Members Case BZA-007034-2015: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Jim Monteverde, Andrea A. Hickey.)

CONSTANTINE ALEXANDER: The Chair will call this meeting of the Zoning Board of Appeals to order. As is our custom, we'll start with our continued cases. These are cases that started at an earlier date and for one reason or another have been continued.

And the first case I'm going to call is 007034, 22 Kenwood Street.

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

KEITH KRISA: Hello again.

TIMOTHY HUGHES: Hi.

CONSTANTINE ALEXANDER: For the record, your name and address to the stenographer, please.

KEITH KRISA: Keith Krisa,

K-r-i-s-a, 22 Kenwood Street, 02139.

WILLIAM SCHAEFER: William Schaefer, S-c-h-a-e-f-e-r, architect, 15 Bay Street, Cambridge.

It's a brief presentation. It's only about three minutes. We're doing our best to be efficient. This is our second presentation before the Zoning Board. A brief summary is as follows:

The project that we're presenting has three components and all are within the existing footprint of the existing structure. Part one is a small addition at the first and second floor, which gives the owner more usable entry and a new living room, full bath at the second floor.

Part two, is a small addition at the rear reduced to accommodate a neighbor's

views and light issues.

And part three is a dormer at the third level to be used as an additional studio space for drawing, painting, etcetera. It is a complement to the second floor studio used as a computer printing studio.

We have revised the dormer configuration based on the comments from the members of the Zoning Board and to more closely adhere to the design guidelines for those dormers. As per the guidelines, the proposed dormer that we're presenting at this time will be one foot from the roof ridge. It will be one-foot, six from the front wall. In addition to that, as stated in the guidelines, leeway may be allowed for offsets depending upon interior space constraints. We believe

that that is the case with our dormer. The building is a pre-existing condition, a structure that gives Mr. Krisa, the owner, one half of the total roof for it is addition of a dormer. So this limits the size of the dormer to less than the allowable dimension given in the dormer guidelines. He only has 15 feet, plus or minus, to use for his dormer. And if we use the three-and-a-half setback from the edge, it makes the proposed dormer approximately eight feet and, therefore, perhaps too small to be usable. So it's quite narrow.

So our compromise solution is we've adhered to the ridge setback and the base setback, and we're using a setback or requesting a setback of two feet from the roof edge. This will give him a dormer

with approximately eleven feet which will be less than the maximum guideline but still adequate for his uses.

I hope the Board will accept that we have tried to accommodate a neighbor's concern expressed over a series of meetings and we have listened to the Board's comments and incorporated them into the project solution. And that ends our presentation.

CONSTANTINE ALEXANDER: What is the neighbors' -- what is the problem with the neighbor? I don't think I remember hearing that the last time.

WILLIAM SCHAEFER: Well, some of the concerns, not necessarily a problem.

CONSTANTINE ALEXANDER: Okay.

WILLIAM SCHAEFER: The concern was --

CONSTANTINE ALEXANDER: All right.

WILLIAM SCHAEFER: -- their view angle from their house would be obstructed if we made the rear addition all the way back to the footprint of the building. So what we did, which I'll show you on the drawings, this is -- so we could have gone back to this point. And at one point we did, but what we did is we have that and we cut an angle so that the person who lives over here when they look out from their living spaces, it's not obstructed. So that was arrived at over quite a few meetings. And that's really the primary neighbor's concern.

CONSTANTINE ALEXANDER: And the neighbor is now satisfied with your solution?

WILLIAM SCHAEFER: We believe so.

CONSTANTINE ALEXANDER: And they're here.

WILLIAM SCHAEFER: And they're here.

CONSTANTINE ALEXANDER: They are, directly behind you.

Let's go back to the dormer guideline which is the subject of the problems we had the last time.

WILLIAM SCHAEFER: Yes.

CONSTANTINE ALEXANDER: And the reason why you can't comply with the three-foot, eight inches -- six inches setback from the roof edge.

WILLIAM SCHAEFER: We could, we could comply with it, and --

CONSTANTINE ALEXANDER: Yes, but you would have an eight-foot dormer, though.

WILLIAM SCHAEFER: Yeah, we get a very small dormer. And our contention is that because, because we only have half of the roof, if we didn't -- if it was normal, if it was split the way the rest of the building was, then we would have the entire facade. So he would be able to get a sufficiently large dormer. But because of this unique situation, instead of splitting the building half this way, it does this way, so he only has less than 15. So when you take three-and-a-half feet off one side and then make the dormer symmetrical within the room, then, then you've taken three-and-a-half, so you've taken seven feet off.

CONSTANTINE ALEXANDER: Can you explain to me -- this is your plans?

WILLIAM SCHAEFER: Yes.

CONSTANTINE ALEXANDER: And this is a staircase obviously from the second floor to the third floor.

WILLIAM SCHAEFER: Right.

CONSTANTINE ALEXANDER: What's that --

WILLIAM SCHAEFER: That's the abutter's stairway.

CONSTANTINE ALEXANDER: That's the abutter's stairway?

WILLIAM SCHAEFER: Yes, it is. The remaining half is all we have to use.

And then what we -- the one thing that we have done is that in these views down here, we've shown from a perspective from the street, this is the dormer that we proposed using our half of the roof, and this is the guidelines' dormer at the eight feet. And we feel, you know,

perhaps given the distances, and, you know, I'm the architect, I've worked with, you know, for such a long time, through our eyes, you know, you see it the way you see it. So we, we're hoping that this is an adequate solution given the circumstances that we've been blessed with.

CONSTANTINE ALEXANDER: Well, speaking for myself and certainly I'm in the minority, I don't think this is an adequate solution.

WILLIAM SCHAEFER: I'm sorry?

CONSTANTINE ALEXANDER: I don't think this is an adequate solution. I mean if this were -- this is a studio and a guest room. And you have a studio on the floor below. Yes, your room will be narrow with a dormer-compliant compliance,

but you don't need the room, the space like a family that needs another bedroom. This is going to be a work area. And I just don't, I don't find that one, I guess it's the bottom one, which is the dormer-compliant one, so terribly bad. You have two windows as I see it in the space. So --

WILLIAM SCHAEFER: So it's a difference between eight feet and eleven feet.

CONSTANTINE ALEXANDER: Yes.

WILLIAM SCHAEFER: So we're talking an additional three feet. So I don't know.

KEITH KRISA: I talked to all the neighbors and no one cares.

CONSTANTINE ALEXANDER: I know that, but we have dormer guidelines and we

try to enforce them. We don't have to enforce them, but we are -- I'm persnickety about it. And in a compelling case, usually when you have a problem with the staircase going up and you can't comply with dormer guidelines without having to reconstruct the staircase, that I think we've always been sympathetic in the past. On this case I'm not sympathetic, but I'm only one of five.

WILLIAM SCHAEFER: Sure, of course.

I guess when we laid out the interior, and there was some comments that were raised at the last meeting, why is it that there are two different studio spaces? And the actual reason is that the second floor space is printing, computer work, and those kinds of things.

Whereas -- which is a different kind of activity, a different kind of space than what this space will be. What we found when we laid out an eight-foot dormer is that there's room to put two chairs and that's it. If we add that three feet, then you have two chairs, you have a table in between it. It just makes it a more adequate space for somebody to sit in. You have three large windows, you have good views, trees, etcetera.

CONSTANTINE ALEXANDER: I understand all of that.

WILLIAM SCHAEFER: So in terms of an artist having a quiet space away from everything and being able to draw, paint, read, reflect, whatever, we feel that that is the same thing as having a large family when you're trying to accommodate them.

And that would be the case that we feel sincerely is the truth.

CONSTANTINE ALEXANDER: I understand. Okay, I understand.

Questions from members of the Board?

BRENDAN SULLIVAN: So, Bill, you're coming in one-foot, six from the edge; is that correct?

WILLIAM SCHAEFER: Two feet. We're coming in two feet. We were at one-foot, two. We went to two feet. We tried to go to three feet.

BRENDAN SULLIVAN: And the dormer guidelines call for three-foot, six. So we're really talking --

WILLIAM SCHAEFER: They ask for -- they ask -- yeah, so we're asking for a foot and a half.

CONSTANTINE ALEXANDER: That's

exactly right.

BRENDAN SULLIVAN: And the question is whether that 18 inches is --

CONSTANTINE ALEXANDER: Yes.

BRENDAN SULLIVAN: -- going to tilt --

CONSTANTINE ALEXANDER: Yes, that's exactly right.

BRENDAN SULLIVAN: -- the aesthetic of this whole thing.

WILLIAM SCHAEFER: And the only other comment I would make is that this portion of the roof is because the, because we have the lower, the lower level, this portion of the roof is set back from the edge of the building so it's less intrusive on that corner because, because there's that flat space to the back. Yeah, it's like this. So we're

putting the dormer up here and that's setting back from the edge of the footprint even further. So it's a difference of two feet. So we're asking for consideration of that.

Yes.

TIMOTHY HUGHES: Can you tell me a percentage of increased light you get out of that extra space having the third window?

WILLIAM SCHAEFER: Can you ask me again? Say it again, please?

TIMOTHY HUGHES: How much more light do you get as a percentage?

WILLIAM SCHAEFER: I would say that we're getting 33 percent more because instead of having two windows we're having three.

TIMOTHY HUGHES: And they're equal

sized windows?

WILLIAM SCHAEFER: And they're equal size windows, yes. So we're getting equal size windows.

TIMOTHY HUGHES: So if you count it one way, that would be 50 percent, wouldn't it?

CONSTANTINE ALEXANDER: Further questions?

TIMOTHY HUGHES: No. But I am, I am sensitive to the idea of light in an artist studio.

CONSTANTINE ALEXANDER: Let me open the matter up to public testimony.

Is there anyone here wishing to be heard in the matter? We have neighbors who don't want to speak, but we have a nod of ascent that the solution is something that they approve.

UNIDENTIFIED AUDIENCE MEMBER:

We're the other side.

TIMOTHY HUGHES: They're
not -- you're not on the dormer side?

UNIDENTIFIED AUDIENCE MEMBER: No.

KEITH KRISA: The dormer side
people they don't care. They were on
vacation so they didn't care.

CONSTANTINE ALEXANDER: Anyone
else?

(No Response.)

CONSTANTINE ALEXANDER: No one
wishes to be heard. I don't think we have
any letters of comment on the re-design
since the first time you were here. I
think letters of support and I think we
read into the record before.

WILLIAM SCHAEFER: We had support
from the owner of the other portion of the

house that was -- he was in compliance with this, yes, on all issues.

CONSTANTINE ALEXANDER: Okay.

At this point I'm going to close public testimony.

Any discussion among members of the Board?

TIMOTHY HUGHES: I'm good with it.

CONSTANTINE ALEXANDER: I'll make a motion.

The Chair moves that we grant the Variance being sought -- 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 that the petitioner's structure is small and it needs additional

space, particularly for his artistic activities.

That the hardship is owing to the basically the shape of the structure and the size of the lot which makes it difficult to do any kind of modification to the building without running afoul of Zoning or Zoning requirements.

And that relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent or purpose of the 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 the two pages of plans submitted by the petitioner. They are dated June

1st -- prepared by Mr. Schaefer and dated June 1, 2015, both pages of which have been initialed by the Chair.

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

(Aye.)

CONSTANTINE ALEXANDER: Four in favor.

(Hughes, Sullivan, Scott, Hickey.)

CONSTANTINE ALEXANDER: One opposed.

(Alexander Opposed.)

CONSTANTINE ALEXANDER: Variance granted. Thank you.

KEITH KRISA: How long does a Variance last?

CONSTANTINE ALEXANDER: Forever. You can't get started right away. Until it's all officially done? Six to eight

weeks I think it is.

SEAN O'GRADY: You have a year to exercise from the date of the grant which is not today.

KEITH KRISA: Oh, a few weeks from now?

SEAN O'GRADY: A few weeks from now.

KEITH KRISA: Thank you.

WILLIAM SCHAEFER: Thank you.

* * * * *

(7:15 p.m.)

(Sitting Members BZA-006204-2015:

Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Slater W.
Anderson.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 006204, 1673 Cambridge
Street.

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

TIMOTHY BURKE: Good evening.

CONSTANTINE ALEXANDER: Good
evening. For the record, your name and
address to the stenographer, please.

HONG LIU: Good evening, Chairman.
My name is Hong Liu, H-o-n-g, last name
Liu, L-i-u. I'm at 1673 Cambridge Street.
I'm here to request a permit to build this

shed.

TIMOTHY BURKE: And my name is Timothy Burke, I'm an architect. My business address is 142 Berkeley Street in Boston.

CONSTANTINE ALEXANDER: The floor is yours.

TIMOTHY BURKE: Thank you. Do you want to introduce the --

HONG LIU: Yes, I just -- I have done I believe the necessary work that I feel very sorry I wasn't complete, so I have the dimension of the --

CONSTANTINE ALEXANDER: It's in our files. That's a copy of what you've given us?

TIMOTHY BURKE: That's correct, yes.

HONG LIU: Do you have the photos

of the front and inside?

CONSTANTINE ALEXANDER: We should. If you submitted them, they're in the file.

HONG LIU: Okay, yes. Basically I'm here to request a permission from you to do the shed.

CONSTANTINE ALEXANDER: Is it to build? The word is replace? I've seen --

HONG LIU: Replace.

TIMOTHY BURKE: Yeah, there was a shed there when Hong Liu bought the property in 1990?

HONG LIU: Uh-huh.

TIMOTHY BURKE: And the shed fell apart. She replaced it with a newer vinyl shed.

CONSTANTINE ALEXANDER: And that was recently, in the last year or so?

TIMOTHY BURKE: Yes.

And there was -- since it's in the setback, that's why we're here tonight. The Historic Commission has looked at it and, you know, recommended if there's a shed there, that it be made out of wood and no more than six feet high. So that's what we're proposing to do, is to replace it.

This is a photo of a similar shed. This is the closest I could get that the company makes.

CONSTANTINE ALEXANDER: I think we have drawings of the shed.

TIMOTHY BURKE: Okay.

And the need for the shed is it's a very tight site. There's not a lot of space but Hong Liu needs that shed for the storage of things like a snowblower and

yard equipment. Last winter was a particularly good example of needing it for maintaining the safety of the sidewalks. She does all the sidewalks on the street, the parking area here, and then for the people --

CONSTANTINE ALEXANDER: Why isn't the shed located somewhere in the back of the parking lot? As it is now, it's right on the street, front yard on the lot line.

TIMOTHY BURKE: On the corner.

CONSTANTINE ALEXANDER: It's probably the least desirable place for a shed in the abstract at least.

TIMOTHY BURKE: Yes.

HONG LIU: Okay.

TIMOTHY HUGHES: Wait a minute, can I ask a question? Is that where the original shed was?

CONSTANTINE ALEXANDER: I'm going to get to that one.

HONG LIU: Okay, okay. This is my picture of my -- I'm holding my baby who was born 1991. So she's 24-years-old now. The -- this house was licensed as a lodging house since 1921. I have the record. And it was also, you know, during the rent control time it was 20 -- 18 units plus owner's unit. So there's a big demand for parking. And this parking, this back was just enough for parking spaces as a result since I was there 1985. So this is 13 year I've been living in the house. There's always a shed here and --

CONSTANTINE ALEXANDER: Is the parking used only for the guests at the --

HONG LIU: Right, right, yes.

CONSTANTINE ALEXANDER: You don't

rent it out to neighbors?

HONG LIU: No, not at all.

And so I also have pavement, the pavement thing and it was, so that's the natural consequence. So I know the Irving Street and the Cameron Street. And this, the pavement was done in 1994. And in this setback, the sketching there's also shed there. So it always there. And my brothers and my housekeepers who, you know, every year everyday we use the --

CONSTANTINE ALEXANDER: Let me ask you a question. We have in our files a Google photo of a year ago, and I don't see a shed.

HONG LIU: Oh, it was there. It was there.

CONSTANTINE ALEXANDER: Can you show me? Can you help me with the photo?

Maybe I'm misreading it. I'll dig it out in a second.

HONG LIU: Right. I download it from the Google.

CONSTANTINE ALEXANDER: Here it is. There are actually two photos, this and the one after that. Where's the shed?

HONG LIU: The shed is right here. The tree, the tree --

CONSTANTINE ALEXANDER: Go to the next page, go to the next page because there's another angle. Where's the shed?

HONG LIU: The shed is here (indicating). The shed is here. This is the shed. May I do this one?

CONSTANTINE ALEXANDER: Yes, sure.

HONG LIU: This is the shed. I download it myself.

CONSTANTINE ALEXANDER: This is

the same size shed?

HONG LIU: Yes. Six, six is almost --

CONSTANTINE ALEXANDER:
Six-by-eight. Actually.

HONG LIU: No, currently it's six-by-eight. The old shed is six-by-six.

CONSTANTINE ALEXANDER: Got it.

TIMOTHY BURKE: And that's what we're proposing to put back, six-by-six.

TIMOTHY HUGHES: I'm confused. You said -- you made a comment about the Historical Commission, and you said you were going to replace this with a wood shed? Well, I'm looking at this and it says to replace the old wood shed with a new vinyl shed. So what are we asking for here?

CONSTANTINE ALEXANDER: Reverse.

The vinyl shed is going to be replaced by a wood shed.

TIMOTHY HUGHES: This says to replace old wood shed with new vinyl six-by-eight shed to store snowblower.

TIMOTHY BURKE: What they say later is that they recommend it be a wood shed. You do have that letter?

TIMOTHY HUGHES: Your petition is to replace that old wood shed which you replaced with vinyl and then replace the vinyl shed with a shed that is similar to the old wood shed?

TIMOTHY BURKE: That's correct.

TIMOTHY HUGHES: That's clear as milk.

SLATER ANDERSON: Notice this document here is backwards.

CONSTANTINE ALEXANDER: It's

backwards.

TIMOTHY HUGHES: As I understand it, and I didn't get an answer to my question. And is that shed in the place where it always was?

HONG LIU: Yes.

CONSTANTINE ALEXANDER: You can look at the Google picture see if you can see it.

TIMOTHY HUGHES: It's probably under a tree like she said.

TIMOTHY BURKE: There are a lot of plantings here to help screen.

TIMOTHY HUGHES: Six, six, six is a pretty ominous number, you know.

CONSTANTINE ALEXANDER: And if you put a shed in the parking lot behind the structure, you lose a parking space to be sure?

TIMOTHY BURKE: Right.

CONSTANTINE ALEXANDER: Is that the ends of the world? Is that going to affect your business?

HONG LIU: Right, that's in violation of the lodging license. I have to have a certain number of parking spaces. Basically license for 17 plus owner units 18, and then one parking space per four I believe, so that way I must have at least four, five, six parking spaces. And with that --

CONSTANTINE ALEXANDER: You couldn't --

HONG LIU: I couldn't.

CONSTANTINE ALEXANDER: -- you can't maintain that number and still --

HONG LIU: Exactly.

CONSTANTINE ALEXANDER: And do you

need a six-by-eight foot shed?

HONG LIU: No. It's always
six-by-six.

TIMOTHY BURKE: We're proposing
six-by-six.

HONG LIU: And you can see is the
trash is right next to it.

CONSTANTINE ALEXANDER: I saw
that. And that's also not very attractive
having trash barrels in your front yard.

HONG LIU: Yes. Basically I put
some flowers there just to camouflage it
and people -- and the good thing is that
you can see from here because huge on
Irving Street and I block it with the sun
umbrella. Where's the sun umbrella thing?
Yes, you can see this is from the sun
umbrella.

TIMOTHY BURKE: And that's on the

patio.

HONG LIU: And from the parking lot I have the trees. Where are the trees? Yeah, here.

TIMOTHY BURKE: And that shows the lattice work around the trash cans.

CONSTANTINE ALEXANDER: I've seen the property. Show it to other members of the Board. I've seen it.

HONG LIU: Yeah, the fence is there. The trees are there. As a matter of fact, there are two more trees. And I have baby raccoons born in those trees. They are like blackberry trees and they come down and it becomes so dangerous, and I have quite an accident if on the site if a car parked on the side street and I have to get rid of it. And so --

BRENDAN SULLIVAN: What is your

occupancy rate?

HONG LIU: My occupancy rate varies in wintertime and summertime. In wintertime I average about one to 20.

CONSTANTINE ALEXANDER: How about units, by units? I think is your question.

HONG LIU: Occupancy rate, right?

TIMOTHY BURKE: Of the units.
Lodging units.

HONG LIU: Oh, I'm sorry.
Occupancy -- I think about around 17 -- 66 to 17.

CONSTANTINE ALEXANDER: Percent?

BRENDAN SULLIVAN: In your opening statement that's the worst place it could go. That's the worst place it could go is facing Cambridge Street. The second worst spot it could possibly go it's, it's in

the wrong location, it's the wrong thing to have there. If I lived on that street I would not want it there. And I go back to what we did a case before on Lowell Street, and I just find it very objectionable. And there is a solution, is to put it in the back corner of the lot out of the way.

CONSTANTINE ALEXANDER: I just would second that. I just don't think this is a good solution for the City of Cambridge to have a shed with snowblowers and trash barrels to be sure, disguised by lattice work in your front yard. Irving Street is your front yard, part of your front yard. So is Cambridge Street.

BRENDAN SULLIVAN: And there's a similar business next-door, and I think that there's a certain ambiance to the

neighborhood, to the street, and I think that this is just quite unsightly to be honest with you.

HONG LIU: I have to object to your suggestion because I have my neighbors, 1663, Mr. Eta Dyson (phonetic), my next-door neighbor, Matthew Whitney, and they all write letter of support because they all benefit from my having snowblower. Every summer since they live there for say the last 15, 20 years. In the wintertime I help shovel the snow.

CONSTANTINE ALEXANDER: Two comments to that. We're not saying you can't have a shed for the snowblower. It's the location. Your neighbors would not be disadvantaged if you put the snowblower somewhere else. Point No. 1.

Point No. 2, this case started

because neighbors complained to Inspectional Services about your erection of the shed.

HONG LIU: I have to object to that too, because my neighbor is my business competitor Irving House. Rachel has added -- done things -- I reserve my rights to make comments, but she's the only one who make opposition and she the only one who tried to do things that's in a very harmful way to me, including the shed. She has pictures. I sent to her pictures. My previous snow -- the photograph and the location there, and she did not respond to me. So I reached out to her and two things: She is a Co-Chair of Cambridge First, local business. I had been there and she opposed to me and she never include my family business there.

I'm there before her and she objected to everything I do and she did many, many illegal things, including the ten rooms she claim is a storage, she claim is her own residential, to this day is not included in the license numbers of rooming houses. I am next-door to her and if you go through that, I will bring her in and confront her what is harmful?

BRENDAN SULLIVAN: Well, that's all personal stuff.

HONG LIU: It's irrelevant and this is existing shed. And you can let me reduce it, reduce to one snowblower. I must have a snowblower.

CONSTANTINE ALEXANDER: You can put the shed somewhere's else on the lot. If you had nowhere else to put it on the lot, I can understand your argument. But

you have better places on the lot, from my perspective, and I think from Mr. Sullivan's perspective, better places to put the snowblower.

HONG LIU: You tell me where to go?

CONSTANTINE ALEXANDER: I told you, in the back -- he told you, too.

TIMOTHY BURKE: The back corner here.

CONSTANTINE ALEXANDER: Back corner of the lot.

BRENDAN SULLIVAN: In the back.

TIMOTHY BURKE: Does it need to be five feet from the property line?

CONSTANTINE ALEXANDER: We can give a Variance -- I mean you need a Variance there, too. But I think what you're hearing is it would be much more

likely to get the Variance putting it there than where she wants to put it now.

TIMOTHY BURKE: I understand.

HONG LIU: It's very, very unpractical because in the snow time when you have the whole parking lot and with the cars and then taking it out, is very difficult. I always have it in that spot, and I can make accommodations to pull the trees and move it back or reverse my trash trellis, which is like a little fence, to the front and then the shed at the back. And I have my people, my neighbors' support. City Councilor's support of this shed. The shed has been going on for over a year. I feel I petition and begging our committee to give my favorable consideration for the shed to stay where it is.

CONSTANTINE ALEXANDER: Further questions from members of the Board?

TIMOTHY HUGHES: I don't have any questions.

CONSTANTINE ALEXANDER: Okay.

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

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. We are in receipt -- sorry, sir.

FRANCIS DONOVAN: I would ask the point of information.

CONSTANTINE ALEXANDER: Give your name first, sir.

FRANCIS DONOVAN: Francis Donovan, 42 Irving Street. Who owns the neighbor building next-door? Do you own that

building?

HONG LIU: Both owners.

FRANCIS DONOVAN: So you own the building next-door?

TIMOTHY HUGHES: I don't understand that.

HONG LIU: No, no, no. No. I don't own that building, it's a three-decker family, it's a condo. George Cardosa is another owner.

FRANCIS DONOVAN: Another owner?

HONG LIU: Yes.

FRANCIS DONOVAN: You're one of the owners?

HONG LIU: Yes, I'm one of the owners.

FRANCIS DONOVAN: That's the neighbor that's supporting?

HONG LIU: No, it's the middle

one.

FRANCIS DONOVAN: Point of information.

CONSTANTINE ALEXANDER: Thank you.

HONG LIU: Is the one next to Karen Carmilla's (phonetic) house, the pink one, yes.

CONSTANTINE ALEXANDER: And anyone else wishes to be heard?

HONG LIU: Well, actually I'm glad that my neighbor Mr. and Mrs. Sullivan, they are on Irving Street and you can -- I don't know if you remember that the -- my shed and the trash barrels are there cluttered in that area, and I have trees. And then my housekeepers and my neighbors, neighbors every summer, every winter use the shed tools and then snowblower especially.

CONSTANTINE ALEXANDER: All right, again, I'm going to say it one more time and no more. The issue is not whether you could have a shed. The question is where should the shed be located. So the fact -- we're not saying you can't have a shed for your snowblowers and to help your neighborhood out. We're just saying is this the right place for it? That's the end -- I don't want to continue this debate because we've repeated ourselves several times.

There are letters in the file which I want to read as soon as you're done, Slater.

SLATER ANDERSON: Yes.

CONSTANTINE ALEXANDER: The Chair would report that we do have correspondence in our file --

HONG LIU: Excuse me, can you
let --

CONSTANTINE ALEXANDER: I asked if
anybody wanted to speak and nobody said
anything.

HONG LIU: (Speaking a foreign
language towards an audience member.)

CONSTANTINE ALEXANDER: Can we
move on? He chose not to speak.

HONG LIU: No, he said he wants to
speak. He said that --

CONSTANTINE ALEXANDER: I just
asked if he wanted to speak.

HONG LIU: Oh, I see. I didn't
translate for him.

(Speaking a foreign language
towards an audience member.)

YOE QI MAI: My name Yoe Qi Mai.

CONSTANTINE ALEXANDER: You have

to give your name and address to the stenographer, please.

YOE QI MAI: My name is Yoe Qi Mai.

CONSTANTINE ALEXANDER: Spell that for her, please.

YOE QI MAI: Y-o-e Q-i M-i-a.
I work for her 20 years.

CONSTANTINE ALEXANDER: Say it again, please.

YOE QI MAI: I work at this inn for 20 years.

CONSTANTINE ALEXANDER: I got it now.

YOE QI MAI: Yeah, yeah, okay.

This is a house, small house, I come here work many days. I don't know why --

CONSTANTINE ALEXANDER: Thank you.
Anyone else?

HONG LIU: (Speaking foreign language towards an audience member).

CONSTANTINE ALEXANDER: We're looking for testimony from people who are citizens of the City of Cambridge, who live in the area, who have use on this -- your location.

HONG LIU: Right.

CONSTANTINE ALEXANDER: From your shed. I don't want to hear from people who work for you or otherwise. You know what I'm saying? I need relevant testimony, not just general testimonials.

HONG LIU: I see. I mean, do we have a policy to replace existing one and then with a Variance? That's why I'm here to --

CONSTANTINE ALEXANDER: If you had a -- the question is whether the shed,

whatever shed we're talking about, was there and it was legally non-conforming, you could replace it.

SEAN O'GRADY: No.

CONSTANTINE ALEXANDER: No? Thank you.

SEAN O'GRADY: Once the building comes down, the grandfathering is lost.

CONSTANTINE ALEXANDER: Oh, yes, there's a space of time. If you took it down and put a new one in, it's --

SEAN O'GRADY: No.

TIMOTHY HUGHES: When it's gone, it's gone.

SEAN O'GRADY: The Zoning Ordinance wants non-conformities to stop --

BRENDAN SULLIVAN: If you take it down in the morning and put up a new one

up in the afternoon, you've lost it.

CONSTANTINE ALEXANDER: So there is your answer.

HONG LIU: Right. And that's why I'm here to seek a second consideration --

CONSTANTINE ALEXANDER: Yes.

HONG LIU: -- and to give some thoughts about how to support a family-run business. How to make our neighborhood safe.

CONSTANTINE ALEXANDER: I know that. But the Variance you're seeking is to locate a shed in your front yard with no setback from the street. And the question before us is should we allow you to build the shed there? Should we allow you to build a shed at all? But there are other places on the lot, which you've heard several times, there are other good

places on the lot that are better in the view of at least some of us on this Board than where you put the shed. And so we're not -- I'm not -- I'll give you a second. I'm not disposed to vote in favor of the relief you want because I don't believe you should locating the shed where you have located it.

I'm sorry, I interrupted you.

TIMOTHY BURKE: I'm just wondering if the Board would allow us to come back in the future --

CONSTANTINE ALEXANDER:
Absolutely.

TIMOTHY BURKE: -- without having to redo the application?

CONSTANTINE ALEXANDER: You read my mind. I think you would be well served to continue this case one more time and

come back before us with a new proposal.
And we have to re-advertise it?

SEAN O'GRADY: We don't have to
re-advertise.

CONSTANTINE ALEXANDER: We don't,
because it's going to be the same relief
just a different location.

TIMOTHY BURKE: We'd like to do
that if that's possible.

BRENDAN SULLIVAN: It's a little
bit of a different impact. I would
just -- are we just prolonging this thing
longer than it should have?

SEAN O'GRADY: I wonder if they
might retire for a few cases and put it
all together. Because really they're just
talking about moving the shed to have all
the plans for -- so you could just
relocate it with your permission and we'll

be done.

CONSTANTINE ALEXANDER: What would that accomplish? I'm not sure if they could come back.

SEAN O'GRADY: I think they would just come back with the shed in the corner of the lot like everybody wants.

TIMOTHY HUGHES: And that would be a setback issue which is what we're voting on anyway, right?

CONSTANTINE ALEXANDER: That's okay. And we can take the plan and you can draw where the shed would be.

TIMOTHY BURKE: I could do that.

CONSTANTINE ALEXANDER: We'll do that. We'll recess the case. There's a room back there. Do you have a copy of the plan with you?

TIMOTHY BURKE: I do right here.

Thank you very much.

BRENDAN SULLIVAN: Just so we understand, where are you thinking?

TIMOTHY BURKE: I think this back corner over here.

BRENDAN SULLIVAN: That's correct.

TIMOTHY BURKE: Yeah.

BRENDAN SULLIVAN: That's correct.
Okay.

TIMOTHY BURKE: Thank you.

CONSTANTINE ALEXANDER: Thank you.

This case has been recessed until later in the meeting.

(Case recessed.)

* * * * *

(7:35 p.m.)

(Sitting Members BZA-007109-2015:

Constantine Alexander, Timothy Hughes,

Brendan Sullivan, Thomas Scott, Slater W.

Anderson.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 0071079, 175 Huron
Avenue.

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

ATTORNEY JAMES RAFFERTY: Thank you.

CONSTANTINE ALEXANDER: The floor is yours, sir.

ATTORNEY JAMES RAFFERTY: Thank you, good evening, Mr. Chair, members of the Board. For the record, James Rafferty appearing on behalf of the applicant. Seated to my right is Philip Miller, M-i-l-l-e-r of the firm America Dural. America like the country, Dural, D-u-r-a-l.

Seated to Mr. Miller's right is Ted Schwartz, S-c-h-w-a-r-t-z. Mr. Schwartz is an architect and principal at America Dural. And in the far right is Ben Svenson, S-v-e-n-s-o-n.

CONSTANTINE ALEXANDER: Is he the owner of the property?

ATTORNEY JAMES RAFFERTY:

Mr. Svenson is the principal of the LLC that owns the property. And some board members may recall the case, may recall Mr. Svenson. It's been a few years with the Board, several years ago. This is a case that I know some board members have some familiarity with. It's a property, somewhat of a unique property located at 175 Huron Avenue, very close to the intersection of Huron and Concord Avenue, the long time home of the Hickey Funeral Home. And the property historically was a wood frame residential dwelling, and it had two significant additions constructed by Variance, decades ago, in the 40s, and one in the late 50s or early 60s. One in

the rear and one in the front. Both of the additions were constructed to accommodate the funeral home use. So it has resulted in a building that has a zero setback on Huron Avenue. The property is located on the edge of a business district. It is Residence B, but it is -- it sits right on the line of a Business A District, and there is a series of commercial buildings surrounding it across the street and next-door. There's a one-story commercial building currently contains a real estate office and a grocery store. There's been a variety of retail. And it's -- I'm sure board members know, it's a nice, active neighborhood based commercial district. So, Mr. Svenson bought the property several years ago. The Hickey family sold

it, and they lived there and they also operated their funeral home business there. So there were some challenges in trying to convert the property to residential.

What's perhaps most significant in this application is the program is slightly different than some of the earlier applications that were before the Board. What the applicant is seeking to do with this application is to convert the property into two dwelling units. And both of those dwelling units would have parking. And it has been a bit of a design challenge, but Mr. Miller and his colleague Mr. Schwartz are somewhat new to the project. They practice right in the area. Their office is just on the other side of Concord Avenue and they have a

well deserved reputation for working on many significant and important homes in Cambridge in particular, a high sense of design. And Mr. Miller frankly became acquainted with Mr. Svenson and they began discussing what opportunities could be there. And Mr. Svenson worked out an arrangement and retained Mr. Miller and America Dural and said I like the direction you're going in, can you develop a project for us?

So Mr. Miller began in earnest with his colleagues to design this, and then they spent several months interacting with abutters and neighbors. During the course of the permitting history before, we heard from many of the close abutters about their concerns about how the property interacts with them. The abutter on the

left side deals with the condition involving a zero setback and a blank wall. And in that case there's actually, that abutter favored a portion of the blank wall for privacy reasons and they've got a nice landscaped garden up against it.

Similarly the rear abutter has largely a blank wall condition, and Mr. Miller spent a fair bit of time with that abutter discussing ways to alter it. So I thought I could quickly walk the Board through the three or four different elements of this, but from a Zoning perspective, two things are happening here that require us to be before the Board. Chief among them is the fact that we're -- the proposal involves the removal of a significant amount of GFA, but also the introduction of GFA into an area where

it hasn't been. That's being done, frankly, to give some logic to the organization of the property and for the necessary egresses and opportunities for open space for both of these units. If you've had an opportunity to review the floor plan, you'll see that there really has been a fair bit of attention paid to allowing each dwelling unit to have some ability to access open space.

The three big moves I would suggest are happening here, and I can begin to show them to you in elevation, the first begins in -- the site plan shows what's happening, but we also have a volume image that might help the Board depending on --

CONSTANTINE ALEXANDER: It's in the file. Go ahead.

ATTORNEY JAMES RAFFERTY: It's in

the file.

But some portions of volume are being removed from the building. And the significant changes begin in the front of the building. So the existing conditions today in the building, I'm sure the Board is familiar with, but the elevations demonstrate that that front addition really defines how the building meets the street. And --

CONSTANTINE ALEXANDER: You're taking out the brick, the brick that's there now. That's going to go?

ATTORNEY JAMES RAFFERTY: Well, it's -- the floor plan will probably help us to understand it. A portion of it is going. And if you see the floor -- and so that, that two-story addition, and Mr. Miller can go through the actual

specifics of what goes and what stays, but that two-story addition that fronts on to Concord Avenue is largely being replaced. It's depicted here in the photograph. And what happens is the building in the front gets pulled back five and a half feet. It's currently at a zero setback. And this, this floor plan, this first floor plan actually doubles as a site plan as well. And you can see what's happening. So the current building line of this addition extends approximately over to here and back here. You see it depicted here in the survey.

So that is being brought back five and a half feet. That's going to accomplish a couple of things. We were challenged, when I met with Mr. Parenti of the Traffic Department, who reviews curb

cut applications, his challenge to us was that it was important to develop appropriate site lines so the vehicles backing out of the garage could have clear views of pedestrians. So knowing the significance of that for the Board as well as for the curb cut approval process, we went with Mr. Parenti earlier. He actually has an analysis, a 45-degree analysis, what he does to show by the time the vehicle gets to the back of the sidewalk what the site line should be. And in this case this was designed and sent to Mr. Parenti for his approval. He suggested two things that we since incorporated into the design, it made it into Monday's filing. And that was to introduce windows on the side here. So to further enhance the building, not just for

the driver but for a pedestrian walking by could see that that's a vehicle. Of course when the garage goes up, there will be some understanding and the car will begin to back out. So the five-foot area here does allow the pedestrian ample opportunity to understand the car is driving.

By contrast, the existing curb cut in the longstanding condition in both of the driveways, the driveway on this property and the current driveway on this property, they're almost blind coming out of here, particularly coming out of this area here. This was the loading area for the funeral home and it's since served as a single parking space here. And some of other earlier efforts to --

CONSTANTINE ALEXANDER: Excuse me,

this is the Coldwell Banker?

ATTORNEY JAMES RAFFERTY: That's the Coldwell Banker. And that building is just about at the sidewalk edge. There's a real blind corner at that portion. So the idea was to try to get the parking away from that and create this separation. And this area depicted in green here, you'll see here, if you look at this black line here, that represents the existing footprint of the building. And the red dashed line is what the new footprint will be in that area. So all of this area is getting removed on the side and the front. It's going to create a generous courtyard here that will accommodate both of the entrances into the units.

CONSTANTINE ALEXANDER: That's my next question. The entrances to the units

are going to be through that green space if you will?

PHILIP MILLER: Correct.

ATTORNEY JAMES RAFFERTY: Right. That courtyard area will -- so these will operate like townhouse starter units. It will have direct access to the street through this courtyard. Some of the earlier designs had their right on the street. This is going to be a nice recessed area here. I think the setback shown here is on the plan. It's -- about 15 feet?

TED SCHWARTZ: In that area.

ATTORNEY JAMES RAFFERTY: And there is an ability to egress from the garage into this area as well. So this becomes a courtyard to accommodate the residential entries and buildings.

The other -- this is 30 feet back?

PHILIP MILLER: The entrance to the second townhouse.

TED SCHWARTZ: Yes.

PHILIP MILLER: Okay. The first is probably 22.

ATTORNEY JAMES RAFFERTY: Okay.

PHILIP MILLER: 28.

ATTORNEY JAMES RAFFERTY: The other significant removal of GFA involves the removal of the portion in the rear here. And, again, the survey shows the existing footprint almost a zero lot line condition.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY JAMES RAFFERTY: That does a number of things. It allows some open space here. It provides some separation between this building and the

rear property line. And these are -- while it's a non-conforming wall, and I did ask Mr. Schwartz just to depict it because if you look at the elevation, the proposed elevation, it actually depicts a fence that's going to be located there. And the details of the fence and you can see it's a highly stylized fence, has been discussed with the abutters. But behind the fence and on the wall would be these two doors. But it's at a height that you wouldn't, you wouldn't see into it.

CONSTANTINE ALEXANDER: The building going to be condominiumized or it's going to be a two-unit condominium?

BEN SVENSON: Right.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY JAMES RAFFERTY: And as I

said, the big change here then since on the Monday filing, too, was added attention paid to the garage doors. And I can have Mr. Miller can go through that. But the desire was to make the garage doors as compatible with residential living as possible. And Mr. Miller provided me with some imagery of buildings in Boston. Largely Beacon Hill that will serve as design inspirations for what's being proposed here. It demonstrates the relationship between masonry and openings. And while they can occur at the street edge, they could be detailed in a way that is not -- doesn't read suburban like, doesn't read auto repair. And it's that caliber of garage door and that caliber of detailing around the masonry. I think you're also depicting a bit of an awning

over the garage door?

PHILIP MILLER: Correct.

ATTORNEY JAMES RAFFERTY: And these are glass panels at the top of the garage door?

CONSTANTINE ALEXANDER: That's what the drawings seem to point out.

ATTORNEY JAMES RAFFERTY: Right. I'm pointing these out because the earlier drawings showed a rather generic garage door, and it was brought to our attention that more focus would work there.

The intention is to clad the front facade of the building in brick, red brick, so that's why that imagery is important. And if you notice the rear elevation, also this component setback will also have brick with an understanding that the back of the building has a

significance similar to the front, at least in the eyes of the property owners.

The two sides of the building will be clapboard. It's a prominent feature of the wood framed structures in the area.

The third area where removal is taking place is along -- the wall of the building today is pretty consistent in this area here and it's only a few feet. I think it's less than three feet off of this property line.

PHILIP MILLER: Five in parts.

ATTORNEY JAMES RAFFERTY: Okay.

CONSTANTINE ALEXANDER: I'm sorry, go ahead.

ATTORNEY JAMES RAFFERTY: And that's the driveway of the adjoining two-family house, the abutting two-family house. The idea here was to pull this

wall back to make it a conforming wall at seven-and-a-half feet. And by doing that it allows doors -- windows and doors to be added in this location, but it also gives a private patio area in this area for this unit.

Bringing natural light into these spaces has proven to be a bit of a design challenge given the depth of the spaces and given the fact that there are significant areas of a blank wall.

For instance, in this area here, particularly the elevation, the abutter's preference -- the abutter's strong preference was that the -- I'm looking for proposed.

TED SCHWARTZ: Here.

ATTORNEY JAMES RAFFERTY: I've got it. You can show it down that end. The

abutter'S proposed preference was that this wall remain blank in that section. So what's happening here is new windows are being added on this wall. This wall, as I noted, is being made conforming. That's the front portion of the building. But that wall there is going to be nicely detailed. So it actually will serve as a nice feature for the neighbor's court. And they have a garden sitting area right up against it.

This is the current elevation. It's a cinderblock.

CONSTANTINE ALEXANDER: You're seeking a Special Permit for windows on a non-conforming wall.

ATTORNEY JAMES RAFFERTY: That's correct.

CONSTANTINE ALEXANDER: Where are

those going to be? This is going to become a conforming wall.

ATTORNEY JAMES RAFFERTY: It's on the rear of the property.

CONSTANTINE ALEXANDER: Facing the wall that's in the back or fenced in the back?

ATTORNEY JAMES RAFFERTY: Yes, in the fence. And that's what's depicted here. And I believe the garage window that we've added, this area would be, would be within the setback.

CONSTANTINE ALEXANDER: Right, that would be.

ATTORNEY JAMES RAFFERTY: And I don't believe we're adding any windows on --

PHILIP MILLER: This was added but there's some existing.

ATTORNEY JAMES RAFFERTY: Right. That's the one I was referring to. This is conforming without that.

So of the three facades, those are, those are the window locations.

So when you finally examine the dimensional form, the GFA associated here, there's, there's no net new. There's a change that results in the reduction. So the project currently has 7,742 square feet. When it's completed, it will have 6,080 square feet. That represents a reduction of nearly --

PHILIP MILLER: 20.

CONSTANTINE ALEXANDER: 25 percent.

ATTORNEY JAMES RAFFERTY: And a portion of that --

CONSTANTINE ALEXANDER: Which is

still three times more than what the Ordinance requires which is why you're here tonight.

ATTORNEY JAMES RAFFERTY: Right. Well, if we were just taking away -- I'm not sure we'd have to be here, but we are in fact putting some back.

CONSTANTINE ALEXANDER: What you want, the project you want is going to be three times the permissible FAR for the lot. That's the proposal you have before us tonight. Just giving you your numbers back.

ATTORNEY JAMES RAFFERTY: Yes, I think the numbers are correct. So the -- to the extent that's a relevant metric for an existing structure, it is at a 1.46 and that Zoning District allows -- permits a 0.5 FAR.

CONSTANTINE ALEXANDER: Your dwelling units are going to be smaller than what are required by our Ordinance. You're supposed to have minimum of 2500 square foot.

ATTORNEY JAMES RAFFERTY: That's correct.

CONSTANTINE ALEXANDER: And your dwelling units are what, 19? 13?

ATTORNEY JAMES RAFFERTY: Well, we've got two units on a lot of 3800 square feet.

CONSTANTINE ALEXANDER: Right.

ATTORNEY JAMES RAFFERTY: So it's an undersized lot, but it's a lot that's contained a dwelling unit and an active business use. And essentially what we're doing here and proposing by way of Variance, is to eliminate the funeral home

use and replace it with a second dwelling unit.

CONSTANTINE ALEXANDER: I just want to make sure the record's clear.

ATTORNEY JAMES RAFFERTY: No, no, factually you are correct and that's a helpful way to identify the issues present in the application. Because all of those issues are present here.

CONSTANTINE ALEXANDER: Plus setbacks. Front yard setback, for example, still has a problem.

ATTORNEY JAMES RAFFERTY: Right.

CONSTANTINE ALEXANDER: You need 15 foot and you're going to be five feet in the front yard.

ATTORNEY JAMES RAFFERTY: Right.

I would suggest, however, that in those cases since we're not -- that all

we're doing is we're making addition, we're making -- we're making setbacks more conforming and for that we don't need relief. We're not creating new setbacks. So if you can, as of right, if you can -- if you have a zero setback and you're going to pull it back to five-foot setback, the Ordinance would suggest that you can do --

CONSTANTINE ALEXANDER: Without relief? Really?

ATTORNEY JAMES RAFFERTY: You can do that -- there's a provision in Section 8.

CONSTANTINE ALEXANDER: That's not before us tonight so I don't have to worry about it.

ATTORNEY JAMES RAFFERTY: Right, but we have filed under Article 8 as well

because it's very much a non-conforming structure. But you are correct. The dimensional form indicates areas where the building -- there's -- there has probably never been a point in the life of this structure where it complied with the dimensional requirements the Zoning District it's in now, and that will not change with this application, although this application will have the effect of making the existing structure significantly more compliant in terms of setback, open space, and GFA in ways that the current building does not.

So, Mr. Miller or Mr. Schwartz could answer any questions. We could continue to talk about the project, but I think I know most board members certainly have reviewed the file.

I would say it is, it is the type of hardship that the Ordinance and the statute recognize. It is a longstanding structure. In many ways its compatibility with other structures is going to be greatly improved. You could create -- if you've had an opportunity to look at the plan, it will create two very nicely sized dwelling units. Oftentimes more in Planning Board hearings there's a lot of concern expressed about the size of the dwelling unit, what type of housing product is being created. This has the potential to represent a very nice living situation for families, for downsizing couples, for young marrieds, or even with children. There are three bedrooms in these units. The access to open space. It's a fabulous neighborhood. It's a

highly sought after low location. The city is just completing its reworking of the sidewalks in this area and the crosswalk. So the present crosswalk is being moved. So if you look at the plan now, where we're proposing to put the curb cut is actually where the crosswalk is now, but the crosswalk is being moved to the other side of Manassas as part of the relocation of the bus stop and all of the other infrastructure improvements that are occurring in this corner, including new sidewalks by the area of the gas station, and as I'm sure the Board knows, all up and down West Cambridge, there's been active sidewalk and street improvements as part of the overall sewer separation project.

The timing on this we think is

fortuitous. That the outcome here will allow for two dwelling units that will comply with the parking requirements.

I know we and Mr. Svenson and I and his earlier design time spent a lot of time to figure out to make a logical use of the parking, because the parking -- the parking really -- we had a number of schemes, all of which involved three vehicles you will recall, but it led to a lot of maneuvering. And there was a lot of skepticism that the maneuvering was difficult.

So we have a two car garage. The cars will back out onto Huron Ave., but every driveway on Huron Ave. backs out to Huron Ave. That is the principal way vehicles enter into the residential dwellings along Huron Avenue, and I do

think that there is some relevance to the fact that this building is on the cusp of a transition area. It doesn't become as traditional residential until you get a little bit further down the street. The immediate -- if you looked at the Zoning boundary line, the property across the street, which currently is a surface parking lot, is in the business district, it just happens that the business district doesn't align exactly as it comes across Concord Avenue. So, Mr. Svenson admittedly bought this and was quite not certain what he would do with this. And he explored a number of proposals and alternatives and there was some thinking that it might be a quasi mix use building that would accommodate retail and office. And the conclusion of neighbors and others

was that was not seen as desirable. And we're hoping that tonight through the work of Mr. Miller and Mr. Schwartz we've been able to demonstrate that a very thoughtful project can be the outcome here. And we're asking the Board to acknowledge that the hardships are related to the existing conditions on the lot. That the structures that are there and the need to accommodate parking requirements and to allow for the Variances that are sought here as well as the Special Permits to allow for the window installations.

CONSTANTINE ALEXANDER: Thank you.

Questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: I see no one has --

SLATER ANDERSON: I've got a

question.

CONSTANTINE ALEXANDER: Sure.

SLATER ANDERSON: What's the status on the curb cut that -- is that in process or are you waiting for this outcome?

ATTORNEY JAMES RAFFERTY: We would need to get this outcome to file because we need to get --

SLATER ANDERSON: But you've gotten some preliminary feedback?

ATTORNEY JAMES RAFFERTY: Oh, I met early on with Mr. Parenti from the Traffic Department. I met with DPW to confirm that the plan to relocate the crosswalk is going forward, because this alignment, this proposed curb cut would not work if the crosswalk wasn't being relocated.

SLATER ANDERSON: And you mentioned so historically there was always a residential unit and the commercial use?

ATTORNEY JAMES RAFFERTY: Yes.

SLATER ANDERSON: At the same time? So there were two units of different uses but --

ATTORNEY JAMES RAFFERTY: Right. There was a --

SLATER ANDERSON: Commercial unit and residential?

ATTORNEY JAMES RAFFERTY: There was the dwelling unit and -- so, yes.

SLATER ANDERSON: Right.

ATTORNEY JAMES RAFFERTY: So on any given night there could be, depending how busy they were, there could be a number of bodies spending the night there.

CONSTANTINE ALEXANDER: I'm going

to open the matter up to public testimony.

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

RICHARD AICHELMANN: Yes, Richard Aichelmann, A-i-c-h-e-l-m-a-n-n, 179 Huron Avenue.

Yes, we're very happy that this project has been resurrected. Very happy that Mr. Svenson and his architect have reached out to us and worked with us --

ATTORNEY JAMES RAFFERTY: Point out to the Board which house is -- where you live.

RICHARD AICHELMANN: Yes. I'm on this house that immediately abuts it on the west side. And we're very happy that you reached out to us and, you know, showed us your design and discussed our

concerns. Generally happy with the design. We think that scope and scale is much more in fitting with the neighborhood. We think that the design is going to be attractive. It does serve sort of as a transition between the commercial properties on one side and the rest of the residential properties in the neighborhood. We're happy that they worked so diligently to try to preserve the wall that gives us our privacy in our lovely backyard.

I just have a couple of concerns, though, that appears to be some inconsistencies in the drawings. And one concern is that if I understood counselor Rafferty correctly, he did mention that some additional drawings were submitted beyond the ones that I have here later

than May 13, 2015, ones that I have, and I haven't had a chance to see that. He mentioned some additional windows, I guess, perhaps to provide better visibility for parking and that sort of thing which is good. But something I just noticed right before coming to the meeting was that it appears that a portion of the west wall in the back is going to be removed all the way to grade and I thought that wasn't going to happen. And I think it just might be an inconsistency in your drawings. If you could maybe point that out to me.

TED SCHWARTZ: Yes.

BRENDAN SULLIVAN: Gus, would it behoove us if they went in the other room and let him be satisfied.

CONSTANTINE ALEXANDER: Very good

thought.

Excuse me, sir, why don't we recess,
go in the other room, you'll have the
drawings, you'll have a table, and
everybody can talk and come back in a
little bit.

RICHARD AICHELMANN: That would be
great.

CONSTANTINE ALEXANDER: Whenever
you're ready.

RICHARD AICHELMANN: Thank you.

(Case recessed.)

* * * * *

(8:00 p.m.)

(Sitting Members BZA-006204-2015:

Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Slater W.
Anderson.)

CONSTANTINE ALEXANDER: The Chair
is going to reconvene case No. 006204,
1673 Cambridge Street.

Looks like your efforts were good?

TIMOTHY BURKE: Oh, great, yes.

CONSTANTINE ALEXANDER: I take it
what you're proposing now is you've shown
on your plot plan here relocated shed in
the back parking area that's going to be
five feet from your neighbor on Irving
Street and two feet setback from the
adjoining property on Cambridge Street?

TIMOTHY BURKE: That is correct,

yeah. The adjoining property is also about three feet higher and there's a retaining wall and a fence so we don't feel that the --

CONSTANTINE ALEXANDER: What about the trash trellis, what's happening to that?

TIMOTHY BURKE: Did you have any plans for the --

CONSTANTINE ALEXANDER: Can't we relocate the trash trellis back there, too?

HONG LIU: No. It's like -- the trash has been historically there all the time, too.

CONSTANTINE ALEXANDER: I know that.

HONG LIU: The trash has never been any problem. Where do I put the

trash?

CONSTANTINE ALEXANDER: Put the trash in the backyard next to your shed. That's what we're saying.

HONG LIU: No, it's not a solution. My trash has to be there because for the safety sake and the --

CONSTANTINE ALEXANDER: What safety sake?

HONG LIU: This area as people coming out, I have to have an exit coming here, coming out. And if I block in the way it's very narrow.

CONSTANTINE ALEXANDER: How big is the trellis?

HONG LIU: The trellis is here. I have a picture.

CONSTANTINE ALEXANDER: All you need is something to enclose your trash

barrels. You don't need a trash trellis.

HONG LIU: I have about -- trash trellis is really for the plants. I have plants around them everywhere. And this is the fence.

CONSTANTINE ALEXANDER: You can keep the plants. There's nothing wrong with the plants.

HONG LIU: And then the trash I can put on the street. The trash has never been elsewhere. And also I put them out. This is my exits. Exit here, people coming out to take out the trash and there's no exit. And to the basement, all the way you have coming down and it's fourth floor and you come basement. There's no other -- it's emergency exit from a guest room. So it's impractical. I have no exit here. I have only exit,

exit back here and back here is to put the trash here. And then --

CONSTANTINE ALEXANDER: Let me ask your professional opinion.

TIMOTHY BURKE: Yes.

CONSTANTINE ALEXANDER: Can she locate the trash trellis back here or trash area back here and not impede her emergency exits?

TIMOTHY BURKE: It wouldn't be in the way of an emergency. There is one car that parks head on in there, so we'd have to look at that to see if it's possible without losing a parking spot. You know, we do want to maintain our parking. So that would be the only issue. It's not an egress issue.

CONSTANTINE ALEXANDER: Okay.

Any comments from members of the

Board?

(No Response.)

CONSTANTINE ALEXANDER: Why you have to locate your trash barrels in your front yard is beyond me, and it's an enclosure, is absolutely beyond me, when you have an adequate solution in the backyard. You're just being obstinate basically.

HONG LIU: No, there's no opposition to my trellis. The trellis is a beautiful fence type of thing to keep the trash away from public view given I have 18 licensed lodging house units.

CONSTANTINE ALEXANDER: Once you take away the shed, you're going to be able to see the trash trellis. It's open on all four sides. You're going to look in and see the trash barrel.

HONG LIU: No. The trash barrel is four or five feet with the fence, and I plan to put -- I already talked to my brother-in-law. He's going -- we're going to put the wood fence around the existing shed and then just to, you know, as a way and also the cast iron is 120-years-old. Cast iron fence is still there. And the both sides I have the plants, put trees and then to keep the trash away from the public view.

CONSTANTINE ALEXANDER: So what are you -- to keep the trash away from the public view you're going to do what? Give it to me one more time.

HONG LIU: Keep the fence, and then once the shed is away and I put a fence, I plan to put five feet, four feet fence, wood fence against the cast iron

and I also plant trees around it. And I also going to have a -- plants and buy some vegetables. As a matter of fact, I have a lot of pepper and, you know.

BRENDAN SULLIVAN: But all of that is good for three or four months of the year.

HONG LIU: But then I have evergreen pine trees. I have a pine tree.

BRENDAN SULLIVAN: And then for the rest of the year --

HONG LIU: I will plant pine trees, green all year round like what I had between Irving House and myself.

CONSTANTINE ALEXANDER: Are you convinced that the trash trellis with the new fence will be compliant with our Zoning Code?

TIMOTHY BURKE: I'd have to look

into that. I was only looking at the shed.

CONSTANTINE ALEXANDER: Okay, fair enough. I understand that.

Just warning you that you may find that you have to come back to us for relief on the trash trellis even if we move the shed. Do you want to do that or why don't you just take the easy way out and move the trash --

HONG LIU: No, the trash is too much and I have no other place and it's a big burden and safety issue for the guests to --

CONSTANTINE ALEXANDER: We've just heard that there's no safety issue to your guests. So let's get away from the safety issue for your guests.

HONG LIU: I have to have exit if

there are fire people --

CONSTANTINE ALEXANDER: You're going to have exit. The shed is not going to abut your structure. There's plenty of room here --

HONG LIU: No.

CONSTANTINE ALEXANDER: -- to come out the back.

HONG LIU: Because if you go there literally, the parking space and people have to park. And even now I have the cars hit against the wall because the parking have to move around. And I have to buy the lodging license have at least a six parking spaces, and that's barely six parking spaces.

CONSTANTINE ALEXANDER: You like to make things difficult for us.

BRENDAN SULLIVAN: When you, the shed is going to be what size? Six foot by?

CONSTANTINE ALEXANDER: Eight foot.

TIMOTHY BURKE: Six-by-six-by-six-foot-three high. That's as small as we can make it.

BRENDAN SULLIVAN: And facing the shed, property to the left, and the abutting property to the back, the two doors -- or a door is going to be in the front basically facing Irving Street?

TIMOTHY BURKE: Cambridge Street. There's a car that parks beside it. So we would have to face the door towards Cambridge Street, yes, right. For access to get out the snowblower and the yard equipment, yes.

BRENDAN SULLIVAN: All right.

Well, I guess my thought would be to have the door or a pair of doors facing Irving Street so that there would be a blank wall facing Cambridge Street and that's where the trash receptacles belong. And that they can be enclosed there and not be in the front yard setback on Irving Street.

TIMOTHY BURKE: The only issue there would be the parking. So we would have to stagger, make sure there's not a car there when we need to open the door.

BRENDAN SULLIVAN: Chances are in the middle of the winter, you're not going to have a guest there with snow that has to park in that spot. But anyhow that would be my thought.

CONSTANTINE ALEXANDER: It would be mine as well.

TIMOTHY BURKE: If you want to make that a condition, I'm -- we're trying to work with you and trying to make this --

CONSTANTINE ALEXANDER: You're very cooperative and I appreciate that. You're professional.

BRENDAN SULLIVAN: And there's going to have to be some accommodation that is going to be sensitive to the streetscape. And that accommodation is to put it in the back of the corner lot to put the doors facing Irving Street so that the other wall, which the blank wall facing Cambridge Street, that's where the trash receptacles go. It may need a little bit more steps dragging it out to the sidewalk once a week or whatever it is, but you're in business and that's the

price of doing business.

TIMOTHY BURKE: I understand.

BRENDAN SULLIVAN: To allow for a more amenable streetscape.

CONSTANTINE ALEXANDER: What you're suggesting, which is very good, is that we would approve the shed in the location here on the condition that the trash trellis be removed from where it is right now and relocated close to or by the shed that's in the rear. Is that --

HONG LIU: That's not possible, sir. That's totally --

TIMOTHY HUGHES: Anything is possible.

CONSTANTINE ALEXANDER: Everything is possible. I don't buy that it's not possible.

TIMOTHY HUGHES: It's a question

of time and money, you know?

HONG LIU: How can you put the trash in the parking lot and when the guests park in the parking lot and see all the trash? I have like --

TIMOTHY HUGHES: It seems preferable to our Board that the guests see the trash in the parking lot as opposed to everybody else walking passed your property on Cambridge Street or Irving Street. That's what's preferable to the Board. I don't know why you don't understand that.

HONG LIU: Because my trash has always been where it is.

TIMOTHY HUGHES: It doesn't make a difference to the Board, just because it's always been there doesn't mean that's where it should have been in the first

place.

HONG LIU: I want to know if there any law that do not allow people to put their trash --

CONSTANTINE ALEXANDER: If you want to have a shed --

TIMOTHY HUGHES: There isn't any law.

HONG LIU: No, I'm not going to have a shed. I am going to have the trash where it is. I am going to give up the shed. Forget about the shed. The trash --

TIMOTHY HUGHES: So you're going to walk out of here without a shed?

HONG LIU: I'm going to walk out.

TIMOTHY HUGHES: So that you can keep your trash where it is?

HONG LIU: Exactly.

TIMOTHY HUGHES: All right, okay.

BRENDAN SULLIVAN: So you started out the evening saying that this shed was crucial to your entire operation to the safety of the neighborhood --

HONG LIU: Compared to trash.

BRENDAN SULLIVAN: -- and now you're willing to give it up.

HONG LIU: Yeah, because the trash is a worse scenario. I cannot relocate the trash, ten barrels. Ten barrels.

CONSTANTINE ALEXANDER: Then put the trash where the shed that you want to give up -- give up the shed and the space in the corner, put your trash. That's your answer.

HONG LIU: No. I'm going to keep my shed -- the trellis, the trash where it is.

CONSTANTINE ALEXANDER: Not if you want to get shed relief. If you want to give up the shed, that's up to you. That's your Constitutional right. That's completely contrary to what you told us at the start of the hearing.

HONG LIU: Because right now with the shed and the trash both are necessity to me.

BRENDAN SULLIVAN: Simply take this to a motion and take it to a vote if you wish.

CONSTANTINE ALEXANDER: Yes, I think we've wasted enough time on this case. I'm sorry.

TIMOTHY BURKE: If we would please the Board, if we can have it with the condition that the trash be moved --

CONSTANTINE ALEXANDER: If your

client wants that.

TIMOTHY BURKE: Yes, we are --

CONSTANTINE ALEXANDER: Condition
is acceptable?

I'll make the motion with the
condition, and if you don't satisfy the
condition, you can't have the shed.

TIMOTHY BURKE: That's what I
understand.

HONG LIU: Yes.

CONSTANTINE ALEXANDER: Okay, the
Chair moves that we make the following
conditions with the Variance being sought:

That a literal enforcement of the
provisions of the Ordinance would involved
a substantial hardship to the petitioner.
Such hardship being that the petitioner
needs a shed or some structure to enclose
snowblowers for her commercial

establishment.

The hardship is owing to the nature -- the shape of the lot, it is a corner lot with two front yards, and that there is -- okay.

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

So on the basis of these findings, the Chair moves we grant the Variance being sought on the condition that the work proceed in accordance with this plan, which I've initialled.

And on the further condition that the trash trellis and the -- any structure or enclosure for trash be -- not be on Irving Street in the side of the

structure, but elsewhere on the lot preferably adjoining to or next to the shed that we've just approved.

Right? Everybody good?

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

CONSTANTINE ALEXANDER: You understand you remove the trellis and if you don't, no shed, end of story.

TIMOTHY BURKE: I understand. I'll explain. Thank you very much.

CONSTANTINE ALEXANDER: Thank you.

* * * * *

(8:15 p.m.)

(Sitting Members BZA-007109-2015:

Constantine Alexander, Timothy Hughes,

Brendan Sullivan, Thomas Scott, Slater W.

Anderson.)

CONSTANTINE ALEXANDER: The Chair

will reconvene the case 175 Huron Avenue,
No. 007109.

RICHARD AICHELMANN: This is
Richard Aichelmann, A-i-c-h-e-l-m-a-n-n
again. And thank you for granting the
recess. We had a chance to see the newly
submitted drawings. We understand what
those changes are and those look suitable.

We understand what the
misunderstanding was about the west wall,
and so that is also suitable.

So at this point I'd like to say
that we have no objections. We look
forward to -- if the Board should see fit
to grant the Variance to the petitioner,
we look forward to the continued
cooperation and work with them if this
goes ahead.

CONSTANTINE ALEXANDER: Thank you

very much for taking the time to come down.

RICHARD AICHELMANN: Thank you.

ATTORNEY JAMES RAFFERTY:

Mr. Chairman, one other issue came up in our meeting and I wanted to bring it to the Board's attention. And the rear abutter is seated next to me and I believe he'll be wanting to speak to that. But depicted on the third floor plan, the proposed third floor plan, you can see an area which represents -- it shows the area of the roof of the second floor.

CONSTANTINE ALEXANDER: Excuse me. I don't seem to have that plan. At one point somehow it just went --

TIMOTHY HUGHES: Those are the elevations. If --

CONSTANTINE ALEXANDER: I've got

two sheets here. Those are the only two?

THOMAS SCOTT: No, there was --

BRENDAN SULLIVAN: One of those sets is incomplete.

SLATER ANDERSON: This doesn't have that roof view.

ATTORNEY JAMES RAFFERTY: All right, so here's....

CONSTANTINE ALEXANDER: Maybe you can find it on these plans.

BRENDAN SULLIVAN: Do you have a clean set of drawings?

ATTORNEY JAMES RAFFERTY: Will you find it, Ted?

We'll make sure. We'll get you a complete set of --

CONSTANTINE ALEXANDER: Can we take it tonight?

ATTORNEY JAMES RAFFERTY: Oh, yes,

we have it. I think it was in the file.
Maybe when we --

TED SCHWARTZ: I think when we
convened --

SLATER ANDERSON: This section of
roof right here. That roof.

TED SCHWARTZ: Yeah, that's it.

SLATER ANDERSON: That's it right
there.

ATTORNEY JAMES RAFFERTY: That's
what we're referring to.

CONSTANTINE ALEXANDER: These are
plans dated May 1st, though. Did you
revise --

ATTORNEY JAMES RAFFERTY: Yes, not
in that area.

TED SCHWARTZ: That hasn't been
revised.

ATTORNEY JAMES RAFFERTY: The only

revisions involve the garage --

CONSTANTINE ALEXANDER: Yes.

ATTORNEY JAMES

RAFFERTY: -- they're the front facade.

So that's just a blown-up larger version of what's in your file. So on this, on this plan here, this area here, the roof on the second floor is not intended to be used as a deck. And it is going to have a rubber membrane and be a roof. It will contain roof drains. And the rear abutter asked if there was a way that the decision could reflect that. And I explained how decisions are tied to plans, but that I would ask the Board to consider if it were in kind to grant relief here, that to note on this page of the plan not to be used for a deck so that there couldn't be a subsequent unit owner

here that might some day think they could use that as a deck. It's in the setback area, so it couldn't be done as of right. So -- and there's no relief being asked for it, so we're asking if the Board were so inclined, to provide an explicit restriction in the plan that the decision could also reflect that that area cannot be used as a deck.

CONSTANTINE ALEXANDER: Are there any decks by the way? I thought I saw decks on the plan.

TED SCHWARTZ: Yes.

ATTORNEY JAMES RAFFERTY: These are decks. And these are decks that are facing the --

CONSTANTINE ALEXANDER: Coldwell.

ATTORNEY JAMES RAFFERTY: -- the real estate building, right.

But actually, because that building is low, actually you see over that building and you get nice distant views, so at this --

CONSTANTINE ALEXANDER: Of the gasoline station and Armando's.

ATTORNEY JAMES RAFFERTY: You get to smell Armando's.

TIMOTHY HUGHES: Yes, you can't see Armando's, you just get the waft.

CONSTANTINE ALEXANDER: Okay.

TIMOTHY HUGHES: They might see the antique store.

CONSTANTINE ALEXANDER: I'm sorry?

TIMOTHY HUGHES: They might see the antique store.

CONSTANTINE ALEXANDER: That's theirs?

TED SCHWARTZ: The ones across the

street.

CONSTANTINE ALEXANDER: Oh, oh.

ATTORNEY JAMES RAFFERTY: The ones
across the street.

CONSTANTINE ALEXANDER: The
antique store -- I hope you don't see John
Daily and Sons, that's the other way.

ATTORNEY JAMES RAFFERTY: No, no.
You know the old Dawson's Hardware.

CONSTANTINE ALEXANDER: Your
client.

ATTORNEY JAMES RAFFERTY: English
country antique pines.

CONSTANTINE ALEXANDER: Yes.

ATTORNEY JAMES RAFFERTY: He makes
them in the back.

CONSTANTINE ALEXANDER: You
represented him before us.

ATTORNEY JAMES RAFFERTY: Yes, he

lives above the building.

TIMOTHY HUGHES: He makes English country pine in the back and makes English country pine and antiques in the back of the store?

ATTORNEY JAMES RAFFERTY: Yeah.

TIMOTHY HUGHES: Oh, okay. It's good to know.

ATTORNEY JAMES RAFFERTY: It's for the tourists, we call those reproductions. They look -- but they're going like hot cakes, you better get over there.

CONSTANTINE ALEXANDER: You also said by the way, it's three bedrooms but the plans are four bedrooms.

TED SCHWARTZ: They're four.

ATTORNEY JAMES RAFFERTY: Okay. Even better. I don't say that flippantly but the notion that -- I mean, we hear a

lot in the debates around unit size about the lack of three bedrooms. But I think these are going to be two condos, this is not going to be -- this isn't likely to attract grad students if you will.

CONSTANTINE ALEXANDER: That's right.

TIMOTHY HUGHES: Rowdy grad students?

SHAW WARREN: My name is Shaw Warren, W-a-r-r-e-n.

ATTORNEY JAMES RAFFERTY: Rear abutter.

SHAW WARREN: The rear abutter.

And just to be clear, my concern is that people tend to climb over little areas, railings, and then use large surface areas as potential decks. I would like some way of then being able to call

someone and saying this is not a deck. If that could be noted.

CONSTANTINE ALEXANDER: That's fine and we will do that.

Do you have anything else to add about the application of your support?

ATTORNEY JAMES RAFFERTY: I don't mean to lead the witness but it might be helpful.

SHAW WARREN: Challenging project and I think they've done a good job.

ATTORNEY JAMES RAFFERTY: Thank you.

CONSTANTINE ALEXANDER: Anyone else wishes to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently no one wishes to be heard. I didn't see any letters in the file. So I think I

will close public testimony.

Any final words, Mr. Rafferty?

ATTORNEY JAMES RAFFERTY: No thank you.

CONSTANTINE ALEXANDER: Public testimony is closed. Discuss.

SLATER ANDERSON: You're going to use that set?

CONSTANTINE ALEXANDER: I'm going to work with this set. This is the same set that we have in here.

TED SCHWARTZ: Correct.

CONSTANTINE ALEXANDER: With that corrected page.

Comments from members of the Board?

TIMOTHY HUGHES: I'm satisfied that they've satisfied the two abutters that are most affected by the project.

SLATER ANDERSON: And I've driven

by this building many, many, many times and it's good to see something finally happen with it because it's not an attractive building right now.

CONSTANTINE ALEXANDER: That is true.

SLATER ANDERSON: I commend the efforts.

CONSTANTINE ALEXANDER: Okay.

I think we're ready for a vote.

We'll start with the Variance first.

The Chair makes 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 that this is as bastardized building that was once a residence and then became a funeral home.

And as such it requires -- and any kind of modification of it, because of its non-conformance requires -- the only way you can make this building usable is to modify it in a fashion as proposed by the petitioner.

That the hardship is owing to the shape of the structure. Again, it being having been modified to be a funeral home, relief must be granted to bring it back to a form that can be used for residential purposes, this being a residential district.

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 project that's of proposed brings the structure closer to compliance of our Zoning Ordinance than is currently the case.

It creates two desirable living units for the city, and there is no apparently no neighborhood opposition.

So on the basis of all of these findings, the Chair moves that we grant the Variance being sought subject to the following conditions:

That the work proceed in accordance with the plans submitted by the petitioner.

There are many pages in length. The first page of which is a dimensional form which I have initialled.

And the second condition is that with regard to the rear of the

structure -- well, there will be no decks on this property other than the decks shown on the plan.

Specifically the area to the rear of the structure, which there will be a rubberized surface I think you said.

TED SCHWARTZ: Correct.

CONSTANTINE ALEXANDER: Rubberized surface will not contain any deck. So as to protect the privacy of the abutters on that side. All those --

ATTORNEY JAMES RAFFERTY: Mr. Chair. I meant to bring this up. We have met with Mr. Sullivan and he has made an administrative decision at the Historical Commission that he did not consider this a significant building.

So oftentimes in the means and methods of the construction portion may

come down or go back. My understanding would be that the variance approves -- allows for the setbacks and the walls in these locations, and in the course of construction an existing wall is reconstructed, the Variance would permit that because as long as the outcome is exactly as depicted.

CONSTANTINE ALEXANDER: I think we have to reserve judgment on that. I think it depends on the nature of the revision we have to decide at that point whether. I don't want to give you a blanket yes or no. I don't know what might come up and sometimes things do come up during construction that we require the petitioner to come back before us to get the new plans approved.

ATTORNEY JAMES RAFFERTY: Right,

it wouldn't represent a change in plans but just in terms of whether it's -- when one is remodeling a non-conforming structure, it's important to maintain certain elements of a wall let's say. So in this case, most of these cases there's going to be significant changes to walls and if -- there could be a period of time in the course of construction where the wall wasn't there and then it was replaced. The relief, the Variance would allow for the -- it's my understanding and experience would suggest that the Variance is going to allow for walls as they are depicted here to be depicted in those locations with those openings with those dimensions when we're done, and that we would not be operating under a non-conforming structure regime where we

would have to be certain to not disturb portions of the walls that are currently non-conforming, that the Variance relief will cover that.

CONSTANTINE ALEXANDER: I believe that's right. Do the other members feel --

BRENDAN SULLIVAN: That's right.

CONSTANTINE ALEXANDER: I feel that's right to answer your question, yes.

ATTORNEY JAMES RAFFERTY: Because it's not often the case. Ordinarily Mr. Sullivan might say you need to get a demo permit to do that and then we -- you wouldn't pursue that, but we've since learned that Mr. Sullivan's view is there's enough happening here. And the significant changes are occurring on the two additions neither of which he deemed

to be of significance. And so there could be a point in the life of the construction where the front addition is gone entirely and it's replaced with what's depicted here.

SLATER ANDERSON: Is the intent that some of the existing structure is going to be modified?

CONSTANTINE ALEXANDER: Yes.

SLATER ANDERSON: It's not going to be taken down.

ATTORNEY JAMES RAFFERTY: Yes, yes. Largely the interior -- if you see the building --

SLATER ANDERSON: Yes, I know I saw it. I got a picture of it.

ATTORNEY JAMES RAFFERTY: The middle part --

SLATER ANDERSON: There's a lot

happening on the outside the exterior.

BRENDAN SULLIVAN: To facilitate the new construction or reconstruction, it may be necessary to remove portions, and also structurally it may --

ATTORNEY JAMES RAFFERTY: That's the structural issues.

BRENDAN SULLIVAN: You're going to get into it especially with these walls, some footings which -- and in order to do the new footings, some of those walls are going to have to come down, yadda-yadda.

SLATER ANDERSON: So some of the original structure will always be standing or the replacement structure?

BRENDAN SULLIVAN: The building inspector will allow some leeway on that, too.

ATTORNEY JAMES RAFFERTY: Thank

you. I appreciate it.

CONSTANTINE ALEXANDER: We're ready for the vote on the Variance.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

CONSTANTINE ALEXANDER: Special Permit. This is regarding creating windows on non-conforming walls.

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

That the requirements of the Ordinance require that a Special Permit be issued to create these windows.

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

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

And 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 the -- 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 be granted on the condition that the work, again, proceed in accordance with the plans that are conditioned to the Variance we just granted.

All the those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special Permit granted.

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

ATTORNEY JAMES RAFFERTY: What I'd ask Mr. Schwartz to do because the plan didn't depict the openings behind the fence and that's a non-conforming wall. I thought it would be helpful if that was in the set with the --

CONSTANTINE ALEXANDER: You want

to add these to these?

SLATER ANDERSON: They're shown in the floor plan.

ATTORNEY JAMES RAFFERTY: They're shown in the floor plan, but the fence appears in the elevation so I thought it would be helpful for the Board to know exactly where those openings are occurring.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY JAMES RAFFERTY: Thank you very much.

CONSTANTINE ALEXANDER: Thank you.

SLATER ANDERSON: Best of luck.

CONSTANTINE ALEXANDER: Yes.

* * * * *

(8:30 p.m.)

(Sitting Members BZA-007170-2015:

Constantine Alexander, Timothy Hughes,

Brendan Sullivan, Thomas Scott, Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Chair will call case No. 007170, 307 Fresh Pond Parkway.

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

(No Response.)

CONSTANTINE ALEXANDER: There is no one wishing to be heard.

We are in receipt of a letter from Joseph M. Noone, N-o-o-n-e, Esq., counsel for the petitioner. (Reading) Please accept this request for a continuance of the hearing before the Cambridge Board of Zoning Appeals for the property located at 307 Fresh Pond Parkway presently scheduled for this evening. This letter is dated for today. Unfortunately my client was

travelling overseas and has become ill.
We request a continuance for the hearing
to a date in October. My client has
consent to waiver of time period of which
a hearing must be conditioned further
Zoning By-Law.

What date do we have in October?

SEAN O'GRADY: Either one, the 8th
or the 22nd.

CONSTANTINE ALEXANDER: Okay.

SEAN O'GRADY: Neither you nor
Brendan will be here on the 8th.

CONSTANTINE ALEXANDER: Either
one.

TIMOTHY HUGHES: Might as well
cancel that meeting on the 8th.

CONSTANTINE ALEXANDER: Are you
here, Tim?

TIMOTHY HUGHES: This is a case

not heard.

CONSTANTINE ALEXANDER: I know, because I'm not going to be here.

TIMOTHY HUGHES: I'm checking right now. If you guys aren't going to be here, I'm not coming. Why not make it to the later one? What's the later one?

SEAN O'GRADY: The 22nd.

TIMOTHY HUGHES: What do we have going on the 8th right now?

BRENDAN SULLIVAN: Kick it off to the 22nd.

CONSTANTINE ALEXANDER: All right, the 22nd?

TIMOTHY HUGHES: Yeah, and let's not continue anything to the 8th. I don't want that night to be overloaded if I have to be the Chair.

CONSTANTINE ALEXANDER: The Chair

moves that we continue this case as a case not heard until seven p.m. on October 22nd. Subject to the following conditions:

We have a waiver of time for a decision. This is a case not heard. If I haven't said that, I'll say it now.

On the further condition that the petitioner modify the posting sign to reflect the new date and the new time.

And that this modified plan be -- notice be of posted for the 14 days required by our Ordinance.

And lastly, to the extent that there are new or revised plans and necessary accompanying dimensional form, that they must be in our file no later than five p.m. on the Monday before October 22nd.

All those in favor, please say

"Aye."

SEAN O'GRADY: Just give me a waiver.

CONSTANTINE ALEXANDER: We have the waiver in here.

SEAN O'GRADY: He sent it. Do you think that's good enough?

CONSTANTINE ALEXANDER: Get a waiver. All right.

On the further condition that the client -- that the petitioner sign a waiver of time for decision in a form satisfactory to Mr. O'Grady.

All those in favor, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

(Alexander, Hughes, Sullivan,

Scott, Anderson.)

CONSTANTINE ALEXANDER: Sean, you should bring to the attention of the petitioner -- I haven't read it, but the Planning Board has weighed in on this. And I don't know if they say anything that's --

SEAN O'GRADY: Well, I thought that was the reason --

CONSTANTINE ALEXANDER: Is that the reason?

SEAN O'GRADY: I thought, but then it came in and said he was sick.

CONSTANTINE ALEXANDER: Well, just make sure he knows so he can respond to it.

SEAN O'GRADY: All right.

* * * * *

(8:35 p.m.)

(Sitting Members BZA-007672-2015:

Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Slater W.
Anderson.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 007672, 236 Walden
Street.

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

ATTORNEY SEAN HOPE: Good evening,
Mr. Chairman, members of the Board. For
the record, attorney Sean Hope, Hope Legal
Law Offices in Cambridge. I'm here

tonight on behalf of the petitioner, 236 Walden Street, LLC. We have the managing owner Mr. Mahmood Firouzbakht and the architect Mark Boyes-Watson.

MARK BOYES-WATSON: Mark Boyes-Watson, 30 Bowes Street, Somerville.

CONSTANTINE ALEXANDER: You're here seeking a Special Permit, Mr. Hope?

ATTORNEY SEAN HOPE: Yes. We are seeking a Special Permit to add an addition to an existing single-family structure as well as a Special Permit to add windows within the setback.

CONSTANTINE ALEXANDER: Right. Keep going.

ATTORNEY SEAN HOPE: Just to provide some context of the site, this is a 3600 square foot lot. The house, the existing house is sited to the left-hand

side of the lot, so there's less than five-foot setback on the left-hand side, which is the side that we're adding the additional windows.

On the right-hand side there's an existing driveway, there's a shed in the rear. The plans show a parking space that is -- an existing parking space that's at the end of the driveway.

The house, the house and the lot are both non-conforming. The house is within the setback and also the lot is less than the 5,000 square feet required in the district.

Also the lot is narrow. It's 40 feet and is less than the required 50 feet width within the district as well.

Although the lot is narrow, it is long, with the existing rear yard it's

about 40 feet to the rear yard setback. Part of the addition is cited in that area because there is a generous rear yard which lends to the appropriateness of this non-conforming condition in the rear.

And just for a little bit of context, I think the Board is aware that we recently -- the petitioner applied for a two-family proposal at this site, based on feedback from the neighborhood and I believe from the Board, we actually took another look at this proposal.

CONSTANTINE ALEXANDER: You got it in reverse order, feedback from the Board.

ATTORNEY SEAN HOPE: Feedback from the Board and then the neighborhood.

CONSTANTINE ALEXANDER: Feedback from the Board and then the neighborhood.

ATTORNEY SEAN HOPE: Nonetheless,

took a fresh look at the site and decided to work with the existing single-family and to be able to add an addition. As stated in the application, Article 8 you are allowed by Special Permit to add up to 25 percent. We are less than that. The existing -- what we're proposing is 0.72. The Ordinance allows 0.75. Part of it had to do with the constraints of the lot, also with the layout of the structure.

I would say that in the context of the neighborhood there have been other proposals for additions that are very similarly in the rear yard lot area. As I said, this probably lends itself to a rear yard addition because the narrowness about how long the lot is.

In terms of the Special Permit criteria, I'm -- in summary, this is a

single-family. We're keeping it as a single-family. We're not adding additional parking. We're conforming to the setbacks. This proposal is going to add to much improved layout in the interior.

CONSTANTINE ALEXANDER: How many bedrooms and bathrooms does the structure now have and how many will it have if we approve the addition?

ATTORNEY SEAN HOPE: Correct me if I'm wrong, there are three bedrooms currently. I believe there's two bathrooms?

MARK BOYES-WATSON: Existing.

ATTORNEY SEAN HOPE: Existing. I know there's three bedrooms.

CONSTANTINE ALEXANDER: I remember three bedrooms. I couldn't remember how

many baths there were.

ATTORNEY SEAN HOPE: There's two bedrooms on the second floor and a bedroom in the attic. That additional bedroom in the attic we're going to keep an additional bedroom in the attic. We're using below grade space as well. So the proposed will have a total of four bedrooms.

CONSTANTINE ALEXANDER: Four or five?

MARK BOYES-WATSON: Four.

CONSTANTINE ALEXANDER: Four?

ATTORNEY SEAN HOPE: Four.

CONSTANTINE ALEXANDER: I thought it was five, I'm sorry.

ATTORNEY SEAN HOPE: And so this will -- add it's a family-friendly housing. A two-unit proposal, not that

we're going back there, would actually chop up the house into two smaller units. So I think this is appropriate.

The Board, I would say, doesn't see as much three-bedroom units, but also a four-bedroom unit also allows for an even larger family or an extended family to be able to occupy the residence.

I would say as we looked at the single family, we did apply and we got a hearing date, but we didn't have a chance to do full outreach to the neighborhood. So in preparation for this hearing you'll notice that we had changed the plans the Monday before meeting the deadline. We changed the plans where there was, there was a roof deck on the second story that was in the rear. Although it wasn't GFA and it did not add to relief, we had

feedback that that was potentially going to cause issues of privacy. So we eliminated that deck.

There was also additional large windows. Even though we had a generous setback, there were still concerns that there was more visibility than there was before. So we modified the plans to remove the deck. We also modified plans to limit the windows really sufficient to have enough light and air for those top units. So we feel we modified the plans to alleviate hopefully and answer some of the concerns we heard about the single-family proposal, but other than that, I feel like it's within the context of what the Ordinance allows for the Special Permit. I think that the improvement to the exterior is going to be

something that's going to be a benefit to the streetscape and the abutters. And we have letters of support from some of the abutters we feel are most affected. We also have some letters of opposition. We also did have a letter from a city councillor who does live within the area as well. So we've done outreach. I think part of the outreach had to do with the prior proposal. This is not a proposal that the neighborhood is not aware of and we think the modifications make this appropriate.

CONSTANTINE ALEXANDER: Can you talk to me about the, what you now call a shed/workshop which I think was a garage before. I thought you were going to take it down in the original proposal?

MARK BOYES-WATSON: Yeah, it was

going to be removed before.

CONSTANTINE ALEXANDER: And now why are you maintaining it and what's the purpose? It's not going to be a garage apparently.

ATTORNEY SEAN HOPE: It's not going to be a garage. We're going to keep the existing use. We have the prior owner who also is here. That garage has not been used -- that shed has not been used as a garage for many years. I think we have -- I think the former owner can speak to that. The car's always been parked on the outside of that. It's been used as a workshop. Different workshop, machine shop and we're going to keep that same use and not add any additional use.

CONSTANTINE ALEXANDER: What's roughly the dimensions of that

shed/workshop?

MARK BOYES-WATSON: I'm going to give you --

CONSTANTINE ALEXANDER: It's one story high, right.

MARK BOYES-WATSON: It's 29-foot long.

CONSTANTINE ALEXANDER: You have to put it down.

MARK BOYES-WATSON: 29-foot long and 13-foot, 4 wide. The gross floor area that's referenced in the dim form includes it. So the house plus the garage is still less than the allowable in the district.

CONSTANTINE ALEXANDER: Any thoughts given by your client or I guess the person who owns it to convert that into some sort of living space?

ATTORNEY SEAN HOPE: We did talk

to the Building Commissioner about what the allowed use is, and so because it's an accessory use, if we did change it to a bedroom or something that else that would trigger potentially additional relief. So our plans, it was an existing workshop and accessory use and no plans to change that.

MARK BOYES-WATSON: I want to clarify what I said. There are four above grade bedrooms. The way that it's listed --

CONSTANTINE ALEXANDER: And there's one down in the basement?

MARK BOYES-WATSON: Yeah.

CONSTANTINE ALEXANDER: I thought so.

MARK BOYES-WATSON: You know, those basements are still subject -- there may be one in the basement. The basement

is less than six-foot, eleven.

CONSTANTINE ALEXANDER: Thank you.
I thought I was losing it for a second.

MARK BOYES-WATSON: Thank you.

CONSTANTINE ALEXANDER: Anything
further, Mr. Hope?

ATTORNEY SEAN HOPE: Not at this
time.

CONSTANTINE ALEXANDER: Questions
from members of the Board?

THOMAS SCOTT: Are you aware that
the abutter presented a letter this
evening?

CONSTANTINE ALEXANDER: He is.

ATTORNEY SEAN HOPE: I actually
didn't see it.

CONSTANTINE ALEXANDER: I'll read
it. If you want to recess and go read it.

ATTORNEY SEAN HOPE: No, we did

talk about the contents. I'm aware of it.
I didn't actually see it.

CONSTANTINE ALEXANDER: I want to
make sure you were aware of it.

THOMAS SCOTT: You said you did
outreach to the neighbors and community,
apparently he wasn't part of that?

TIMOTHY HUGHES: She.

THOMAS SCOTT: Sorry. She, he.

MAHMOOD FIROUZBAKHT: I could
speak to that. I did reach out to that
family multiple times, went by their
house, and knocked on the door I would say
four or five times, but no answer. I
dropped off letters with my contact
information multiple times and no one
contacted me.

During the last hearing, I believe,
there's a family member from that

household who's here. I tried to communicate with this family member directly and obtain their contact information so that I could, you know, reach out to them directly, but for whatever reason they were unavailable -- or unable to share that information with me. So there were multiple efforts to contact them and -- I did actually call. I finally got a telephone number for a daughter of I think the person who wrote the letter in opposition. I left a voice mail yesterday and heard back from her actually today. So unfortunately I don't think we were able to connect and share the plans with them, but there were --

CONSTANTINE ALEXANDER: You heard back from her today. What was the nature

of the conversation you had with her today?

MAHMOOD FIROUZBAKHT: Well she -- the -- I think it's Linda Dole and who is the daughter. She said it's unfortunate that they haven't had a chance to look at the plans. And what I described to them in terms of what the project is, she said it doesn't sound like a terrible thing but, gees, we'd like to see -- it would have been better if we had an opportunity to see the plans, but....

CONSTANTINE ALEXANDER: Did you consider continuing this case for a couple of weeks and taking that time to share the plans with them?

MAHMOOD FIROUZBAKHT: I mean, I certainly have made attempts to share --

CONSTANTINE ALEXANDER: I know

you've made attempts but now you've made contact and she hasn't seen the plans. I mean, I'm just wondering, I'm just talking out loud.

THOMAS SCOTT: And the letter is in opposition.

CONSTANTINE ALEXANDER: Right. Why wouldn't you take the two weeks or whatever it will take to sit down with these people? And if you can't do it during that period of time, then we know that this neighbor is uncooperative.

ATTORNEY SEAN HOPE: Yes, and I heard the contents, I didn't hear them directly from myself, but I think the scaled down proposal that we're proposing as a single-family meeting the setbacks, I don't think the plans would change much based on the contents of that letter. I

think we have tried to form what the Zoning would allow in terms of the addition. We actually scaled it back because there are more -- there are abutters of -- even more greatly affected by the proposal and we've already scaled it back. We've already made the adjustments that we think we could make to be within that bounds. So frankly, I believe that the abutter is in the rear.

MAHMOOD FIROUZBAKHT: Correct.

ATTORNEY SEAN HOPE: And that is as I mentioned, 40 feet from the property. And not that that doesn't matter. You want to make yourself available. This isn't the first hearing. This is a second hearing of a modified proposal, and I'm only saying to the fact that in --

CONSTANTINE ALEXANDER: This is

the first hearing for this proposal.

ATTORNEY SEAN HOPE: It is. And I would say that this proposal is more consistent with what the -- we've heard from the different abutters and different neighbors.

CONSTANTINE ALEXANDER: It's your call, but if you want to rise and fall you might lose tonight because of the neighbor's objection. Your chances for approval are increased if you can persuade the neighbor to these plans or the modification. It's your call. But you are running some risk you realize that.

ATTORNEY SEAN HOPE: And if there's a representative for the abutter here tonight that we can show the plans, maybe we can ask the Board for a minute and go show the plans.

CONSTANTINE ALEXANDER: I would be happy to grant you.

TIMOTHY HUGHES: We're really good at that tonight.

ATTORNEY SEAN HOPE: I would only say, though, the former owner who is here, she has a sick relative and so she doesn't have -- she wanted to stay here to be able to make a public comment. I would say if we did take a recess, I would hope we could have a portion of public comment prior to that because I know that she can't stay.

CONSTANTINE ALEXANDER: We can. I'm just curious as to what the relevance of the testimony of the prior owner is going to be. But I'm willing to hear it out. I mean, relevance from the neighbors who are going to be affected by what you

want to do. The former owner is long gone. He or she is not going to be affected by what you're going to do, but I'm curious as to why. My curiosity is what it is.

ATTORNEY SEAN HOPE: Is the relative of the --

MAHMOOD FIROUZBAKHT: I believe the son of the woman who wrote the letter in opposition is here. The same individual that was here at the last hearing who I tried to communicate with who basically denied communication.

ATTORNEY SEAN HOPE: I would say just for the efficiency of the Board if there's a representative of the family member here instead of continuing and coming back I would like an --

CONSTANTINE ALEXANDER: I agree.

Is there anyone here interested in this case who would like to take time to review the exact plans and ask questions of the petitioner and his architect and his attorney? You said the son's here.

BRENDAN SULLIVAN: Mr. Dolan is in the corner over there.

CONSTANTINE ALEXANDER: There you are.

Sir, do you feel you need to see the plans? I haven't read the letter yet, but apparently one of the complaints was that the person who wrote this letter did not have the opportunity to see the plans.

UNIDENTIFIED AUDIENCE MEMBER:
That's right it's my mother. She can't get out, though. She can't get out.

CONSTANTINE ALEXANDER: Okay.
Can you -- well, do you feel you

need to see the plans before you -- would you like to see the plans before we take action or not? That's my question to you.

UNIDENTIFIED AUDIENCE MEMBER:

Yeah.

CONSTANTINE ALEXANDER: We'll recess this case.

UNIDENTIFIED AUDIENCE MEMBER:

Yeah, but you said you want to take the plans home?

UNIDENTIFIED AUDIENCE MEMBER: I was going to take them home.

UNIDENTIFIED AUDIENCE MEMBER:

Because his mother is the owner.

CONSTANTINE ALEXANDER: I

understand. We have room on the agenda? I haven't asked you for your decision yet. Any room on the agenda if we were to put it back to September 10th?

SEAN O'GRADY: September 10th is full but you'd have one slot left on the 24th.

CONSTANTINE ALEXANDER: 24th of the September?

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: Which is roughly a month from now.

SLATER ANDERSON: I don't think I'm available for that.

CONSTANTINE ALEXANDER: Is it a case heard? Yeah, it is a case heard. We've gone into the merits.

Not available?

ATTORNEY SEAN HOPE: Can I look at the letter, please?

CONSTANTINE ALEXANDER: Sure.

I was just handed it this evening so I haven't had a chance to read it myself.

But I will read it into the record.

BRENDAN SULLIVAN: How full is September 10th?

SEAN O'GRADY: We've got the three, one of those three is Brattle Street so that's going to be --

CONSTANTINE ALEXANDER: Brattle Street? You mean Harvard.

SEAN O'GRADY: No, the sign case on Brattle Street. Citizens Bank.

CONSTANTINE ALEXANDER: Oh, goodness.

SEAN O'GRADY: You've got Garfield and Wood, neither of those are going away.

CONSTANTINE ALEXANDER: They're not controversial cases.

SEAN O'GRADY: Garfield wasn't heard.

CONSTANTINE ALEXANDER: That was

another issue. Neighborhood opposition to the plans that they wanted. I remember that one.

SEAN O'GRADY: And Wood I think there was opposition, too. So I think that's going to be a killer night.

CONSTANTINE ALEXANDER: It could be a killer night.

SLATER ANDERSON: I'm not, I'm not here on the 10th or I'm not back until late. I don't know if I'm back in time.

CONSTANTINE ALEXANDER: Okay. We haven't heard back from them. They may not want to do it anyway.

And I'm sure time is of the essence for your folks. I'm just exploring alternatives, I'm not prejudging anything.

MARK BOYES-WATSON: This is an interesting situation because the setback

that we're talking about is almost double the impact. So the impacts in a Special Permit, the impact it's nearly 40 feet doubled the require setback in the rear yard. So it's kind of an -- it's interesting. I think the abutter is kitty-corner in the rear behind the garage, right, do I have that correct?

CONSTANTINE ALEXANDER: I noticed in the past Mr. Mahmood has been here before us, and he strives to get unanimous neighborhood consent and he doesn't have it this time.

MARK BOYES-WATSON: He does a lot of outreach. It's frustrating to get this input.

CONSTANTINE ALEXANDER: I understand that and I acknowledge that.

MAHMOOD FIROUZBAKHT: The

difficult part is having postponed multiple times to try to reach consensus in the neighborhood, and for one reason or another having difficulty getting and probably some of the feedback from the Board. And I mean, I've gone a great lengths to make this outreach and I would hate to delay, you know, as long as we would have to.

CONSTANTINE ALEXANDER: It's your risk. It's your money.

TIMOTHY HUGHES: What's the letter say?

MAHMOOD FIROUZBAKHT: It would be helpful to share the letter.

CONSTANTINE ALEXANDER: I'm going to share the letter now. It's addressed to this Board. (Reading) My name is Yvonne Dolan and I live at 47/49 Stearns

Street directly behind 236 Walden Street. I have opposed the original plan for the property. Since the last meeting over the two months ago, June 11th, I have not heard from Mr. Firouzbakht about any new plans. I have heard from my neighbors he is requesting a Special Permit for addition and expanded living space. He has already began work on the property, doing so without a required permit. His workers were gutting the house for weeks without a proper permit until pointed out by a neighbor.

Let me stop right there. Is that true?

MAHMOOD FIROUZBAKHT: That's inaccurate. We have --

CONSTANTINE ALEXANDER: In your view -- there is a Building Permit on the

door now?

MAHMOOD FIROUZBAKHT: There is a Building Permit for that work and I think the work commenced and I ceased that work. I asked the construction crews to stop. It had nothing to do with any of the neighbors, but it was done pursuant to a Building Permit.

CONSTANTINE ALEXANDER: Okay. I'm going to let you speak, sir, let me finish the letter though.

(Reading) Mr. Firouzbakht is not our neighbor and will not be residing in the home once work is completed there. It is my belief that he is only seeking to expand the living space for financial reasons and not out of a personal need.

I think that's right.

The home has been lived in by many

families and has already been large enough as it currently is. I believe this is Mr. Firouzbakht's business. He's in and out. I'll be living here and having lived here for decades, and I oppose the addition and expansion of the property. Thank you so much for hearing my viewpoint on this matter. I ask you to consider my thoughts and concerns when you decide on the request for a Special Permit. Sincerely Yvonne Dolan.

And, sir, I know you wanted to say something. Give your name and -- one or both. Name and address to the stenographer.

ALEXANDER von HOFFMAN: Alexander von Hoffman, v-o-n H-o-f-f-m-a-n, 43 Stearns Street.

I'm an abutter. Just a

clarification. And I had a question for the Board on the demolition which had begun.

CONSTANTINE ALEXANDER: Sure.

ALEXANDER von HOFFMAN: There was no permit posted when demolition had begun and that was just the point of order.

Are we discussing the case? I don't want to move the --

CONSTANTINE ALEXANDER: Yes, definitely discussing the case.

ALEXANDER von HOFFMAN: I'm interested and concerned, I guess, as to the issue of the use of the existing shed and concerned that there be no utilities added to that. And that's really my main concern right now.

CONSTANTINE ALEXANDER: Are there utilities in there now, in this

shed/workshop?

MAHMOOD FIROUZBAKHT: There is power there.

CONSTANTINE ALEXANDER: There is power so there will be utilities. I had -- you inserted my question. I had in mind, whether we came to a vote -- if we get to a vote tonight, conditioning the relief that there be no living -- no occupancy of that structure for living purposes; no bedroom, bathroom, or the like or otherwise creating a separate unit, a dwelling unit for the purpose of our Ordinance. That's what the words would say. If whoever owns the structure, and it will not be Mr. Firouzbakht presumably, he or she could just do what they want. And then your job I guess would be to call the -- if that's the

case, would call Mr. O'Grady and say these people are violating the terms of the Variance that was granted. I think that's how it would work.

ALEXANDER von HOFFMAN: That would work fine. And she's not here, but I'm speaking not only for myself but other neighbors about that concern.

CONSTANTINE ALEXANDER: And you're speaking for the neighbors is concern about the shed --

ALEXANDER von HOFFMAN: The use of the shed.

CONSTANTINE ALEXANDER: -- but otherwise I don't hear total objection to the addition?

ALEXANDER von HOFFMAN: Right.

CONSTANTINE ALEXANDER: I don't want to put words in your mouth.

ALEXANDER von HOFFMAN: Right,
thank you.

CONSTANTINE ALEXANDER: Sir, you
wanted to speak?

UNIDENTIFIED AUDIENCE MEMBER: I
don't want to speak.

CONSTANTINE ALEXANDER: Okay.

RUBY PIERCE DONAHUE: Ruby Pierce
Donahue (phonetic) and my -- Ruby Pierce
Donahue. And my husband has lived in the
house -- I have a petition to that letter.
His family his lived in that house since
1921 and they just -- we sold it just this
April. And he's only been out of it for
ten years. There hasn't been many
families in that house. There's only been
one family in the house since 1922. That
letter is not correct.

He cannot be here tonight. He's

very much in favor of what's going on. We've put up with a lot from the neighbors, financially, for the last ten years with all the stuff that's been collected. There's been hoarders from the family directly behind us, the Dolan family and we've paid financially a lot of money to have the stuff cleaned up out, but yet we've done it because we want to be considerate of the neighbors. And the land, we've mowed the lawn, we've shoveled. We've taken care of the house for ten years and it's been vacant for ten years.

CONSTANTINE ALEXANDER: Have you told the property?

RUBY PIERCE DONAHUE: We sold the property in April.

CONSTANTINE ALEXANDER: It's not

under option or anything like that?

RUBY PIERCE DONAHUE: It's a complete sale.

CONSTANTINE ALEXANDER: And so if we were to turn down Mr. Firouzbakht, whatever you received for the property you've received and you don't pay it back?

RUBY PIERCE DONAHUE: Right, right. But there hasn't been multiple families in the house. Only one family. I just wanted to correct that.

Thank you.

CONSTANTINE ALEXANDER: Thank you. Anyone else?

(No Response.)

CONSTANTINE ALEXANDER: No one else. We went a little off track. I have some letters that I will read shortly. At this point any questions from members of

the Board?

TIMOTHY HUGHES: I don't have any questions. My comment is that the letter doesn't seem to suggest that a viewing of the new plans would change their opinion in one way or the other. It sounds like it's opposed to any development of the property.

SLATER ANDERSON: It understands what the current request is. It's not referencing the old plans.

CONSTANTINE ALEXANDER: That's a fair comment.

TIMOTHY HUGHES: Right.

CONSTANTINE ALEXANDER: Anyone else? No one else.

I will read into the record other letters. I've read the one from Ms. Dolan. We have a letter from Bob

Frankenheim (phonetic). (Reading) As one of the two direct abutters to the rear, I am grateful that Mahmood has agreed to remove from his proposal a third floor French door and roof deck. I would have protested this strongly. And instead is content to keep the existing window there. I'm also glad that plans were changed so as to minimize the intrusive addition of second floor windows with Clara story windows instead of lower sill height ones. During our negotiation I told Mahmood's architect Stephen Hiserodt that because of their willingness to delete the roof deck and also a so-called Juliet balcony option that I also opposed, I would have been okay with one lower sill height bedroom window as opposed to the two initially proposed, but they felt the Clara stories

there were appropriate. Steve did say "Mahmood will work with his landscaper to find the best way to shield view of this area with planting along the property line."

In the context of our negotiation I took this to mean evergreens that will some day grow tall. I hope this will be the case. Because of all of this consideration, I wholeheartedly support Mr. Mahmood and Boyes-Watson's proposal. And Mr. Frankenheim resides at 51 Stearns Street.

We have a letter from Leland Cheung, City Councillor. (Reading) I am writing to lend my support for the Special Permit application to allow for an addition to the existing single-family dwelling at 236 Walden Avenue by Special Permit. Having

observed the process, I commend the petitioner for his outreach efforts and willingness to modify the plans by eliminating a proposed second floor roof deck and other elements that might cause nuisance and privacy issues for abutters. The exterior design is consistent with the context of the neighborhood. And once completed, will be an improvement to the streetscape. The improvement to the streetscape in addition to the strong community outreach of the petitioner convinces me that the Special Permit should be approved without delay.

And this is a letter from
Mr. Frankenheim.

And that's all the letters.

MAHMOOD FIROUZBAKHT: There should be a letter from James Mahoney as well who

is a direct abutter to the left.

CONSTANTINE ALEXANDER: I don't think it's in the file.

ATTORNEY SEAN HOPE: That was submitted this afternoon.

CONSTANTINE ALEXANDER: I just don't have it. Here's Ms. Dolan's and Mr. Frankenheim's. We have two copies of his letter. And the letter from Mr. Cheung. That's it.

MAHMOOD FIROUZBAKHT: I mean so Mr. Mahoney had submitted a letter of support.

CONSTANTINE ALEXANDER: Where does he reside?

MAHMOOD FIROUZBAKHT: He's in the property directly to the left.

CONSTANTINE ALEXANDER: Oh, yes, the old building that was converted?

MAHMOOD FIROUZBAKHT: He was supportive of the last --

CONSTANTINE ALEXANDER: Yes, he was.

MAHMOOD FIROUZBAKHT: -- and this project as well.

ATTORNEY SEAN HOPE: I don't know why you didn't get it in the file.

CONSTANTINE ALEXANDER: Anyway, I think your representation of the letter is sufficient.

MAHMOOD FIROUZBAKHT: And I had multiple conversations with --

SLATER ANDERSON: Here it is.

CONSTANTINE ALEXANDER: It's in the wrong file. Okay. I will read the letter.

(Reading) To Whom It May Concern,
this is James Mahoney 238? Yes, Walden

Street. Date stamp is over the -- so I couldn't read it. (Reading) My residence is immediately adjacent to 236 Walden Street. I have reviewed the architectural renovation plans which have undergone considerable revision over multiple iterations in response from input from the neighborhood. I've also discussed the plans with the owner Mahmood Firouzbakht whom I have found to be accommodating in his attitude and responsive to specific observations and recommendations that I have expressed. Being immediately adjacent to 236 Walden Street, I have no objection to the development work as described in the architectural plans dated August 24, 2105, he means 2015.

Okay? And that's it in terms of letters as far as I know.

Where are the plans, the current plans?

TIMOTHY HUGHES: I don't have them.

CONSTANTINE ALEXANDER: I have plans dated July 17th but aren't there --

MARK BOYES-WATSON: Try the cover page might not have --

CONSTANTINE ALEXANDER: Here it is. Here it is. Thank you.

MARK BOYES-WATSON: You got it.

CONSTANTINE ALEXANDER: I want to make sure they're the right plans.

Okay, I think we've ended public testimony. I think you have nothing more to say, or do you?

ATTORNEY SEAN HOPE: A couple of comments. This may be self-evident.

But from the letters in the file,

the abutters that are most directly affected by the Special Permit and the addition and the windows are in support. When you look at the Special Permit criteria, it talks about that the Board would normally approve these and it gives a list of nuisances; congestion, traffic. Any of those elements were not presented by neighbors as the reasons why they're objecting. I think the idea is from the letter that Mr. Firouzbakht is a developer, he's not going to live there, and I understand she has a right to object to that. I do think developers do add a valuable service in improving the housing stock. But I think most importantly it's not part of the criteria that they have to meet. It also does seem like they're saying he doesn't need to do this

expansion. If we were seeking a Variance, we would have to show a hardship, we would have to show a compelling need. That's not the standard for a Special Permit.

I think that most of the letters are of support, and even some opposition to the shed, really do speak to the fact that this is a good project that is well scaled and has been through enough neighborhood outreach to be able to be voted on by the Board.

CONSTANTINE ALEXANDER: Thank you. I would just make one slight observation for your legal education is that there's a recent appeals court decision that upheld a denial of a Special Permit. So the fact that they're normally granted doesn't mean that they're automatically granted.

ATTORNEY SEAN HOPE: To that

point, but take the fact that it was significant that one was actually upheld, overturned means that I think the large body of Special Permits once they are granted are not overturned on appealed. So I understand that there is precedent for the opposite, but --

CONSTANTINE ALEXANDER: That's all. It's more observation.

ATTORNEY SEAN HOPE: Sure.

MAHMOOD FIROUZBAKHT: And, Mr. Chair, I certainly have made great efforts to reach out to neighbors. And I certainly will reach out, I mean, depending on how what the outcome of this evening is. I will be reaching out to these individuals again and certainly will be accommodating as I have been with, you know, all the other neighbors to the

extent that there's any, you know, real material and -- any concerns or objections that, you know, that are valid. And so even outside of what is perhaps approved tonight, I'm happy to go and have that conversation and make any modifications that are reasonable. Of course nothing that would extend --

CONSTANTINE ALEXANDER: I would urge you to do that. Assuming we grant -- I guess you could talk to them, it's still over anyway. But if we do grant relief, I would urge that you do that nevertheless.

Ready for a vote?

TIMOTHY HUGHES: I'm ready for a vote.

CONSTANTINE ALEXANDER: Okay.

MAHMOOD FIROUZBAKHT: Can I just

consult with my counsel here real quick?

CONSTANTINE ALEXANDER: You want to take a five minute recess?

TIMOTHY HUGHES: If that helps, I'm ready for a vote in favor.

CONSTANTINE ALEXANDER: Do you want to take a five minute recess?

BRENDAN SULLIVAN: No.

ATTORNEY SEAN HOPE: We'll proceed.

TIMOTHY HUGHES: I'm satisfied that the outreach -- I mean, you can't please all the people all the time. I'm satisfied with the project.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that this Board make the following findings with regard to the Variance -- I'm sorry, the Special Permit being sought.

That the requirements of the Ordinance cannot be met without the necessity of obtaining the Special Permit giving the setback issue that the petitioner faces.

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

That the continued operation of or development of adjacent uses as permitted in the Ordinance will not be adversely affected by what is 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, whoever that person may be, or the citizens of the city.

And that for other reasons the proposed use 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 that we grant the Special Permit requested subject to the following conditions:

That the work proceed in accordance with plans prepared by Boyes-Watson Architects. They're dated August 24, 2015. The first page of which has been initialed by the Chair.

And on the further condition that the shed/tool shop that's shown -- that is on the property now and is shown on the plans, may not be used for living purposes. And to that extent there be no

kitchen facilities or bathroom facilities located in this structure.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Relief granted.

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

MAHMOOD FIROUZBAKHT: Thank you very much.

* * * * *

(9:05 p.m.)

(Sitting Members BZA-006922-2015:

Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Slater W.
Anderson.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 006922. It also
involves 236 Walden Street, another
version from an earlier proposal.

The petitioner has requested that
he's going to withdraw this petition. I
move that we accept his requested
withdrawal.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case withdrawn.

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

* * * * *

(9:10 p.m.)

(Sitting Members BZA-007632-2015: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Chair will call case No. 007632, 1699 Massachusetts Avenue.

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

ATTORNEY JAMES RAFFERTY: Good evening, Mr. Chair, members of the Board. James Rafferty appearing on behalf of the

applicant. Seated to my far right is Tobi Sato, S-a-t-o. Mr. Sato is the applicant and owner of the manager of LLC who owns the property.

To my immediate right is Jai Singh Khalsa, K-h-a-l-s-a. And Mr. Khalsa is the project architect.

BRENDAN SULLIVAN: Before you begin, Mr. Rafferty. Let me state that my sister-in-law currently parks on the lot. She works for the dentist down the street and if you felt that I should not sit on this particular case, then I could recuse myself. Fortunately that only leaves four members.

ATTORNEY JAMES RAFFERTY: I can't see no reason why that would present a conflict. No.

BRENDAN SULLIVAN: I just wanted

to get that out on the record anyhow.

CONSTANTINE ALEXANDER: It's a matter of disclosure and if you have no problem, fine, we'll move on.

ATTORNEY JAMES RAFFERTY: As noted by Mr. Sullivan through personal experience, this has been a property that has a long history as a commercial parking lot. It does provide parking for a number of businesses in the neighborhood, including the Chang Sho Restaurant of which Mr. Sato has an interest in as well, but it is not an exclusive for that parking. It has independent ownership throughout and it currently operates as a commercial lot licensed as such by the city.

What the proposal is to construct a multi-family dwelling in the business

portion of the district. And like the entire length of Mass. Avenue, the back portion of the last 50 feet or so of the lot is located in a Residence B district. And the reason the matter is before the Board this evening is because -- could you put the garage?

CONSTANTINE ALEXANDER: I want to see that page, too. Go ahead.

ATTORNEY JAMES RAFFERTY: So the issue before the Board really is -- has to do with the garage. So the garage, and Mr. Khalsa -- so the garage has a ramp coming in from Massachusetts Avenue, and given the need to have the slope of the garage ramp at a level that can accommodate bicycles, the garage comes to a -- the ramp comes to a point and it crosses into the Res B District.

SLATER ANDERSON: Is that the line?

ATTORNEY JAMES RAFFERTY: That's the line right here.

JAI SINGH KHALSA: This is the line right here.

CONSTANTINE ALEXANDER: And that's the parking space?

ATTORNEY JAMES RAFFERTY: Right.

So the vast majority of the 20 parking spaces are in the commercial district. But there is one parking space that is in the Residence B District and the bicycle parking and the mechanical equipment. So in reviewing the matter with Mr. Singanayagam, he takes the view that the use, the accessory parking has to support a principal use that's permitted in the district. So because a portion of

the garage is the accessory parking for the building, is located in a Res B District which does not allow a multi-family dwelling, that it was necessary for us to obtain a Variance.

CONSTANTINE ALEXANDER: Do you need the Variance for the 20 bike spaces and the mechanicals that are this way?

ATTORNEY JAMES RAFFERTY: I don't believe it's for the bike spaces because we talked about that. The Ordinance is silent to that.

But I think Mr. Singanayagam's view is that the entire garage is accessory, it's a portion of a structure containing that. So we've talked about whether the mechanical equipment and at what point is the relief? What seems pretty clear in Mr. Singanayagam's view is that from this

point forward, we cross in the residential district, we're below grade and the impact -- and we can show you the site plan, there is no visual or visible impact of the existence of this garage. The building will have a rear setback of some 50 feet far exceeding the required setback. And it will be a combination of patio space for units that access directly onto it, and kind of a common green space here. The garage footprint is probably roughly in this area here, not here. So it's going to allow for the planting of some trees, and so these landscape plans depict opportunities for large trees. But it will be level, it will be green, it will be open, but --

CONSTANTINE ALEXANDER: But I would think you would need Zoning relief

for any use of the basement or what I'm going to call a basement, that supports the structure that's in the residential district. I would think the parking spaces and the mechanicals, too --

ATTORNEY JAMES RAFFERTY: Well, that's -- I'm sorry, I thought I made that clear, that's Mr. Singanayagam's interpretation.

CONSTANTINE ALEXANDER: I misunderstood.

ATTORNEY JAMES RAFFERTY: Yes. You specifically asked about the bicycles. And I said the reason I hesitate is because bicycle parking is recent and it's treated slightly different. It can even be an open space. You can put bicycle parking in an area and still qualify as open space, but perhaps -- but the portion

of the building, it doesn't contain dwelling units and I accept that. So it is accessory to the principal use of the building. So it, it has, it has the balance of the drive aisle. It has the parking spaces. It has mechanical equipment. So, yes. So as noted in the advertisement, a portion of the below grade garage is located in a Zoning District which does not permit the principal use to be located in it. So, it's for that reason that we have applied a Variance. We think the Variance is warranted because of the size of the lot and the slope requirements to get to the, to that location.

CONSTANTINE ALEXANDER: Can you put it up?

ATTORNEY JAMES RAFFERTY: The

urban design guidelines of the City favor placing parking below grade. So this is certainly consistent with those objectives.

There is an active street front that is required or design guidelines suggest. There's retail, about a 1600 square foot retail opening? So -- is that a right estimate?

JAI SINGH KHALSA: I'll get the real number for you.

ATTORNEY JAMES RAFFERTY: The first floor plan.

JAI SINGH KHALSA: Yeah. Retail, yeah, 1613. So 1600 is close enough.

CONSTANTINE ALEXANDER: So 1600 square foot of retail space?

ATTORNEY JAMES RAFFERTY: Of retail.

CONSTANTINE ALEXANDER: And 20 units? 20 residential?

JAI SINGH KHALSA: Correct.

ATTORNEY JAMES RAFFERTY: Correct.

And the ground floor fronting onto Mass. Ave. is retail and building entrance lobby. So there are active uses on the ground floor. The building meets all the dimensional requirements, including the bulk plan and the setback requirements of 45 feet so you can see the fourth floor steps back. And it is a building --

JAI SINGH KHALSA: We're taking advantage of the bay requirements or suggestions in the Zoning that you can actually have bays that protrude into the front. You don't have to count them as FAR, but we're still actually below the FAR threshold even if you count the bays

on the front and the rhythm that gets created along commercial space.

CONSTANTINE ALEXANDER: The units are they one- and two-bedroom units?

JAI SINGH KHALSA: One, two, and threes.

ATTORNEY JAMES RAFFERTY: On the back side of the building are two, three-bedroom units?

JAI SINGH KHALSA: I have to look at my chart here to tell you. Correct, two, three-bedroom units on the top floor.

CONSTANTINE ALEXANDER: And so as you face the parking lot from Chang Sho, the wood structure, I guess it's a residence on the left, is that part of this project? Is that going to be torn down?

JAI SINGH KHALSA: No, this is

just the lot.

CONSTANTINE ALEXANDER: Just the lot itself?

JAI SINGH KHALSA: Correct. The signage will be gone.

CONSTANTINE ALEXANDER: It's already gone. At least the stanchions are still there, but everything else is gone.

BRENDAN SULLIVAN: The use is not permitted --

ATTORNEY JAMES RAFFERTY: In the B District.

BRENDAN SULLIVAN: -- in the B District. So this, technically it's a use variance?

ATTORNEY JAMES RAFFERTY: Yes.

BRENDAN SULLIVAN: And what triggers is that one spot?

ATTORNEY JAMES RAFFERTY: Perhaps

more than one spot. That a portion of the garage that's accessory to the principal use is in the residence district.

BRENDAN SULLIVAN: So you transgress on top of the B District but that one spot is actually in the B District?

ATTORNEY JAMES RAFFERTY: There is one spot, there is one parking space in the B District, correct.

BRENDAN SULLIVAN: So even if you didn't need that one spot, if you only had 19 units, hence 19 spots, and that one spot was not used, it was abandoned, would you still need relief or could you do the project as of right?

ATTORNEY JAMES RAFFERTY: Well, this is the discussion we were having. I would have thought, yes. But

Mr. Singanayagam's view was that this drive access point is in the B District. So the minute any auto --

BRENDAN SULLIVAN: Once you set foot on that --

ATTORNEY JAMES RAFFERTY: We stepped over that. Of course, the irony here is we've got surface parking occurring in the B District now which is not permitted. So we are -- when it's contrasted against existing conditions long before that was B District that was a parking lot, so....

BRENDAN SULLIVAN: But that was subject to a Variance back in 1954.

ATTORNEY JAMES RAFFERTY: That parking was, but there's parking -- but the change in the use, because we raised the question as to whether or not that

established parking in that district. And then the conclusion was well, that's principal use parking and this is accessory use parking and they're different. So....

TIMOTHY HUGHES: Can you tell me how they're different?

ATTORNEY JAMES RAFFERTY: Well --

TIMOTHY HUGHES: I mean principally, principal use parking and accessory use parking are different?

ATTORNEY JAMES RAFFERTY: Well, different because there's -- the principal use of the lot now is for parking.

TIMOTHY HUGHES: Is for parking.

ATTORNEY JAMES RAFFERTY: And we're going to change the use and that the Variance that allowed parking in the rear portion of the lot applied to a parking

lot and not to a multi-family building. I confess that I, I understand the logic. That the ordinary rationale is that the change of use means that the Variance was -- the Variance was allowed for a particular use and we're changing the use, and thus the variance no longer has applicability.

TIMOTHY HUGHES: You build a building that requires parking, but it's considered accessory use for the building rather than part of the building? I mean there is a requirement for the parking.

ATTORNEY JAMES RAFFERTY: Agreed, agreed, right. So....

TIMOTHY HUGHES: But only -- it's only considered -- it's considered all of the parking is considered to be accessory use to the building and only a portion of

it -- of the building is in the Res B so that's what you need relief for.

ATTORNEY JAMES RAFFERTY: Right.

TIMOTHY HUGHES: But why when you're required to provide a parking space to build a building, is that area of the building considered to be accessory use? You're required to have mechanicals. You're required to have parking. Why is that considered to be accessory use?

CONSTANTINE ALEXANDER: I think the accessory -- I'm warming up to where you're going. I'm going to let Mr. O'Grady speak. I can see accessory, like it is now, Chang Sho had parking across the street, that's accessory. But when the garage is part and parcel of the building, just underneath it, why isn't that the principal use?

BRENDAN SULLIVAN: Well, I think it's once you go from one zone to the other.

TIMOTHY HUGHES: It's not like a garage is on the property elsewhere, that it's accessory building to the other building.

BRENDAN SULLIVAN: You go from one building to the other that also triggers --

ATTORNEY JAMES RAFFERTY: Yes, you can't park in a more restrictive zone.

BRENDAN SULLIVAN: Which then if you have to, then that becomes accessory to the principal building.

ATTORNEY JAMES RAFFERTY: Right. So, you know, there's -- probably, probably the focus on the word use, it's accessory parking. And accessory parking

means that you cannot -- in this building now you're not going to be able to park here. The only parking that will be permitted in the building is accessory to the residential use. There are some parking garages or parking facilities where you could park even if you weren't visiting that building, that you were going to another location. So it's a principal use parking lot now because you park there and go anywhere.

TIMOTHY HUGHES: Because that's the principal use to park?

ATTORNEY JAMES RAFFERTY: Right.

CONSTANTINE ALEXANDER: You want to speak, Mr. O'Grady?

SEAN O'GRADY: That's pretty much what I was going to --

ATTORNEY JAMES RAFFERTY: But I

think to Mr. Sullivan's point the distinction probably isn't sufficient to change the need for relief, because at the end of the day we've got a more restrictive Zoning District accommodating the parking. Now, we didn't -- we did discuss the Variance, and the question was well, the Variance depicted a certain plan, a certain layout and all of that, and I understood the conclusion was well, you should be able to -- you should get this relief. But we did look at well, what if we went for Special Permit and we were one space shy, and we went for a reduction of one space and we thought maybe we could avoid the need for a Variance. And then the question came well, you have the balance of the garage and then safest route was determined to

be --

CONSTANTINE ALEXANDER: I must say I am, I am -- Mr. Hughes has awakened me on this one. It seems to me this is not accessory. It seems to me that this is -- let me finish though. That this is part and parcel of the structure. You need more relief that you're seeking tonight. However, if they building -- if the Inspectional Services Department construed the Zoning Ordinance the way it apparently has, and you only need relief for the underground parking, and no neighbor or other citizen withstanding is challenging, I'm ready to vote on this.

ATTORNEY JAMES RAFFERTY: I'm confused, what additional relief are you suggesting is needed?

CONSTANTINE ALEXANDER: I think

you need relief to put your structure --

ATTORNEY JAMES RAFFERTY: Well, that's what we've asked for. The application asked to locate a portion of a below grade accessory parking garage in area of a lot Zone Res B.

CONSTANTINE ALEXANDER: The accessory garage is what troubles me.

ATTORNEY JAMES RAFFERTY: I don't think accessory is that controlling a term. It's accessory because it's parking -- this parking is no longer going to be commercial parking. But you're right, it's the parking garage. And the Department's position is all of the garage --

CONSTANTINE ALEXANDER: Yes, I understand that.

ATTORNEY JAMES RAFFERTY: -- in

the Res B requires relief.

CONSTANTINE ALEXANDER: This is not challenged no one's raising. That's fine, I accept that. I'm still puzzled by it.

SLATER ANDERSON: So if I understand you, what you're saying is the notice might say something instead of locate a portion of a multi-family building --

CONSTANTINE ALEXANDER: You got it.

SLATER ANDERSON: -- in a Res B Zone?

CONSTANTINE ALEXANDER: That what I would have said.

SLATER ANDERSON: I have a question.

CONSTANTINE ALEXANDER: But anyway

that's not before us tonight.

SLATER ANDERSON: Yeah, yeah.

CONSTANTINE ALEXANDER: And unless
ISD changes its mind it's a moot issue.

SLATER ANDERSON: I have a
question.

ATTORNEY JAMES RAFFERTY: So you
suggest from a Zoning perspective there's
no distinction between having the
building --

CONSTANTINE ALEXANDER: The case
has been improperly advertised. The
relief you're seeking is greater than what
you've suggested in your advertisement.

ATTORNEY JAMES RAFFERTY: Yeah, I
would respectfully disagree because that
would suggest that there's no distinction
between extending the building into the
residential district versus the below

grade parking garage. So the below grade parking garage, it's a single structure, it's a single Building Permit. I think the notice is quite adequate and the petition is correctly stated. The only portion of the building in the Res B is the parking garage. Whether one wants to quibble whether that should carry the characterization of accessory or not, that's different. But a portion of the building, i.e. the garage, is in the Res B District. There is no portion of the building containing dwelling units and GFA, so I don't know why it would be suggested that the relief sought is inadequate.

CONSTANTINE ALEXANDER: I didn't say the relief.

SLATER ANDERSON: Well, the

mechanicals are over there, too. I mean, that's an integral part of the structure.

ATTORNEY JAMES RAFFERTY: Agreed, right.

SLATER ANDERSON: Right. So I have a quick question.

ATTORNEY JAMES RAFFERTY: But they happen to be located in the garage.

SLATER ANDERSON: I agree. I agree with that. Can't dispute that.

TIMOTHY HUGHES: Which is a portion of the building.

ATTORNEY JAMES RAFFERTY: Agreed.

SLATER ANDERSON: The existing Variance --

TIMOTHY HUGHES: So let's just keep chasing our tail, shall we?

SLATER ANDERSON: The existing Variance that allows for the parking.

ATTORNEY JAMES RAFFERTY:

Commercial parking surface lot.

SLATER ANDERSON: Commercial use parking in the Res B Zone is -- if you were to propose this building and the building and the, let's say, underground parking -- and you suggested earlier, said that the reason the ramp is so long is to accommodate bicycles, right?

ATTORNEY JAMES RAFFERTY: One of the reasons, yes.

SLATER ANDERSON: One of the reasons, okay.

If all of that were located in the zone, could you still -- could you, could you utilize the permit that you have for the parking on the surface in the rear of the lot and accommodate -- so you put some of the parking there and everything else

goes -- you couldn't have the ramp where it is. The ramp would have to be I suppose relocated in the building which you see occasionally. You know, it's a garage door at the street and you go down into it or something like that. I'm just -- I'm not really opposed to this, I'm just sort of curious, can you take that past Variance and split it?

TIMOTHY HUGHES: Obviously the decision of the Commissioner is, no, you can't otherwise they wouldn't be here.

ATTORNEY JAMES RAFFERTY: But that scenario --

SLATER ANDERSON: Well, I don't know if it's more desirable to have the parking in the back. I don't know if it's more desirable. You have a lot of area --

ATTORNEY JAMES RAFFERTY: I can't

imagine that would be seen as more desirable.

CONSTANTINE ALEXANDER: I think we're having a very nice abstract discussion.

TIMOTHY HUGHES: Yes, we definitely are.

CONSTANTINE ALEXANDER: I think we're ready to move on.

TIMOTHY HUGHES: As long as you're content that we can -- as advertised, we can vote on this thing.

CONSTANTINE ALEXANDER: I can.

TIMOTHY HUGHES: Without any of it kicking us in the ass.

CONSTANTINE ALEXANDER: I do. I think it's always open to the Inspectional Services Department to change its mind of what's going on here in view of the

discussion here tonight.

ATTORNEY JAMES RAFFERTY: I wouldn't state it quite that abruptly.

CONSTANTINE ALEXANDER: And you might have to come back before us. I think we can vote on the case tonight as advertised.

SLATER ANDERSON: Yes.

CONSTANTINE ALEXANDER: Did I open public testimony?

TIMOTHY HUGHES: I don't remember.

CONSTANTINE ALEXANDER: Yes, I guess I did -- I don't know if I asked the question.

TIMOTHY HUGHES: I don't remember.

CONSTANTINE ALEXANDER: Anyone here wishing to be heard on this matter?

DENNIS CARLONE: My name is Dennis Carlone. I'm an architect, urban designer

and I live by Chang Sho. I hadn't seen the project till tonight. A number of residents in our neighborhood on Hurlbut Street as well as on Agassiz asked me to come. And I have to say, I did a lot of design review for Community Development, actually over a 30-year period in East Cambridge. I did the East Cambridge Riverfront Plan. And my only concern after looking at it is more aesthetic but it focussed on very few things, and we discussed having an informal design review and the applicant agreed to that.

As far as the parking goes, it's less parking that's on the site now. It is going to be potentially a very attractive building that makes Mass. Avenue more like a Main Street which is what the neighbors want. And all in all,

I think it's a major step forward. As far as the Zoning, having done a lot of Zoning work, and the issue before you, it seems to me that the spirit of the building improves everything around it, including the park which, as you know, is right on the -- behind it by having the lawn area. I would say that I think there are things that could happen in that landscape area that would improve it even more and make it more interesting, but I encourage you to move ahead with this.

The applicant has said they will meet with neighbors, but I'm pretty sure I know what those issues are and it's a matter of detail. So I'm very pleased.

CONSTANTINE ALEXANDER: Thank you.

DENNIS CARLONE: And I wasn't sure I would be, but I'm pleased.

CONSTANTINE ALEXANDER: Thank you for taking the time to come down and persevere through the meeting.

Anyone else wishes to be heard on this case?

(No Response.)

CONSTANTINE ALEXANDER: No one wishes to be heard.

Any final comments, Mr. Rafferty?

ATTORNEY JAMES RAFFERTY: Just to pick up on what Councillor Carlone said, the building, given its the location in the North Mass. Avenue Overlay District is subject to the advisory development consultation procedures which are conducted by CD, which involve public participation and Mr. Sato has indicated that he will, he will participate and he will participate in a meaningful way,

meaning that he will look forward to that. So the provisions of Section 19.4.2 apply in this area and I explained to Mr. Sato that my experience with Mr. Carlone, his participation in those design reviews are quite helpful. And I know we had an opportunity for a brief exchange between Mr. Khalsa and Mr. Carlone and the type of design changes, materials and the like, I would hope that the decision will allow enough flexibility for those types of modifications.

CONSTANTINE ALEXANDER: We're going to vote whether to allow you to you have underground parking in the residential district.

ATTORNEY JAMES RAFFERTY: That would be fine.

CONSTANTINE ALEXANDER: That's the

relief you're seeking?

ATTORNEY JAMES RAFFERTY: That's correct. That's correct. But sometimes there's reference to plans and --

CONSTANTINE ALEXANDER: Well, they reference the underground parking plan. That's the only plan -- as to the exterior of the structure, that's not before us at all.

ATTORNEY JAMES RAFFERTY: Thank you, that's very helpful.

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

TIMOTHY HUGHES: Yes.

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 of the Ordinance would involve

a substantial hardship to the petitioner.

Such hardship being that the petitioner would not be able to provide underground parking and other related -- other building uses because it would extend into the residential district.

That the hardship is owing to the, I guess the shape of the land, of the land. The land simply just won't accommodate sufficient parking in the business district to allow a 20-unit building.

And that even if the building size -- the number of units was reduced by one, there would still be other issues. So the building would have to be, in terms of the number of units, more substantially reduced than just one unit.

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.

As indicated, this is underground parking. It will have no impact on the residential district or the people that live in the residences abutting because it's all underground.

So on the basis of these findings, the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with the garage floor plan numbered A-100 prepared a Khalsa Design, K-h-a-l-s-a and initialed by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in

favor.

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

* * * * *

(9:35 p.m.)

(Sitting Members BZA-007638-2015:

Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Slater W.
Anderson.)

CONSTANTINE ALEXANDER: The Chair will call case No. 007638, 200 CambridgePark Drive.

Is there anyone here wishing to be heard on this matter? Do you have a copy of the sign?

MICHAEL DIMINICO: Yes.

CONSTANTINE ALEXANDER: I think we have it in our files I just wanted to be sure. Let me keep this if I may.

MICHAEL DIMINICO: Sure.

CONSTANTINE ALEXANDER:
Mr. Rafferty.

ATTORNEY JAMES RAFFERTY: Thank you, again, good evening, Mr. Chair. James Rafferty on behalf of the applicant King Street Properties. And seated to my right is Michael Diminico.

MICHAEL DIMINICO: Diminico,

D-i-m-i-n-i-c-o.

ATTORNEY JAMES RAFFERTY: So this is an application for a sign variance.

CONSTANTINE ALEXANDER: Yes, it is.

ATTORNEY JAMES RAFFERTY: At 200 CambridgePark Drive which King Street Properties has been involved in. It's recently acquired in extensive renovations, including landscape and facade improvements at the entrance of the building. One of the things that was constructed as part of the landscape improvements was a new pedestrian entrance and a new wall in front of the building. But as part of the overall design look for the building and for landscaping purposes, it was thought that the blankness of the wall could be addressed by putting an

address, the numbers 200 CambridgePark Drive there.

Now in the Zoning Ordinance this would, is treated as a freestanding sign even though it's attached to a wall, it's not the wall of the building. So this, this address and these numbers, if they were placed on the wall of the building, could be significantly larger than what's proposed here. They would be up higher and they would not be at pedestrian eye level. The idea here is that there are a number of new buildings being created in this district. This has a different identity. There are residential buildings on either side of it. I've been very mindful of the commentary that the Board faces around rooftop signs, around the corporate branding, so this sign I would

suggest doesn't fall into that category. This is an address. This is a number. And it's an attempt to allow for some visual identification for the building at street level.

CONSTANTINE ALEXANDER: Isn't there a sign -- a freestanding sign there right now?

ATTORNEY JAMES RAFFERTY: There is.

CONSTANTINE ALEXANDER: With the number 200 on it?

ATTORNEY JAMES RAFFERTY: There is.

CONSTANTINE ALEXANDER: And also over the doorway. Although it's not easy to read, over the glass entrance, there's 200. Am I right?

MICHAEL DIMINICO: There is a

vinyl graphic on the glass on the door and it's at four feet above the ground. It's mostly for so you don't walk into --

CONSTANTINE ALEXANDER: No, the doorway itself. As you go in the doorway --

MICHAEL DIMINICO: Oh, yes, you're right, the address sign --

CONSTANTINE ALEXANDER: You've got two signs that say 200 and now you need a third?

MICHAEL DIMINICO: The intent as you're approaching down CambridgePark Drive, the existing freestanding sign is on the right side which is hidden behind the new residential development and you can't see it as you're coming down the street until you get -- until you approach the building.

CONSTANTINE ALEXANDER: So you can see it, though. I must tell you I went to inspect the property and I drove down and my first reaction is this is in the place -- this sign -- this building is way at the end of a street, there's not much around it. Who cares if you want to put up a sign slightly larger or larger than our Ordinance requires because it's not like on the Charles River where you're going to pollute public view. But then I had a second thought, and I says why do you need the sign? I mean, you're going down -- it's at the end of a cul-de-sac, right in front of you is the building, right in front of you is a sign that says 200, that's to the right, comply with the Ordinance. Why do you need a 40- foot -- 43-foot sign when you can put

up a 30-foot sign? What's the hardship that requires you to put a sign up that's 13 feet bigger than our Ordinance permits? Tell me what the hardship is.

ATTORNEY JAMES RAFFERTY: Well, the hardship is, frankly, it has to do with the size of the wall and it's -- it was really -- many of the comments you expressed were part of the thinking behind the application. So the wall is of a certain size. The area of limitation applies to freestanding signs. It is a sign but it really is an address. And we looked at what could go on the wall, which is a bigger sign. And we thought that this sign had -- this location had vestiges of a wall since it is mounted on a wall, and granted it is not a wall of the building, but it is a wall for which

the stairs go up to the building. And this sign could be bigger and higher up in the building if it was placed on the facade of the building. And there isn't, there aren't wall signs on the building. None of the tenants have names on the building. There's the freestanding sign. And the thinking was informed in some ways by the location. Frankly, the remoteness of the location, the lack of impact upon abutters. And the fact that it was a number. If we were here today with XYZ Corporation on that sign, I would get that. And frankly, I don't think I would bring such a case because I would think well --

CONSTANTINE ALEXANDER: You know better. But a 30-foot sign that has a number, there's nothing wrong with that.

Why do you need a 43 plus foot sign that has the number? I mean, I don't understand it. It's not like there's all kinds of buildings around that's going to obscure. We've had some building signs where, you know, that it's really hidden. You may have to drive a little closer to the building to read 200, but you'll see it.

ATTORNEY JAMES RAFFERTY: We'd still need relief, though, because it's a sign, it's a freestanding sign.

CONSTANTINE ALEXANDER: The only relief I saw from Community Development was the sign was too big. Otherwise -- and maybe I missed it.

TIMOTHY HUGHES: I think it stands too far off the wall, doesn't it?

CONSTANTINE ALEXANDER: Yeah. You

could -- you want to put a bigger sign on the wall, that's your Constitutional right if it complies with the Ordinance.

ATTORNEY JAMES RAFFERTY: Right. But the thinking was a restriction could be required to the approval that the building couldn't have such a sign. And in some ways what would be happening here, is that the sign that would be allowed -- a bigger sign that would be allowed on the wall is, is waived in exchange for a number at pedestrian or street level.

CONSTANTINE ALEXANDER: I hear you.

ATTORNEY JAMES RAFFERTY: And I didn't, we didn't think it was -- as I said, it was -- you are correct. I mean, there's nothing magical about the size.

It was dictated by where on the wall it should go and the height of the wall. The wall is a new feature and the wall has got some landscaping behind it and the new glass steps. And, you know, the sign ordinance is a highly regulated section of the -- the sign ordinance is a highly regulated section of the ordinance. And like most portions of the ordinance it has some one size fits all elements that work better than others, and as I said, much of the thinking behind this had to do with the fact that this sign had many of the aspects of a wall sign, but it was located on a wall, a retaining wall versus a building wall.

The hardship is merely related to that fact. That at this location and at this level, it would be more effective,

particularly for pedestrians and others. The vehicles entered to the right. You do see it from a distance as you come down the street. There's a certain genericness to that street. There are a series of office buildings. And it's been the subject of much planning talk in the last year or two. It has many aspects of a suburban office park and not particularly urban. And the thinking was from the design side that this was actually seen as a design improvement that was not inconsistent with the ordinance's goals and objectives with regard to signage.

CONSTANTINE ALEXANDER: Okay.

MICHAEL DIMINICO: I just had one clarification. The wall was existing when we purchased the building. So we actually polished to try to clean it up. There

were some cracks and repairs that needed to be made and this was just another attempt to make it more aesthetically pleasing.

ATTORNEY JAMES RAFFERTY: They've landscaped the area in front of the wall and done surface improvements and added the glass stairs that you seen there.

MICHAEL DIMINICO: Correct.

CONSTANTINE ALEXANDER: That's your presentation.

Questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: No, no questions.

We are -- well, I'll open the matter up to public testimony first.

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

HEATHER HOFFMAN: Hi, Heather Hoffman, 213 Hurley Street. And I'm here mostly because Carol O'Hare could not be. She has studied this in greater depth than I and I know you have her --

CONSTANTINE ALEXANDER: Two copies of -- two letters actually. Not one, but two.

HEATHER HOFFMAN: Her correspondence. But I think that she raises an issue that was not raised in this discussion just now which is something that's bigger than this particular sign, and that is I think the inadequacy of the forms that people are being forced to use in applying for permission to have a sign whether it's compliant or non-compliant. The forms simply don't give you space to tell all of

the relevant information, like whether there are already signs there, which as you noted, do exist. And at least according to Ms. O'Hare's reading of the ordinance, and I agree with her, those signs are already beyond what's allowed and so every single square inch of this, not 13 square feet, but all of it is beyond what's allowed. Now if that's wrong, that's fine. I am happy to be educated on this matter, but I think that that needs to be addressed. And I would especially agree with the Chair that having more and more and more signs doesn't improve visibility. In fact, it just creates more clutter. So if in fact the applicant thinks that the existing signs don't do what's needed, then perhaps we should be talking about redoing signs

so that they can either comply with the ordinance and put all of the information that they think is needed in a place where the public will see it or they need to show how there simply is not enough room within what the ordinance allows to give the information that they need to give. But continuing to put this stuff, you know, just add to it, is not improving the city. And I would say that in the few suburban office parks that I unfortunately visit from time to time they don't have a ton of signage. They actually just have an address out by the street and that you can in fact find the buildings that way.

Thank you.

CONSTANTINE ALEXANDER: Ms. Hoffman, to your first comment --

ATTORNEY JAMES RAFFERTY: Are you

aware that this is all there is as
address --

HEATHER HOFFMAN: But there are
two signs already.

ATTORNEY JAMES RAFFERTY: I
apologize.

CONSTANTINE ALEXANDER: Just
talking to your initial comment in that's
inadequate information that's disclosed,
and for example, Ms. O'Hare raises the
fact that there is other signage. The way
I see it, the way these sign cases proceed
is that the applicant, an applicant goes
to Community Development. And Community
Development says yay or nay. If it's nay
and the petitioner wants to pursue it,
they come to our Board. We get the
information from Community Development.

HEATHER HOFFMAN: Oh, yeah.

CONSTANTINE ALEXANDER: I think your comment about the Community Development needs to revise this form, fine. You and/or Ms. O'Hare should meet with Community Development and work to get the forms improved. We can't do anything about it. Just so you understand.

HEATHER HOFFMAN: I understand. My point simply was that it appears as though these forms, wherever they come from, are not serving the purpose --

CONSTANTINE ALEXANDER: I understand that.

HEATHER HOFFMAN: -- of providing you with the information you need, and as, in my experience a well done form helps the applicant also by highlighting what's important.

CONSTANTINE ALEXANDER: I

absolutely agree with you. And I think your point's well taken. I guess my point is again, Community Development's form. If they don't want to change the form and concerned citizens like yourself and Ms. O'Hare will supplement what's not disclosed to us so we'll consider it.

BRENDAN SULLIVAN: What it's going to take, Ms. Hoffman, is for a councillor, put forward a council order and then that's on the agenda and that raises discussion or points of discussion on Monday night. But it's an administrative thing. And I know Carol, every time she comes down and sometimes I get short because it's an administrative thing.

CONSTANTINE ALEXANDER: It's something we can't deal with.

HEATHER HOFFMAN: And I simply

don't know how much power you have as a Board --

BRENDAN SULLIVAN: None.

HEATHER HOFFMAN: -- to say that your --

ATTORNEY JAMES RAFFERTY: Tons.

HEATHER HOFFMAN: -- that your needs are not being addressed.

CONSTANTINE ALEXANDER: We have no power to do that. We can't tell Community Development how to write its form.

HEATHER HOFFMAN: That's too bad.

BRENDAN SULLIVAN: That's Monday night. One of nine can.

ATTORNEY JAMES RAFFERTY: Just to correct one thing, Heather, there is no non-conforming signs out there now. The two signs --

CONSTANTINE ALEXANDER: Let's not

get into that.

ATTORNEY JAMES RAFFERTY: The record, it was suggested --

CONSTANTINE ALEXANDER: All right, go ahead.

ATTORNEY JAMES RAFFERTY: I would say it has some relevance if they were non-conforming signs. I just wanted to point out the process is that there were three signs applied for, two received permits, this one was noted for exceeding it. So that's what's before the Board.

BRENDAN SULLIVAN: Liza Paden addressed one of the issues or something.

HEATHER HOFFMAN: Anyway, I wanted to make sure that those specific issues were said, not by someone reading a long thing into the record, but by being highlighted by public testimony.

CONSTANTINE ALEXANDER: I appreciate you doing that taking the time as you always do to come down to speak to us.

Thank you. Sir.

JOHN HAWKINSON: John Hawkinson, 84 Massachusetts Avenue. I just wanted to address the Board that it's my understanding that the Board could certainly choose to write a letter to Community Development saying whatever it wishes expressing its opinion, and I would be very shocked if a letter like that did not have an effect. And, of course, the Board ought to notice such a thing on the agenda more than 48 hours prior to the meeting and all that stuff, but the Board is certainly empowered to do so. And it's a little concerning to me that the Board

appears to think it may not have that power.

Thank you very much.

CONSTANTINE ALEXANDER: Thank you very much. I don't choose to debate this any further.

Anyone else wishes to be heard?

(No Response.)

CONSTANTINE ALEXANDER: No one else wishes to be heard.

We are, as reported, we are in receipt of letters from Carol O'Hare. They're very lengthy. I don't propose to read them into the file. They will be incorporated into our record. And for the record, these letters are in opposition to the relief being sought. And that's all we have.

I'm going to close public testimony

unless you have any further comments or do you have further comments?

ATTORNEY JAMES RAFFERTY: Just briefly. I would say that the application comes down to a tradeoff, and the applicant is in its application asking the Board to consider treating the perimeter wall as a building wall and allow for the sign, which in this case is almost 50 percent less than what would be permitted if it were placed on the wall of the building. And I would think that it would not be inconsistent with the Board's authority in this area if they saw fit to grant this to place a restriction that this, this is in lieu of a wall sign and this will be -- there will be no other wall signs. Because it strikes me as somewhat of a lose/lose if the outcome

here is that the applicant goes back and builds, designs a bigger sign and it goes on the wall of the building. For those who like to see round holes filled with round pegs, then I suppose there's some level of satisfaction. But if aesthetically and visually this address at this location in the eyes of the property owner best serves its need, doesn't contradict the spirit of the ordinance and limits actually the overall amount of signage on the building, I have a hard time understanding why that's a bad outcome.

CONSTANTINE ALEXANDER: Because I would point out that all we can do is act on this case. We can't dictate -- if the petitioner after we granted a Variance as you propose wants to go back and decides

hell with this, we're going to put a sign on the wall of the building, and we can do it as a matter of right, whatever condition we put on a Variance for a sign that's never going to be built doesn't apply.

ATTORNEY JAMES RAFFERTY: No, but you would at least to have the ability to know that if that sign were --

CONSTANTINE ALEXANDER: If that sign, that's right.

ATTORNEY JAMES RAFFERTY: -- and the applicant has told you that's the sign they prefer. I thought you were going to suggest that you didn't have the ability to condition the relief on no further wall signs being permitted.

SLATER ANDERSON: Without this one being removed.

ATTORNEY JAMES RAFFERTY: Right. And I tried to take, frankly, a slightly bigger picture view of what's going on here and suggest that this, this same sign on that building twice the size is permitted, and their assessment of the visual environment out there and the conditions is that this looks better, would work better for way finding, and would result in less signage than what is permitted as of right.

CONSTANTINE ALEXANDER: Thank you.

Discussion or ready for a vote?

Looks like ready for a vote if people are still awake. 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. Such hardship being that the petitioner believes that if it's going to have a sign on this retaining wall that it needs a larger sign than what it permitted by our Ordinance.

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

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.

On the basis of these findings the Chair moves that we grant the Variance being sought subject to the following conditions:

That the sign be erected, be identified on two pages, front and back, and initialled by the Chair. Just initialled by the Chair is good enough.

And further that the petitioner -- that if the petitioner proceeds with this Variance, that no further wall signs will be erected.

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

(Aye.)

CONSTANTINE ALEXANDER: One, two? Two in favor.

(Hughes, Anderson.)

CONSTANTINE ALEXANDER: All those opposed? Three.

(Alexander, Sullivan, Scott.)

CONSTANTINE ALEXANDER: The Variance is not granted.

We need to take a separate vote for the three of us who voted against it.

The Variance was turned down on the ground that there are no hardship. No substantial hardship to the petitioner. That the petitioner already has signs, freestanding signs that adequately identify the property.

That the property is located at the end of a cul-de-sac and, therefore, visibility or identification is not an issue.

And that -- and that there are no special conditions relating to the shape of the lot or the structure that would warrant, that satisfy the requirements of the Variance Section 10.31.b.

So on the basis of all of these, this is the reason we denied the Variance.

All those in favor of that motion?

(Show of hands.)

CONSTANTINE ALEXANDER: Three in favor.

(Alexander, Sullivan, Scott.)

* * * * *

(10:00 p.m.)

(Sitting Members BZA-007664-2015:

Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Slater W.
Anderson.)

CONSTANTINE ALEXANDER: The Chair will call case No. 007664, 14 Arrow Street.

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

ATTORNEY ANNE REYNOLDS: For the record, Anne Reynolds on behalf of T-Mobile.

CONSTANTINE ALEXANDER: Are you aware of the fact we have written communication that just came in in the last day or so from the Planning Board, from the Harvard Square Advisory Committee?

ATTORNEY ANNE REYNOLDS: Yes.

CONSTANTINE ALEXANDER: And I think even from the Historical?

ATTORNEY ANNE REYNOLDS: Yes.

CONSTANTINE ALEXANDER: Okay, you're aware of it?

ATTORNEY ANNE REYNOLDS: Yes. Liza sent me yesterday a copy of both of

those letters as well as the one that came to me today.

As the Board is aware, T-Mobile is in the process of upgrading their technology and their network in Cambridge. This particular site currently has three existing antennas, facade mounted on the smokestack of the building. They are proposing to add three additional antennas and three RRH units on the facade of our RRH units to be mounted directly below the proposed antennas.

This particular design has gone through many revisions. I think this one that was filed on Monday is actually the fourth revision. We've met with Historical. I actually presented it to Sarah prior to finalizing to get her signoff on the design, and made some

changes at her request; namely, to remove some of the cable boxes or the horizontal cable boxes. Because in her words, looked like a bracelet around the smokestack. So we took those off.

We then went to Planning and met with Planning on two different occasions in order to try to get ready and everything done prior to this hearing. They had asked us to try and create better symmetry with the antennas. The original antenna that was proposed was longer than what's there. T-Mobile was able at this particular site to use a shorter antenna that was similar in size to what is existing to create symmetry.

Secondly, the original -- when we had gone back with the longer antenna, there is a TMA antenna or booster that is

currently supporting what is existing, and it's smaller in size to the RRH antennas.

What the Board -- so when we went back to them with the new symmetrical size antennas, you know, the equal and size, so they asked us again to go back and make these more symmetrical. So we went back again and T-Mobile was able to create a box out of that smaller TMA antennas so that it looks -- the antennas are similar in length and size and then you've got two boxes below that are similar on each side of that smokestack.

We've tried to clean-up the cables and make it look as clean as possible. Everything will be painted to match the color of the brick but not with -- without the grout lines which I know this Board prefers. I think what's existing -- I

mean unless you prefer it otherwise, and that's fine. What's existing has the faux brick or the grout lines. Planning had asked that we do the solid color and that's why it's shown that way, but certainly we're open to suggestions.

I should also state because I know we've gone through several of these sites where the Board has looked to have some of these boxed out. In this instance we talked about it at Planning at length, and talked about it with Historic, and because of the nature of this building and the smokestack itself, I think what the planning decided and what we talked about was A, it would add bulk, it would look top heavy, or like there was some sort of a bracelet around the smokestack. And it's an historical structure that historic

didn't want to have any additional bulk to it. So that's how we ended up with the design that we have. I can honestly say that T-Mobile has worked very hard with all of the boards that have been involved: The advisory committee, the Planning Board, and Historic to make this work and kind of taking the suggestions and putting it into new designs and changes in the past couple of weeks in the interest of getting this ready so we can come to the Board and say we've done everything we can to try and minimize the, you know, the aesthetics and the visibility of this.

So I'm happy to discuss further, you know, take any questions of the Board on this matter.

BRENDAN SULLIVAN: The only thing worse than the telecoms are the sign

requests and because it just keeps going back and forth and back and forth and I think, I don't know what the solution is other than I'm at the point I think of looking at a proposal and either voting for it or against it. And that's it. Up or down. And then kicking it back to the telecom and saying no. And now you're precluded for two years until you come back with something, give us something that is absolutely as stealth as possible. The proposal before us, even though -- and, Anne, you're just the messenger, but at some point engineering and the accounting part of engineering has got to get the message that we don't want to see these damn things. And this one is awful.

CONSTANTINE ALEXANDER: You stole

my thunder, Brendan. And I know your problem is you've got to deal with different boards and different aesthetic points of view. I think this is awful, I really do. Just like you said. I got -- I think some of the other things that you talked about that -- other boards didn't like I thought were better than what we've got here. So what if you mass the bulk of the chimney in my view. So what. At least you don't have all these things do-dads sticking out on an historical chimney. I think it looks worse. If you want to go for a vote tonight, I'm going to vote against it on the grounds you don't satisfy the requirements of our Special Permit with regards to disguising the visual impact, as you know, that's one of the things that

we have authority for.

BRENDAN SULLIVAN: I'm at the end of the rope of us having to design, and even when we finally get to approving something, I walk away and I say, it's really like -- I'm not happy with it. I drive by the city all the time and I look at what I approved and either that, and I say how could we have made it better? And it's almost like meeting after meeting after -- and it's almost like you're worn down and then finally you take the lesser of any of the evils. And is that the best we can do? And I keep sitting at red lights and looking at what I approved, voted for, and I say that can't be the best. That cannot be. There's got to be a better solution to it. And, again, I think that engineering just kicks it out.

This is the cheapest way to do it. They obviously drop it on your desk and say, Anne, work with it and take it do Cambridge.

CONSTANTINE ALEXANDER: And you take the heat.

BRENDAN SULLIVAN: And bring it back with -- you know, minimal as we have to correct it. And, again, you're just the messenger, I understand that. But I'm almost to the point of dragging in whoever is head of engineering and let them sit in that chair some night and listen to us. But --

CONSTANTINE ALEXANDER: I'm going to vote against it, too. If two of us vote against it, you're obviously going to be denied relief. You can take us to court and maybe in a couple years you

would prevail, maybe. Because I think we have a basis for -- it's not because of being arbitrary or being pernicious. This is not -- you're not doing a good as of a job at least as I think you can do in regard to disguising the impact. We're in a sensitive area. We're in Harvard Square. The building is not that tall. You don't have to look straight up to see the antenna. It's quite visual -- quite visible. I'm sorry. Quite visible. And I think what you're proposing, what your client is proposing, not you, doesn't do it.

THOMAS SCOTT: And I think what's being proposed is something designed by an engineer as opposed to, you know, getting an architect involved or somebody with an aesthetic sense who can look at the

structure and understand what it is that's preserved about it, that makes it historic, and what can we do at that make that look better. I think they need to spend a little bit more money on design professionals to step in and help them think about these solutions in a way that they can be concealed and made more aesthetic.

BRENDAN SULLIVAN: Yeah. Would this be allowed in Lexington, Beacon Hill, or any of those -- Concord? No, absolutely not. It's not going to be allowed here.

THOMAS SCOTT: There was a case not that long ago, Daniel Winny came in as a design consultant, created a shroud around the elements, and it was approved. And I think that just spoke to the fact

that somebody looked at it with an aesthetic sense and came up with a solution that was, you know, more visually appealing.

CONSTANTINE ALEXANDER: Yes.

THOMAS SCOTT: So --

CONSTANTINE ALEXANDER: We can proceed with this case and take a vote, but I would suggest you might want to request a continuance, it would be a case heard. We have to find a date where we continue this case. It's your call. Do you want to proceed or have the case continued?

ATTORNEY ANNE REYNOLDS: I guess my question is assuming that we continue, I understand you're looking for a design, and my guess is what -- what I'm taking from this is that you're looking for a

complete box out of all of it?

CONSTANTINE ALEXANDER: I don't want to design it for you. I would like a different approach than what you proposed tonight.

ATTORNEY ANNE REYNOLDS: I understand. I'm not asking you to do that. I'm also having -- it's hard because I've gone through this with Planning and they're telling me one thing and I come here and get the opposite answer and I go and do it and we spend --

CONSTANTINE ALEXANDER: Well, we may disagree with Planning. Do a complete box out and Planning says that's terrible and we say it's better than what Planning liked. We have the final vote.

ATTORNEY ANNE REYNOLDS: And I understand that. And I guess that was my

question because every -- when I did talk about this and we discussed it, everyone was telling me no, Historical was telling me no, and Planning is telling me no and Historical has to sign off as well.

CONSTANTINE ALEXANDER: We take into great consideration the views of the Planning Board, but we don't just rubber stamp what the Planning Board wants. At least in my view is planning -- I guess it makes the world go round -- the Planning Board has one view and our view is we think they're wrong and there's a better approach, including a box out, personally than what you're proposing and what Planning Board likes. And since you need our vote at the end of the day.

ATTORNEY ANNE REYNOLDS: I understand. I'm trying to understand what

you like I guess. Because what I've been perceived --

CONSTANTINE ALEXANDER: I don't want to design it for you.

TIMOTHY HUGHES: I'm not opposed to designing it for you.

CONSTANTINE ALEXANDER: I'm sorry?

TIMOTHY HUGHES: I said I'm not opposed to designing it for you. I think they're right, as a box out on this is going to make it look top heavy. Why can't you go on top of the thing so that your antennas are flush with the surface all the way around rather than hanging off of it. Why can't you just go up the extra four feet? Everything's -- it stays in a plane and makes it look like a continuation of the smokestack.

ATTORNEY ANNE REYNOLDS: I think

the problem in this instance is that it's active.

CONSTANTINE ALEXANDER: Is what?

ATTORNEY ANNE REYNOLDS: The smokestack is active and you can't -- that was the discussion we also had with Planning is you couldn't do a full extension where they would do that on a tower.

TIMOTHY HUGHES: I mean it's active how? It's active as a vent or it's not active smoke. Nobody's burning anything in that smokestack anymore. I mean it's a vent, it's a vent for a heating system, right?

ATTORNEY ANNE REYNOLDS: Right. From a boiler or something. There's steam coming up and it's lined --

TIMOTHY HUGHES: And you can't

screen the steam away from the back side of your antennas and do this in a plane going up there. That's my question. You know, I need to know that you can't do that before I would approve this.

ATTORNEY ANNE REYNOLDS: Okay. I can, I can get that as a solid answer.

TIMOTHY HUGHES: Again, I know it's an active smokestack but it's not smoke and it's like --

ATTORNEY ANNE REYNOLDS: It's also an historic building which is another problem. They don't want us to --

SLATER ANDERSON: You're doing the same thing.

TIMOTHY HUGHES: You're doing the same thing, you're just hanging off of it. You're --

SLATER ANDERSON: You know, you're

going this way and not going this way.

TIMOTHY HUGHES: You know, you're destroying the historic aesthetic of it by hanging this stuff off of it. I don't know how the first round got approved.

SLATER ANDERSON: When was the first one approved?

TIMOTHY HUGHES: I was probably on the Board then, so I should keep my mouth shut about that one. But, you know, now I think we're -- we're definitely, we're drawing a line in the sand. We have to hold you to a higher standard or it's never going to get done. The aesthetics are never going to improve.

SLATER ANDERSON: Look at the -- you see the church tower there. This one gets me as far as the visibility of this is really significant.

TIMOTHY HUGHES: Right. It's part of that complex in a way that, you know, it's like -- we did a disservice when we let T-Mobile put antennas up there in the first place.

CONSTANTINE ALEXANDER: Right, I agree with you.

TIMOTHY HUGHES: And I'm tired of continuing the same mistakes. There's got to be a better way.

ATTORNEY ANNE REYNOLDS: Well, we can certainly, and I think the answer is we'll go back and --

PETER COOK: My name is Peter Cook. I've been before this Board before. I'm the -- I'm not the director of engineering so I can't fess up to that, but we are managing the project for T-Mobile and it's not, I can tell you that

it's not a cost issue. It's really more of a responsiveness to the prior comments we've received.

ATTORNEY ANNE REYNOLDS: Yeah, I just want to make clear that the carrier -- they have really worked hard. This is literally a design. I know that the Board gets frustrated, and I completely understand the desire to fix the aesthetics and there are some cases where there may have been more work should have been done ahead of time. And just knowing that there was a ton done and we were responding from comments from all of the boards. And I know that this Board has the final word, but you're getting them from different directions and so that's what this is where this was coming from in our request now.

BRENDAN SULLIVAN: You've got to go back and tell them, the powers that will be who will listen and has somebody, some top guy on the totem pole that the Board is really at the point of either voting this up or down and you guys have really been running the risk if they vote this thing down, then you're precluded for two years.

TIMOTHY HUGHES: Or however long it takes them to appeal and win a case against us. It's going to be longer than two years.

BRENDAN SULLIVAN: At that time it might be G7 or something like that. At any rate, I really am at the end of my whatever of --

CONSTANTINE ALEXANDER: Patience.

BRENDAN SULLIVAN: -- of just

continuing this and just keeping going back and forth and tweaking and tweaking. As you know, I mean it extends this thing out for months. It clogs out the agenda. It takes a slot that somebody else is ready to go forward. We look at the agenda and obviously staff plans accordingly, and all we do is just keep banging away and banging away to try and get something. And even at the final solution, still not satisfied with it that we could have done better.

PETER COOK: Is it safe -- is it reasonable for us to come back and not try and learn a lesson both here and in the future, this Board as currently constituted is looking for fully enclosed stealth boxes around antennas? Or is it --

BRENDAN SULLIVAN: We don't want to see -- I don't want to see antennas. And however you get me to putting on stealth glasses that I don't see the darn antennas, I think you could ask yourself the question what would they approve at Beacon Hill? Beacon Hill Historical Association, what would they approve? What would they approve in Lexington? What would they approve in Concord? Obviously not that. So, if we had to do this in Lexington or Concord, I'm sure they do it all over, 350-some odd communities, and everybody has their own standards, all right? I want to get to that high standard.

CONSTANTINE ALEXANDER: And it's my understanding that Harvard University won't even allow antennas on their

buildings and, you know, so all around you are Harvard University with no antennas and all of a sudden we see this chimney with antennas poking out. No, you've got to do something to make it better as -- to disguise it. I happen to think enclosing the whole thing, maybe just making the chimney wider by enclosing it, might look better. What you have, what you're proposing now just sticks out like a sore thumb and it's just not good.

Anyway, I think we're repeating ourselves and the hour is late. Let's continue this case?

ATTORNEY ANNE REYNOLDS: Yes, please.

TIMOTHY HUGHES: I think there are situations where full screening, full enclosures would work. It took us years

on this Board to get carriers to even go that far, you know, to get to the point where they would consider a whole wall of a penthouse with a fake screen that covered, you know, the antennas. It was like, you know, it's like -- I feel like this could be just a step back from where we've gotten to after all the hard work. You know?

PETER COOK: But I think if this were a brand new site, you know, again whether or not this would even be approved.

TIMOTHY HUGHES: Right.

PETER COOK: We are trying to rework what we have. We'll certainly go back and take a hard look at this. Certainly going forward with any new sites, you know, we -- I can tell you we

would take that in account in terms of a full screen and so on and so forth.

TIMOTHY HUGHES: I think the suggestion was made by a board member recently that you should be contacting buildings as they go up, you know, and be thinking that if this is a possible site for your antennas, you should be talking to them about instituting it into their mechanicals on the top of their building, screening where you can put up antennas that won't show.

BRENDAN SULLIVAN: One of the problems, too, is that we're doing this piecemeal. And, you know, two antennas, three antennas weren't so bad. Now all of a sudden we're getting six. So three, we could, again, maybe live with. Now all of a sudden six, it's, it's not acceptable.

And that's, it's a tipping point, too.

TIMOTHY HUGHES: Right. And when you get to 5G that's going to be another three antennas or whatever it takes. You know, it's going to --

CONSTANTINE ALEXANDER: This is a case heard.

TIMOTHY HUGHES: There has to be a better way.

CONSTANTINE ALEXANDER: We have to get the five of us together. October is out as a month because one or both of us, Brendan and I will not be available either October hearing date. So we either go to November so we all can make it or we try September, although I'm not sure we have much room in September and you can't make.

SLATER ANDERSON: I can't make either September date.

CONSTANTINE ALEXANDER: So we have to go to November.

PETER COOK: Sounds like November.

ATTORNEY ANNE REYNOLDS: We're going to have to design something and September might be fast.

CONSTANTINE ALEXANDER: It doesn't work anyway. He can't make it.

What's the first date in November?

SEAN O'GRADY: The 5th.

CONSTANTINE ALEXANDER: And we have room on the agenda?

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: The Chair moves that we continue this case as a case heard until seven p.m. on November 5th subject to the following conditions:

That the petitioner sign a waiver of time for decision.

That the posting sign be modified to reflect the new date and the new time and be maintained for the 14 days required by our Ordinance.

And lastly, that to the extent that there are no, there are new, and there will be new photo simulations and plans, engineering drawings and the like, they must be in our files no later than five p.m. on the Monday before November 5th.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Thank you.

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

* * * * *

(10:20 p.m.)

(Sitting Members BZA-007726-2015:

Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Slater W.
Anderson.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 007726, 409 Concord
Avenue.

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

LEESTEFFFY JENKINS: Good evening.

CONSTANTINE ALEXANDER: Good evening. For the record, your name and address.

LEESTEFFFY JENKINS: My name is Leesteffy, L-e-e-s-t-e-f-f-y Jenkins, J-e-n-k-i-n-s. I live at 273 Upland Road in Cambridge, 02140.

CONSTANTINE ALEXANDER: Okay.

LEESTEFFFY JENKINS: And I'm before this Board applying for a Variance for the location in question for a gluten-free bakery.

CONSTANTINE ALEXANDER: Violette's again? The same name as what it was before as Mass. Ave.?

LEESTEFFFY JENKINS: Yes, same

name. It's taken me a long time to find a new location that was affordable. This is Henry Clark, he's the owner of the location. There have been two variances in the past. This has been a business location for almost 50 years, although it's in a residential area. The first Variance Mr. Clark applied for for his pharmacy.

CONSTANTINE ALEXANDER: Right.

LEESTEFFFY JENKINS: And then in 2007 there was an application for a convenience store, and I'm not sure how long that was in place.

CONSTANTINE ALEXANDER: I sat on that case. I remember the case. I remember you, sir, coming down.

LEESTEFFFY JENKINS: I've spoken at length with the neighborhood association,

the people on the street, the two streets adjacent, the abutters. I believe that everyone except for one person perhaps is --

CONSTANTINE ALEXANDER: One neighbor has expressed a number of reservations and issues I think we can deal with.

LEESTEFFFY JENKINS: Right.

CONSTANTINE ALEXANDER: But otherwise the letters are in unanimous support for what you want.

LEESTEFFFY JENKINS: I think another issue, and I know as a resident of Cambridge I share this issue as well, is they're afraid that giving the Variance could then in the future mean that it can turn into a box store, Dunkin' Donuts or Wendy's or whatever.

CONSTANTINE ALEXANDER: Can't happen.

LEESTEFFFY JENKINS: And so that's one of the concerns that it's the Variance is written in such a way that to prohibit that from happening in the future.

CONSTANTINE ALEXANDER: Our Variance would be as a use variance, we call it a use variance, will be limited to a retail bakery and will have conditions. So if you want to sell to Dunkin' Donuts I guess, Dunkin' Donuts would have to buy the property -- or take over the property subject to the same conditions that are imposed on you, and I suspect that will not be satisfactory to the Dunkin' Donuts, my hypothetical.

LEESTEFFFY JENKINS: Great.

TIMOTHY HUGHES: Unless you're

planning to decorate the thing in purple and brown or pink and brown colors.

LEESTEFFFY JENKINS: No.

CONSTANTINE ALEXANDER: What are your proposed hours of operation? Because that's an important issue.

LEESTEFFFY JENKINS: I've asked for nine to seven. A bakery is always a daytime business or nighttime.

CONSTANTINE ALEXANDER: Surprised. You would think you would want to start earlier than nine.

LEESTEFFFY JENKINS: Well, I originally was going to start a little bit later because I'm the only baker, and until my business builds up again, I'm going to be doing the baking and selling, and there are so many hours that as an individual I can work. But as a business

builds up, I'll get somebody to run the front and then we might move it from nine to seven.

CONSTANTINE ALEXANDER: Let me just -- I'm sorry to interrupt you, but if we grant relief, I think we will, we're going to put a condition as to the hours.

LEESTEFFFY JENKINS: Right.

CONSTANTINE ALEXANDER: If you want to change it and we do it nine to seven and you decide you want to, because you got someone to be up in the front of store, you're going to open 8:00 or 7:30, you're not going to be able to do that.

TIMOTHY HUGHES: Plan for the future.

LEESTEFFFY JENKINS: So seven to seven.

CONSTANTINE ALEXANDER: What are

your ideal hours? I would think seven to seven.

LEESTEFFFY JENKINS: Seven to seven.

CONSTANTINE ALEXANDER: That would be a little safer from your perspective. You don't have to open at seven. You could open at nine or ten, but this would give you the leeway.

LEESTEFFFY JENKINS: You know, I just have to see what traffic is.

CONSTANTINE ALEXANDER: I understand. We also want to save you the time and expense to having to come see us. We love to see you. You don't want to do that.

LEESTEFFFY JENKINS: If I can amend it to say seven to seven, I think my application says nine to seven.

CONSTANTINE ALEXANDER: We'll make the condition when we make the motion. We're going to impose other conditions as we did to the last person who occupied the property.

You're going to have to make sure waste receptacles are outside, because people may come in and buy their muffin with their coffee and then throw it on the ground. We want a waste receptacle.

We're going to want you to monitor the premises to be sure people, despite the waste receptacle, throw the litter on the ground. And from time to time someone goes around and picks it up.

I don't know if you're going to have a Dempster Dumpster there, but it has to be enclosed.

LEESTEFFFY JENKINS: I want to

use -- save that stuff with the blue bins that are similar to -- that's what I've used before.

CONSTANTINE ALEXANDER: Okay.

LEESTEFFFY JENKINS: It's similar to the Cambridge recycling bins. I only needed -- I actually recycle most of the stuff.

CONSTANTINE ALEXANDER: Can we enclose -- wherever you're going to keep --

LEESTEFFFY JENKINS: There's already a pad over to the side.

CONSTANTINE ALEXANDER: There's a place for it, fine.

LEESTEFFFY JENKINS: There's a pad. So it's the side that faces Mr. Clark's house. There's already a pad where I think, it seems reasonable that that's

where trash has gone before.

CONSTANTINE ALEXANDER: Okay.

LEESTEFFFY JENKINS: And then the trash bins from Save That Stuff all are, have closed lids on them.

CONSTANTINE ALEXANDER: One of your neighbors who took the time to write to us -- there are many letters in our file all in support, said with regard to food -- the neighbor by the way is Jeffrey Mitchell who apparently resides at several --

UNIDENTIFIED AUDIENCE MEMBER:

That's us.

CONSTANTINE ALEXANDER: You're here? Corporal Burns Road. Said with regard to food waste: We believe that this will be kept in containers at the far end of the building in question.

Is that where you're going to put it?

LEESTEFFFY JENKINS: Yes.

CONSTANTINE ALEXANDER: From Concord Avenue?

LEESTEFFFY JENKINS: Yes. There's my door and then there's another door that Mr. Clark uses for right now basically for storage in his office. And then next to that, so between his house and there is that pad that I'm talking about. And can you tell me is there a fence? I think there's a little wall or something? It's like a wall that you have to walk around to get to the pad where the -- and I don't want to put a dumpster there. I want to use the smaller ones.

CONSTANTINE ALEXANDER: You don't have to put one there if you don't need

one.

LEESTEFFFY JENKINS: Yeah, first of all, I don't need it. But then I'm afraid dumpsters attract people to throw things in, you know.

CONSTANTINE ALEXANDER: How frequently will you be removing the waste at the building?

LEESTEFFFY JENKINS: At Mass. Ave. they came once a week. If I decide I need it more often, you know, I just have to call them and they will come more often.

CONSTANTINE ALEXANDER: You should do it as frequently as you can for sanitary conditions. On the other hand, the less frequently you do it is better for the residential neighborhood in terms of commercial vehicles coming in.

LEESTEFFFY JENKINS: Right. I have

more recycling like cardboard and other things than trash. Or I mean I use, I'm very environmental in terms of all that stuff, so that is a bigger portion of my waste than trash is.

CONSTANTINE ALEXANDER: I have to say this from a personal note, I drive down Concord Avenue quite a bit, and I've always wondered why there's not a bakery in that structure. It strikes me as a perfect place to have one. People drive to work and stop and get a cup of coffee and muffin and off they go. Now they get a gluten-free muffin. It strikes me as a highest and best use other than residential for this property. And this building can't be used for residential purposes. The only way to make a residential use of this property would be

to tear the building down and that's a bit much. So it strikes me, speaking for myself, that this, with some conditions that we're going to impose when we take a vote, this makes good sense for you and for the neighborhood.

But I will open the matter up to public comments. Any comments from members of the Board? I'm going to give them a chance. No comments.

Public testimony. Sir.

JEFFREY MITCHELL: Well, as the letter indicates, my wife and I back up to that property. Really we're very much in favor of this project. And we're just a little bit concerned about what you would call mission creep, odors from activity other than baking, for example. You know, some decline in attention to removal of

waste, you know, smellier things than planned in the trash, etcetera. And, you know, nothing about Ms. Jenkins' behavior up to now suggests to us that we will have these problems. She's been very forthcoming and we expect it to go on that way. But we want to go on record with these concerns. And I don't, I'm not sure how relevant this is, it certainly is to us, but we are concerned about the future uses of the building in case somebody succeeds Ms. Jenkins and we would want, you know, that tight circle drawn around it limiting it's functions.

CONSTANTINE ALEXANDER: First of all, with the relief being sought and the relief being granted is only for a retail bakery. So Red Bones can't open up a branch over there and have barbecue

smells. And beyond that, there's always a risk as you say, people or tenants throw away and litter starts to collect, but there will be conditions about that. And if that happens, Mr. O'Grady is going to kick me in the butt, you can complain to Inspectional Services to saying they're not living up -- you'll hear the conditions in a second, they're not living up to the conditions of the Variance and it's in the hands of Inspectional Services and ultimately an appeal to this Board if it gets to that. In short, there will be protections hopefully sufficient, but I think with regard to odors, the only thing that can come out of this is a bakery. So I wouldn't be concerned about that. It's only a petition to operate a retail bakery in this structure.

JEFFREY MITCHELL: And retail bakery meaning baked goods?

CONSTANTINE ALEXANDER: I would hope so. That's how I construe bakery. But yes, retail bakery.

JEFFREY MITCHELL: Baked as against cooked in other ways?

CONSTANTINE ALEXANDER: Cooked in other ways, barbecue.

MARY MITCHELL: It is true you do plan to have an indication where you're gonna sell some frozen meat pies and things like that and sandwiches?

LEESTEFFFY JENKINS: Not necessarily sandwiches, because it's not really a lunchtime.

MARY MITCHELL: I thought that was a possibility.

LEESTEFFFY JENKINS: You see

sandwiches on my menu because I used to do the farmer's market like Copley and Dewey and whatever. Unless there's a dense lunchtime crowd, it doesn't make any common sense.

CONSTANTINE ALEXANDER: If sandwiches really become accessory -- are an accessory part of your business, in my view you're fine. If they're so popular that it becomes a sandwich place first and foremost and a little bakery on the side, you might have -- then you can complain. You may have an issue and you have to come back before us. That's the way it will work.

LEESTEFFFY JENKINS: Okay.

CONSTANTINE ALEXANDER: Any other public comments?

HEATHER HOFFMAN: Hi, Heather

Hoffman, 213 Hurley Street. I stuck around just because I'm so happy to hear that Violette is coming back. I'm married to a celiac. I'm at risk myself, and so I am thrilled that you're coming back and I am glad that the neighbors support you.

I've thought that I would offer my own experience of living above a bakery. I lived for two years above Rosey's Bakery in Inman Square and they were rotten neighbors, but not because of their conduct as a bakery. As a bakery, I can say that they were so clean that I never saw any, any living creature that I didn't want to see in our apartment, and, you know, there were no problems with smells or anything else. So I can testify that it is quite possible to do this right next to a residence and be a good neighbor in

that way. So I hope that -- I mean, you have experience already and so I'm -- I will tell my husband because he will be thrilled.

CONSTANTINE ALEXANDER: Thank you for taking the time to speak to us.

Anyone else wishing to be heard?

(No Response.)

CONSTANTINE ALEXANDER: No one wishes to be heard.

The Chair would report we are in receipt of numerous letters all in support. They are including people that do not reside in Cambridge, but who are interested in having a gluten-free bakery. So they're all incorporated into our record as if I had read them, but I'm not going to read them.

And a letter from Mr. and

Mrs. Mitchell we've dealt with from their testimony and my brief summary of at least a portion of the letter.

So, I'm going to close public testimony. Ready for a vote? I guess we are.

The Chair moves that we -- and listen carefully because there are going to be conditions, and you've got a problem before we take the vote, express them to us and we'll consider your issues.

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. Such hardship being is that this structure involved is a one-story structure that is not amenable to

residential use and, therefore, must be used for business purposes as it has been for many, many years previously.

The hardship is owing to the shape of the structure. It's a one-story garage type structure that, again, is not amenable to residential use.

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

So on the basis of these findings the Chair moves that we grant the Variance being sought to operate a retail bakery on the premise subject to the following conditions:

That the hours of operation shall be only between seven a.m. and nine p.m.

That the suitable waste containers be situated in and around the store.

That you are -- shall regularly survey the property to be sure that litter and debris are removed to the extent that you can. Not every minute of the day, but from time to time you should do that.

That food waste with regard to your operations and trash generally will be maintained at the far end of the building and picked up as frequently as reasonable under the circumstances so it doesn't accumulate and create health issues. I think that's it.

You've indicated that you don't want to have a Dempster Dumpster and we're not going to require you.

MARY MITCHELL: You just said the hours were seven to nine and I believe

seven to seven was the absolute outside.

CONSTANTINE ALEXANDER: Did I say seven to nine?

LEESTEFFFY JENKINS: Seven to seven.

MARY MITCHELL: Thank you. Okay.

LEESTEFFFY JENKINS: It's a daytime business.

CONSTANTINE ALEXANDER: Okay.

Any other conditions from members of the Board? You happy?

All those in favor of granting the Variance with the conditions I've enumerated, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

Good luck.

(Alexander, Hughes, Sullivan,

Scott, Anderson.)

LEESTEFFFY JENKINS: Thank you.

* * * * *

(10:35 p.m.)

(Sitting Members BZA-007732-2015:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Slater W.
Anderson.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 007732, 12 Sacramento
Street.

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

SUSAN FRIEDEN: I realize I have
one letter and you're reading off all
these letters that people sent in early.
I should have done that, and this is our
one letter.

CONSTANTINE ALEXANDER: It's a
short letter, I can read it.

SUSAN FRIEDEN: It's only one
neighbor that sees this thing.

CONSTANTINE ALEXANDER: Okay, you

want a Variance for an addition to add a fireplace to your house. A fireplace and a Special Permit to relocate windows and a setback, two forms of relief.

SUSAN FRIEDEN: Yes.

CONSTANTINE ALEXANDER: Go ahead.

SUSAN FRIEDEN: Okay, so I'll tell you about the fireplace.

CONSTANTINE ALEXANDER: Do the fireplace first and we'll do the windows.

SUSAN FRIEDEN: Okay. The fireplace, we wanted to put a fireplace but we wanted it flush against the wall so it bumps out a little bit, and the one neighbor who would see the bump out wrote the letter. She says she doesn't care.

We'd like to do it because my folks -- the reason partly we're doing this, my folks are going to be moving in

with us and I realize this winter that my mother lives by the fire. And she's getting weepy and she doesn't want to leave where she is. And I told her we'll get a fireplace and we can put it inside. And a lot of family is in there you could put it in the space. You have the plan with their own kind of sense of a space. So it would be great if we could just do that.

CONSTANTINE ALEXANDER: And this is going to very slight increase in the FAR?

SUSAN FRIEDEN: I know.

CONSTANTINE ALEXANDER: Which is why you're here. You're already non-conforming. You're at 0.58 and you're going to 0.59 and the district is 0.5. Not the end of the world.

SUSAN FRIEDEN: Right.

CONSTANTINE ALEXANDER: Questions from members of the Board on the fireplace?

TIMOTHY HUGHES: No, I'm pretty familiar with how they work.

CONSTANTINE ALEXANDER: I'm sorry?

TIMOTHY HUGHES: I'm pretty familiar with how they work.

CONSTANTINE ALEXANDER: Is this going to be a wood burning fireplace?

SUSAN FRIEDEN: No. Gas. Really simple.

CONSTANTINE ALEXANDER: That's what I thought.

I'll open the matter up to public testimony. Is there anybody who wishes to be heard?

(No Response.)

CONSTANTINE ALEXANDER: It doesn't seem anybody wants to be heard.

SUSAN FRIEDEN: 10:40 is the time.

CONSTANTINE ALEXANDER: We are in receipt of a letter delivered to us by the petitioner from Ann-Charlotte -- you're going to spell the last name.

SUSAN FRIEDEN: I don't know how she pronounces her last name. I would just call her Ann-Charlotte.

CONSTANTINE ALEXANDER: The last name is spelled H-o-g-i-u-d-s. Who resides at 10 Sacramento Street. (Reading) I live at 10 Sacramento Street, next door to the Friedens at 12 Sacramento Street. I am the only neighbor who will be in any way to see the fireplace bump out for which they are seeking a Variance. I am not at all opposed to this addition

and welcome the upgrade to their property.

That's it.

Discussion or should we go for a
vote first on the Variance?

TIMOTHY HUGHES: I'm ready for a
vote.

CONSTANTINE ALEXANDER: Ready for
a vote?

THOMAS SCOTT: Ready.

CONSTANTINE ALEXANDER: Okay.

We're dealing with the Variance now.
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 is that the occupant
of the structure will be -- a perspective

occupant will be an elderly person in need of the fireplace which is the subject of the relief being sought.

That the hardship is owing to the shape of the structure. That it's non-conforming and, therefore, any modification of the structure requires Zoning relief.

And that the desirable 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 with regard to the Variance is very modest in nature.

So the Chair moves that the relief be granted on the -- the Variance be granted on the condition that the work

proceed in accordance with the plans, multiple pages, submitted by the petitioner. They're attached to a certified plot plan that's been initialed by the Chair. These plans have been prepared by Mary Ann Thompson, T-h-o-m-p-s-o-n Architects.

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

(Aye.)

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

SUSAN FRIEDEN: Thanks.

CONSTANTINE ALEXANDER: Now the Special Permit. This is to -- why do you want the Special Permit?

SEAN O'GRADY: Windows.

CONSTANTINE ALEXANDER: I know for windows. Non-conforming, add windows,

remove windows in a non-conforming walls.

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

That the petitioner cannot proceed without seeking relief under our Ordinance.

That what is proposed 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 proposed.

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 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 that the Special Permit being requested be granted on the condition that the work proceed in accordance with the plans referred to with regard to the Variance. Same plans.

SUSAN FRIEDEN: Yes.

CONSTANTINE ALEXANDER: All those in favor please say "Aye."

(Aye.)

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

SUSAN FRIEDEN: Thank you.

(Whereupon, at 10:45 p.m., the
Zoning Board of Appeals

Adjourned.)

* * * * *

C E R T I F I C A T E

**COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.**

I, Catherine Lawson Zelinski, a
Certified Shorthand Reporter, the
undersigned Notary Public, certify that:

I am not related to any of the
parties in this matter by blood or
marriage and that I am in no way
interested in the outcome of this matter.

I further certify that the testimony
hereinbefore set forth is a true and
accurate transcription of my stenographic
notes to the best of my knowledge, skill
and ability.

IN WITNESS WHEREOF, I have hereunto
set my hand this 10th day of September,
2015.

Catherine L. Zelinski
Notary Public
Certified Shorthand Reporter
License No. 147703

My Commission Expires:
April 29, 2022

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