

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, NOVEMBER 5, 2015

7:00 p.m.

in

Senior Center

806 Massachusetts Avenue
Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Timothy Hughes, Vice Chair

Brendan Sullivan, Member

Janet Green, Member

Douglas Myers, Associate Member

George S. Best, Associate Member

Jim Monteverde, Associate Member

Alison Hammer, Associate Member

Maria Pacheco, Zoning Secretary

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1. October 26, 2015 Open Meeting Law complaint from John A. Hawkinson; November 3, 2015, addendum to Open Meeting Law complaint from John A. Hawkinson; review and approval of response to said complaint and addendum.	3

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PROCEEDINGS

(7:00 p.m.)

CONSTANTINE ALEXANDER: The Chair will call this meeting of the Zoning Board of Appeals to order.

Mr. Hawkinson? I'm sorry, Mr. Hawkinson has left a recording device here so everyone should be aware that the proceedings tonight are being recorded by Mr. Hawkinson. That's of course in addition to the stenographer who keeps the addition -- official transcript of our hearing.

The first order of business on our agenda is a matter as advertised in the city's website. Mr. Hawkinson has filed an open meeting complaint against this Board and that complaint actually is in two documents is on the website. The

City's Legal Department has prepared a response on behalf of our Board, which is also on the website. And the matter before us tonight is whether we approve of the response prepared by the City's legal counsel.

Sir, are you recording this. Sir, are you videotaping this?

XAVIER DIETRICH: I informed you that I was recording.

CONSTANTINE ALEXANDER: You did? I must have missed it.

What's your name, please?

XAVIER DIETRICH: I'm not going to tell you that.

CONSTANTINE ALEXANDER: Sir, you have to give us your name.

XAVIER DIETRICH: Yes, you do. We've been advised by the City's Legal

Department that you do. So if you're not going to give us your name, we're not going to allow you to record. Very simple. Take your recording device and move it.

Do you want me to call the police?

As the Chair of the meeting -- Mr. Martinson (sic) has given us his name, other members of the audience give their names. If you can't give us your name, I don't know why you have a right to record our proceedings. Take it with you.

Are you still recording? Sir, are you still recording?

I could hold this meeting up and call the police, but I will -- in the interest of everybody who is here I'm going to proceed and our meeting is being

recorded by an unidentified person.

So back to where we were before.

As I mentioned, there is a response appeared on behalf of our Board by the City's Legal Department.

Do members have questions about it? Do we want to discuss it? If so, we will go into Executive Session. If not, I will make a motion to approve the responses prepared by the Legal Department.

TIMOTHY HUGHES: I'm ready for the motion.

CONSTANTINE ALEXANDER: The Chair moves that the response prepared by the Legal Department -- in response to Mr. Martinson's --

JOHN HAWKINSON: Hawkinson.

CONSTANTINE ALEXANDER: Mr. Hawkinson's -- I'm sorry. Mr. Hawkinson's

open meeting law complaint be approved.

All those in favor, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in
favor. Approved.

(Alexander, Hughes, Sullivan,
Myers, Monteverde.)

* * * * *

(7:05 p.m.)

(Sitting Members BZA-007947-2015:

Constantine Alexander, Timothy Hughes, Brendan Sullivan, Douglas Myers, Alison Hammer.)

CONSTANTINE ALEXANDER: Next order of business. Call case 007947. 309 pearl Street.

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

(No Response.)

CONSTANTINE ALEXANDER: No one wishes to be heard.

The Board is in receipt of communication from the petitioner, stating the petitioner being Sam Batchelor, B-a-t-c-h-e-l-o-r, resides at 309 Pearl Street. (Reading) I am writing to withdraw my appeal for a Variance to side setbacks I've decided to pursue an as-of-right solution.

The chair moves that we accept this request of withdrawal.

All those in favor, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case withdrawn.

(Alexander, Hughes, Sullivan, Myers, Hammer.)

* * * * *

(7:05 p.m.)

(Sitting Members BZA-007664-2015:

Constantine Alexander, Brendan Sullivan, Douglas Myers, Jim Monteverde, Alison Hammer.)

CONSTANTINE ALEXANDER: The Chair will call case No. 007664, 14 Arrow Street.

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

ATTORNEY RICARDO SOUSA: Good evening, Mr. Chairman, Members of the Board.

Mr. Chairman, on Monday we were informed that we were not going to have a full complement of the Board members.

CONSTANTINE ALEXANDER: That's correct.

ATTORNEY RICARDO SOUSA: There were only four out of five. So we respectfully request a continuance of this

hearing. Given the circumstances that we've been involved in presenting this application for various Boards throughout the City and we were prepared to go forward tonight, and so we would respectfully request a date as close to tonight as possible at your next available public hearing.

CONSTANTINE ALEXANDER: Before we get to that date.

ATTORNEY RICARDO SOUSA: Yes.

CONSTANTINE ALEXANDER: Let me ask you a question. Are you proceeding under 6409 of the spectra mat, so-called spectra mat?

ATTORNEY RICARDO SOUSA: We are proceeding both under your by-law for Special Permit and also 6409.

CONSTANTINE ALEXANDER: Don't you

have to advertise 6409 relief so the city of the citizens are made aware that you're seeking relief under that section as well as a Special Permit?

ATTORNEY RICARDO SOUSA: I think it's unclear to tell you the truth, Mr. Chairman. I don't know that there's any specific case law that requires an advertisement. The statute is a bit unclear as to that.

CONSTANTINE ALEXANDER: You're not aware of any law one way or the other?

ATTORNEY RICARDO SOUSA: I am not aware of any law one way or the other.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY RICARDO SOUSA: If this Board feels that it would be more appropriate for us to advertise for the next hearing, we will do so.

CONSTANTINE ALEXANDER: Probably.
You said the next available date?

ATTORNEY RICARDO SOUSA: At the
next available hearing if possible.

CONSTANTINE ALEXANDER: When's the
next one?

MARIA PACHECO: 19th of November.

CONSTANTINE ALEXANDER: It
wouldn't give you enough time to
advertise.

I think in the future, I guess, if
there is a problem with notice, the risk
is yours.

ATTORNEY RICARDO SOUSA: Correct.

CONSTANTINE ALEXANDER: If someone
wants to challenge, they can say they were
improperly noticed. I think in the future
we are going to require a different form,
if people want to proceed on a 6409, you

and your firm are here before us frequently, a little bit more specific so people -- the citizenry is made aware of the fact that you're moving under a different statute.

ATTORNEY RICARDO SOUSA: Sure.

CONSTANTINE ALEXANDER: If you're willing to go forward on the 19th under the advertisements that you have, we're okay.

ATTORNEY RICARDO SOUSA: Yep, I am willing to do so. The 19th would be appropriate. I think given that this application has already been on the docket, we would like to proceed that way. We've been in discussions with the City Solicitor's office relative to future applications that may not have a Special Permit attached to them, and we will

proceed in accordance with their recommendation that those be referred to the BZA and that they be advertised appropriately.

CONSTANTINE ALEXANDER: Okay, fine. Fine.

BRENDAN SULLIVAN: I think going forward that they would have to notify the City of the filing that they're filing and claiming protection of 6409 so that the City is aware of it. And at that point it should probably go into the public notice.

CONSTANTINE ALEXANDER: Yes, that's exactly what I -- that's exactly my point.

BRENDAN SULLIVAN: Right, so that the city --

CONSTANTINE ALEXANDER: Because if we don't, I think the petitioner is at

risk that whatever relief we do grant can be challenged.

BRENDAN SULLIVAN: You have to state that on the onset anyhow.

ATTORNEY RICARDO SOUSA: And, Mr. Sullivan, to your point we try to do that. We both filed a copy with the City Solicitor's office of our 6409 eligibilities request which is fairly comprehensive and we also file a copy with the Building Commissioner as well.

BRENDAN SULLIVAN: Correct. So I think that probably covers it.

ATTORNEY RICARDO SOUSA: Very good. I hate to backtrack, but if there's time available on the 4th of December, if I could entertain that so that we --

CONSTANTINE ALEXANDER: Preferring that not 9th?

ATTORNEY RICARDO SOUSA: Yes. In an abundance of caution we will change the notice board to also add a line relative to 6409 relief, and we will make sure that we work with Maria and the office to revise the public notice so that it further flushes out not only the Special Permit relief that's being requested here, but also relief under 6409 in the alternative.

MARIA PACHECO: Would that have to be re-advertised?

CONSTANTINE ALEXANDER: I think that's what we're saying.

ATTORNEY RICARDO SOUSA: In the abundance of caution, we'll send a new notice.

MARIA PACHECO: December 10th.

CONSTANTINE ALEXANDER: December

10th.

ATTORNEY RICARDO SOUSA: December 10th? I can do that.

CONSTANTINE ALEXANDER: Do we have room on the agenda on the 10th?

MARIA PACHECO: Yes.

BRENDAN SULLIVAN: Is that a case not heard?

MARIA PACHECO: It is a case heard.

CONSTANTINE ALEXANDER: It's a case heard.

BRENDAN SULLIVAN: It is a case heard.

MARIA PACHECO: And I think this case was filed way before -- this is a --

CONSTANTINE ALEXANDER: The persons who have to sit on this case are Brendan, myself, Tom who is not here

tonight, so we don't know. Slater, who is not here tonight.

MARIA PACHECO: Right. I know they're both available for the 19th.

CONSTANTINE ALEXANDER: They are. And, Tim, are you available for the 19th?

TIMOTHY HUGHES: Yes, I am.

MARIA PACHECO: We're changing it now to the 10th.

DOUGLAS MYERS: 17th.

ATTORNEY RICARDO SOUSA: There's nothing in the case law that I've seen or in the statute that requires public notice. And I feel that there's -- there has been public notice relative to this application. We've always referenced 6409 in the application itself. I don't want to wait to a time period too far in

advance because it will take you beyond the 60 days under the statute, and I don't want to put the City in that position. And so, unless we can confirm that everybody will be here on the 10th, do we know that?

MARIA PACHECO: I don't.

TIMOTHY HUGHES: You don't?

MARIA PACHECO: I know the 19th for sure.

ATTORNEY RICARDO SOUSA: If that's the case, we will at a minimum revise the notice board to add 6409 but we will respectfully ask for a continuance to the 19th.

CONSTANTINE ALEXANDER: Is there any reason why you can't advertise for the 19th public advertisement?

ATTORNEY RICARDO SOUSA: I don't.

MARIA PACHECO: Not enough time.

CONSTANTINE ALEXANDER: That's 14 days from now.

ATTORNEY RICARDO SOUSA: It would have been Wednesday.

CONSTANTINE ALEXANDER: Again, at the end of the day it's your call.

ATTORNEY RICARDO SOUSA: It is our call. We'd like to continue to the 19th.

DOUGLAS MYERS: This says December 17th.

TIMOTHY HUGHES: November 19th.

DOUGLAS MYERS: November 19th, I apologize. Thank you.

CONSTANTINE ALEXANDER: You've confirmed with everybody could make it or not?

MARIA PACHECO: Slater and Tom could.

CONSTANTINE ALEXANDER: He had an emergency. We had one member that couldn't come tonight.

ATTORNEY RICARDO SOUSA: Of course, we understand it happens.

CONSTANTINE ALEXANDER: Okay. The Chair moves that this case be continued as a case heard until seven p.m. on November 19th on the -- subject to the following conditions:

The petitioner has already signed a waiver for a time for decision.

Further that the posting board be modified. The signage that's been up there be modified to reflect the new date and the new time.

ATTORNEY RICARDO SOUSA: Yes.

CONSTANTINE ALEXANDER: And that lastly, to the extent that new plans or

modified plans or dimensional forms
results, that have to be in our file, as
you know, by five p.m. on the Monday
before the 19th.

ATTORNEY RICARDO SOUSA: Of
course.

CONSTANTINE ALEXANDER: All those
in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in
favor. Case continued.

ATTORNEY RICARDO SOUSA: Thank
you, Mr. Chairman. Have a good night.

(Alexander, Sullivan, Myers,
Monteverde, Hammer.)

* * * * *

(7:10 p.m.)

(Sitting Members BZA-006009-2015: Brendan Sullivan, Douglas Myers, George S. Best, Jim Monteverde, Alison Hammer.)

BRENDAN SULLIVAN: The Board will hear case 006009-2015, 30 Brattle Street.

Mr. Wagner.

ATTORNEY JAMES WAGNER: Thank you, Mr. Chairman. James Wagner for the record. You may be well aware of who I am. If you don't mind, I'm not going to sit because I would rather use the boards if that's okay. And I did not bring my own easel and I will use chairs and try to position these that will make it both visible to the Board and to members of the public.

You may recognize this as our original proposal for the Sign Variance at 30 Brattle for the three retail tenants.

LAURA DONOHUE: James, I'll hold that.

ATTORNEY JAMES WAGNER: This is actually Laura Donohue, not Vanna White.

And so this is our original

proposal. You may recognize this. It had -- it's a signage for the three retail tenants at 30 Brattle Street, Leather World, Citizens Bank, and Ms. Donohue's business Bob Slate Stationer, and essentially a vertical banners, channel letter signs, and that sign band, and on this sign band both the combination of plates, the green and internally illuminated signs and plus there's an ATM surround here on the ridge.

We had a robust discussion at the last substantive hearing on this, and I heard from all of you as to what changes that should be considered by the tenants in order to make this palatable to the Board, and the result is this plan and also the -- what you've had hopefully electronically and also in paper form.

And let me talk about what the differences are and I know you've got a full agenda, I do not want this to go on and on. I'm sure you do not as well.

So let me talk about what it was I heard you all say. And thank goodness you all do a transcription of the hearings. That was very helpful. I wish all municipalities do that. It's great to have that information at our fingertips as we're trying to do a new design.

What I heard from Mr. Sullivan was that the location and the red brick facade and the desire for an anchor branch didn't justify the Variance. So what we did is reduced the number and gross area of the sign, and we now have less than two times the as-of-right area for these signs since we have two times the store frontage due

to the split level. So we have half the amount of signage area of signage that we have in the previous and it's essentially two times will be allowed as of right. Because as I say, we have retail tenants on two levels in this particular building.

The other thing we heard was there's too much text up high on the building. I think Mr. Monteverde and Mr. Myers talked about that. And so we've done what we could to move text off of the facade, including these tag line signs for Leather World down -- moved down in the alcove as we have already done with the Bob Slate Stationer's sign here.

We heard the ATM sign was too loud. So what we've done is toned it down significantly. Not all green but rather has a simple and small sign over the ATM,

and basic limited amount of green to allow you to know that it's a Citizens for those who associate Citizens with green. Again, toning down the ATM surround.

We heard loud and clear too much green generally. We heard that from Mr. Best, Mr. Monteverde, and Ms. Hammer. And we've eliminated five of the green panels here on the sign band so that they're now, they're now plain, and we have eliminated what results in 122 square feet of green. So toning down the green a lot.

We also heard too much branding. That -- this was -- it wasn't way finding, that this was branding.

So, again, going back to the ATM, not a branding, but rather a sign on the ATM.

And then what I heard from Mr. Monteverde was that we need a sign that's more focussed on the entrances because one of the things that's complex about this building is two different entrances and three different tenants, and so the design here, fewer signs, and they're focussed on the particular entrances for the various businesses. So banner and sign for the Bob Slate space and entrance.

Here on these stairways, Leather World sign and banner for their entrance here, again, off of this stairway.

Citizens' signs, Citizens sign for their entrance down here off the sidewalk going down into the garden level space. So -- and, again, banners reflecting their location and the building.

So we tried our best to listen to the comments that you all have made to -- and we think we've done this. And, again, I think this particular petition, this particular iteration better reflects the intent of the by-law which is to have, again, we have 145 linear feet of frontage here for these tenants which would allow as of right, 145 square feet of sign area. We have two levels of retail tenants. Again, a little unusual, and, therefore, we're doubling the amount of square area for the signs in order to give these retail tenants the same amount of signs that any other retail tenant in Cambridge would have.

So, again, I think that was an important threshold was to make sure that these tenants, these retail tenants were

not given any special breaks but rather were given what any other retail, retailer in the City of Cambridge would have particularly in Harvard Square.

We, as requested have submitted an as-of-right illustrative plan to show what is allowed as of right. I hope I made it clear in the filing that's not something that all three tenants would agree to. I can pull out the existing conditions. Leather World has two large signs here in the very front of this building, and they would not agree to give up the area or that great location for an as-of-right solution. So it's, again, a bit of a fiction. But I hope you'll see also that because we're trying to accommodate signage for two levels of tenants that when you put -- when you allocate that

over the as-of-right amount over the facade of this building, the signs look puny. They're about half the size of the competitors at Citibank or Dickson Hardware next-door, and I just -- it doesn't work and that's why we're here is because we think -- we feel that it doesn't work.

So that's sort of procedurally how we got here. I'm happy to answer questions about the design and what we're trying to accomplish here. But, again, I think you've heard a lot from us so we don't intend to take a lot of your time here.

BRENDAN SULLIVAN: Well, there are two things in play here: One is graphics and the other is numbers. And I think what I was really interested in, and other

members, what you could do as of right and why that doesn't work. So if you go back -- you may have to sit down for this one. If we go Tab 1, and this is the existing sign area basically.

ATTORNEY JAMES WAGNER: Yes.

BRENDAN SULLIVAN: All right. That's the way it is right now. And with that signage in place comes up to 138.52 square feet?

ATTORNEY JAMES WAGNER: Yes.

BRENDAN SULLIVAN: And you're allowed 145 square feet?

ATTORNEY JAMES WAGNER: Yes.

BRENDAN SULLIVAN: So this is an as-of-right solution?

ATTORNEY JAMES WAGNER: Yes.

BRENDAN SULLIVAN: Okay.

And I question, really, why it

doesn't work. It's working today. It may not be optimum, but the ordinance doesn't say that you need to have optimum. It just says that you have an allowance and there is a guideline and a yardstick for that and under extraordinary circumstances should you exceed that. So you have 138.52. You're allowed 145. You could still add 6.48 square feet somewhere to bring you up to that 145 square feet.

The latest plan, which would be Tab 2; is that correct?

ATTORNEY JAMES WAGNER: Yes, Mr. Chairman.

BRENDAN SULLIVAN: And what is the total square footage of that?

ATTORNEY JAMES WAGNER: It's approximately 290. The full -- sorry, it's approximately 145 square feet. I'm

not a math guy, I'm a words guy. But it's approximately 145 square feet.

BRENDAN SULLIVAN: Okay.

So that brings you also up to the Ordinance. However, the problem with that is getting Leather World to agree to that.

ATTORNEY JAMES WAGNER: Sure.

BRENDAN SULLIVAN: Which we have correspondence that they will not.

ATTORNEY JAMES WAGNER: Right.

BRENDAN SULLIVAN: So that sort of knocks that out of the equation and/or the consideration.

It's too bad because I think that in my going over this numerous, numerous times and taking your latest plan, and that would be this one, okay. And I have basically taken out the banners, but allowing you for all of the other signage,

the new plan of Leather World, Bob Slate, and some of the green and also the area around the ATM machines, I come up with 175. So just so we're charting this, Leather World I have at 34.6 times 2, both sides, is 69 square feet.

Citizen Bank I'm allowing 39.4.
Citizen Bank, 24.8.

And then Bob Slate 26.9 and 15.6 square feet. It comes out to 175.70. Its allowed is 145.

To bring that down a little bit, eliminating the Citizen Bank, may very well get you below that number.

So I guess where I'm going with this is that I'm not convinced that exceeding that 145 doesn't work, and an as-of-right solution which is there today, I think works. I think it gives everybody -- I

don't necessarily care for the Leather World signage, but that's not before us actually. That was -- it's got to be as of right or something.

I think that the better solution, if you will, to the situation would be a better allocation of signage on the building. But that's not for us to really get into. I mean, that's really tenant/landlord negotiations and so on and so forth. You know, when you guys came in and occupied it, God knows whether the lease says, whether it says Leather World, whether it says Bob Slate, how much signage they're allowed. All we know is 145 feet is allowed and why doesn't it work? And I'm not convinced that it doesn't work. That's all.

ATTORNEY JAMES WAGNER: If I could

give you some thoughts on that?

BRENDAN SULLIVAN: Sure.

ATTORNEY JAMES WAGNER: So it doesn't work for a couple of reasons:

One is that this is a building that has frontage on two streets. If you put the signage, for example, for Citizens on the portion of the building where its door is, it has no visibility down either Brattle Street nor on Mount Auburn Street. And that's important. This is a business for Citizens that people come upon. You know, visitors to Harvard Square, students coming for the first time, they need that visibility to be able to define the location.

Second thing, we do believe that the signs that we're proposing creates some definition to otherwise fairly bland

facade to this building. We think the banners help that. We think that the signs properly allocated, as you say help that.

The third thing is that I realize that it's not this Board's problem about the allocation. And that the pre-existing non-conforming signs of Leather World are not your problem. However, we're trying to do what we can to fix a problem. And one of the problems is that the allocation is unjust, if you will. Leather World has more square footage allocated to it than it ordinarily would be allowed based on the amount of square footage that it has in this building. The plan that we're proposing reallocates that so that there is an appropriate balance based on the square footage of each within the

building. So that yes, we're asking for relief in order to make that happen, but we think that it's an appropriate relief.

The other thing is that I just spent a couple of minutes going around the area to remind myself what the general immune of the signs are in this area. The signs that we could figure out, again, on this illustrative plan are much, much smaller than you see on all the competitors and all the businesses in this area. I think that this will be a real problem of sort of proportionality on the facade of the building and invisibility even on the other side of Brattle Square, never mind trying to get some visibility down these streets. So that's what we're trying to accomplish, is to try, is to try to, you know, deal with what we can and this sort

of split level location with frontages on two different streets, and then trying to make it work for three different retail tenants. I realize that it requires relief. I think the nice thing about this particular application is I've seen, and I'm sure you all have seen, many, many Variance applications where there is no way they can meet the actual legal test for a Variance. This one actually meets it. We actually have physical aspects of this building which are unique, which create the hardship that we're talking about. The split levels that we're having to split up twice -- we're having to split the as-of-right signage between two different levels, two street frontages that we're having to deal with, and then the shape and curvature of the building

that --

BRENDAN SULLIVAN: That's not unique in the square. You know, go across the street where Citibank is, that's a, you know, a two level. They also front on two streets. On the opposite side of Mount Auburn Street is a curved building, two levels.

ATTORNEY JAMES WAGNER: I'm glad you tagged that. My guess is they have four times the as-of-right signage on that building. So that's what we're competing against.

BRENDAN SULLIVAN: Well, then that doesn't -- because somebody else is misbehaving, that doesn't allow us to sanction other people to misbehave. Or unless it's been grandfathered in.

ATTORNEY JAMES WAGNER: Yes,

Mr. Chairman, you're right. But it was there for a reason. I mean, designers thought that that was appropriate for a modern building to have that --

BRENDAN SULLIVAN: Or since then they've changed the Ordinance because the City Council and Planning and Community Development in their wisdom decided it wasn't appropriate. And so consequentially they have handed us this Ordinance to say one square foot per lineal foot of frontage on the street is appropriate. So we could have this back and forth --

ATTORNEY JAMES WAGNER: I understand.

BRENDAN SULLIVAN: -- who did what, when, and how. But --

ATTORNEY JAMES WAGNER: Again,

that's a very interesting building you point out, because you're right, it's got the same situation where you have two levels of retail. We have EMS on the top and you've got Citibank and a bunch of our stuff on the ground floor. I think that if you look at that building, I think the signage on that building is appropriate. It looks appropriate for the architecture and for the size of the building and for those facades. I think what we're asking for here is pretty comparable. Actually probably less than what they have on that building.

BRENDAN SULLIVAN: All right, well, anyhow.

ATTORNEY JAMES WAGNER: We can agree to disagree on that.

BRENDAN SULLIVAN: We can agree to

disagree.

Let me open. Any questions comments from members of the Board?

GEORGE BEST: When you were in the corner of J.F.K. Street you had traffic in the same type of pattern and it seemed as though you had less signage there.

ATTORNEY JAMES WAGNER: Mr. Best, I can't swear what the signage was at that location. It did have aspects of it that were much better. I mean, that location was fabulous. It both had the central location in Harvard Square so that it's visible from a lot of different areas. It had a terrific blade sign, which was very visible. But most importantly it was on one level. So every square footage of signage that we were allowed to have at that location was ours rather than having

to share it between three tenants on two different levels. So I think that we would love to have the location back. We lost the space. We couldn't do that. And so I think that the impact of what we're talking about here is pretty comparable to that except that, again, we have two levels that we're allocating space over.

BRENDAN SULLIVAN: So all the signage that was on that building was yours and that's brought it up to the max which was allowed?

ATTORNEY JAMES WAGNER: Again, Mr. Chairman, I don't know. If I was involved in that permitting, it was about 15, 20 years ago --

BRENDAN SULLIVAN: You didn't have to share any of it. And anyhow, okay.

DOUGLAS MYERS: I just have a

question of fact. Did you say that the front sign or the front wall sign, not the green sign above the entrance, but in your present proposal that the Citizens Bank sign has been reduced in its size from your original proposal last May? Did I understand you to say that or not?

ATTORNEY JAMES WAGNER: I'm going to have to look at my signage. I think it's modestly reduced.

DOUGLAS MYERS: Because as I compare the attachments to the proposal with the proposal you submitted last May, it's exactly the same.

ATTORNEY JAMES WAGNER: Okay, it may be exactly the same.

DOUGLAS MYERS: I just wanted to clarify now.

BRENDAN SULLIVAN: Go ahead.

DOUGLAS MYERS: What I've done, I gave this, Mr. Chair, I gave a lot of thought to this, and I've done something that's unusual. To me it's just indicative of what I consider to be the importance of the case. Ordinarily we board members don't prepare anything in writing for ourselves or for the file. Don't know why. We just don't do it. And certainly we don't prepare briefs or write letters to argue the case, but it helped me a lot to keep track of the signs and to try to respond to the signs in this proposal and to keep them all in a way, in a comparative way so that I could tell -- see what was happening with one, how it influenced another. And I did take the liberty, and I hope it's not an undo liberty, of making a little table. Sorry.

One page. And I'll certainly give you a copy, Mr. Wagner.

ATTORNEY JAMES WAGNER: Thank you.

DOUGLAS MYERS: And everyone here, Maria, too. And I didn't make enough for the whole audience, but I'll give one to this side and this side and hope we'll be able to use it.

What I'd like to do is take a look at the current proposal.

BRENDAN SULLIVAN: I gave mine away.

DOUGLAS MYERS: You gave yours away. That's what happens to generous people.

I'd just like to walk through the signs in the proposal in the belief that it will not take a lot of time, and in the belief that it will clarify -- be

responsive to what the Chair said, and will clarify the issues. And I did, I will also say is this clear? I made some suggestions, just my opinion, but that I hope it would further the discussion. And in any event, that this format might help us address all the signs in the case.

So starting on sheet 2 which is what appears at the bottom of the proposal. First of all, across the board as the Chair said, I agree, no banners. Period. They shouldn't even be in this proposal, in my opinion. The Board made that unanimously clear last time.

The Bob Slate projecting sign no one has objected, and it seems to me that it's an existing sign. It has some historic merit. And, again, I think that's fine.

The Leather World wall

letters -- wall letter signs, there are two. They are the same in this proposal. All of the wall signage is the same in this proposal as in the last proposal. My feeling is that they're fine. They are acceptable so long as, so long as, as we will go on here, the signs below them, the box panel signs, are eliminated because I think that's too much. I think the box panel signs are merely advertising and they are superfluous clutter and they have no identification value.

The big signs, the letter signs up top it seems to me have a reasonable identification value, and the frontage on two streets arguably favors -- useful for Mount Auburn Street as well as Eliot Street or that part of Brattle square, whatever it is.

The Citizens Bank wall sign, also on sheet 2, the letter sign at the top of the page, at the top of sheet 2, my take on that is at -- it's longer. It's five feet longer and six inches higher, wider, the lettering, than the other Leather World signs. I say reduce it. I say reduce it to the exact same dimensions of the Leather World sign. And I've -- I also have noted in the right-hand column for anybody who's mathematically inclined, the number of square feet we're reducing the proposal as a whole. So by eliminating, in my opinion, a completely superfluous box panels, the white box panels, you reduce the whole proposal 26 feet.

If you reduce the Citizens Bank wall leather sign, so that it's the same size as the Leather World sign, and in view of

the Citizens Bank prominently on the green panel in front, I don't see why they need a super large sign on the wall above. If you make that reduction, you reduce 17.8 square feet from the proposal.

Now, the Bob Slate alcove sign, I mean so far so good, there's a logic in what I'm saying. Let me skip the Bob Slate alcove sign and get back to that that's, because that's a little bit of a special case and it's a little complicated, not a lot. Let's just go to the Citizens Bank green signs, and this is on page -- sheet 4. Three green panels. And I started with the one in the middle which I say is justified. We've all been concerned with marking the entrance. It's large. But it's fine to have a conspicuous sign marking the entrance.

And the panel down at the bottom right, I say that's fine, too. It's far up on Mount Auburn Street. It's a useful identifying feature, especially when they've removed all the green on the interim panel facing that's not signed.

The Citizens Bank panel at the far left on the top of the page I notice its dimensions it differs from the right-hand panel. That seems to me unnecessary. Let the left-hand panel be the same as the right-hand panel, and that's a reduction of three square feet. Small, but the principle is that it all adds up.

The Citizens Bank ATM surround, I very much applaud the improvements and reduction of green that have been made, and my, even without focusing on that, my initial reaction was to say that's fine.

As proposed, it's an essential bank function. And to the extent there's more lighting there than we might like, we're going to talk about the hours of illumination, but in principle if it's a little more green than we would like it, that might enhance security. And I say it's fine, let it go.

And so now coming back to Bob Slate, the alcove sign, I thought about that, and everybody's giving something. There's a little bit of, I have to say, equity in here. We're taking away from Leather World. We're reducing Citizens Bank, but objectively that sign seems large to me, and that sign as the chart indicates in sheet 3, on sheet 3 we're knocking out the banners in my view. And the sign, although it's -- the dimensions are 13 and

a half feet by 24 inches tall. That's the letters are bigger than the letters on the wall of the building. On the letter signs on the wall of the building. And the sign at 13 and a half feet long is just much bigger than it seems to me is needed at street level or near street level.

Now, I, you know, without getting into too much -- so I said that can be reduced. What's fair? I don't know. And I do -- I have an idea. They have an as-of-right proposal, they could live with a sign that was eight feet, seven inches I think in the as-of-right proposal. But I said 13 and a half feet, let it be 12 feet. And instead of the really, really large 24-inch letters, I mean, who's going to see those? People going into the post office? Is that the idea? You could cut

those back to 18 inches, and, again, it would be the same size as the lettering high up on the sign of the building.

That's plenty adequate. And you've saved nine square feet. Not that I'm, you know, thrifty and want to save these feet. I want to bring this proposal into compliance as much as possible. That's my goal. And to respond to the point that the Chairman raised, but also by addressing each sign and seeing where we go.

So, with these suggestions -- I summarized it on the bottom of the page. The wall signage as proposed, 223 square feet.

The suggestions -- the suggested reductions above which are -- actually affect only four signs, four wall signs,

are 56 square feet. What remains is 167 square feet. Not far from the number of 175 that the Chair mentioned.

Wall signage permitted, 145 square feet.

Leeway allowed to the applicant, 22 square feet or 15.3 percent.

What do we have here? I think this is an -- and I'm not adamant and I'm not unwilling to talk and be completely flexible and responsive to fellow Board members as always, but it would be just to start the ball rolling and discuss the signs. I think what you have here is it's a rather modest concession but an acknowledgement of the presence of three businesses and the commercial reasonableness of much of the signage that's requested here, but I also believe

it's holding -- basically holding the line on the Ordinance, reasonable leeway, 22 square feet, 15 percent, and most important getting rid of a lot of the clutter and superfluous signage. I'm sorry to speak at length. I'm sorry at the excess detail, but my intent is to advance the discussion and this is certainly by no means something that I'm insisting. I hope it's helpful.

BRENDAN SULLIVAN: Absolutely.

ATTORNEY JAMES WAGNER: Mr. Myers, I've been doing this board work for 20 years and this is the most work I've ever seen a board member go to this -- this is amazing. Thank you for the effort you put into this.

DOUGLAS MYERS: It's all in a day's work.

BRENDAN SULLIVAN: Allison, you have questions and comments?

ALISON HAMMER: I did have a question and I guess a comment as well. My question is you used some metallic looking materials to fill in some of the green gaps, I'm just wondering what are those materials?

ATTORNEY JAMES WAGNER: I think that's yet to be determined. That was to represent that there's a blank there as opposed to the Citizens green that was originally proposed. If you have a suggestion as to what we can do -- I mean, for example, we had some markings, you know, that people spray painted. We'd love to do something. They have not done the signs, so if we could do something to discourage, you know, people defacing by

putting something that's not blank, you know, anyway, if you have suggests or anyone has suggestions, we're happy to take that.

ALISON HAMMER: Well, you know, I'm asking partly, and you've touched upon, you know, another thought that I had is that, you know, I was in the area the other day and I took a little bit of extra time to walk around the building and, you know, experience it as I have many times before, and I certainly noticed that, you know, it looks -- there are elements of it that look very grungy right now and have gotten kind of dirty and graffiti and things like that, and there do seem to be some gaps in the facade, you know, where you were proposing signage, granted we didn't like, all of the elements of, you

know, but right now it looks a little bit blank on this very kind of burlesque building with these kind of, you know, blank spaces that attract, you know, lack of care by -- not necessarily by you guys, just by whoever happens to be walking by a busy area like that. So I would certainly be concerned with how -- if those areas do not become filled with signs, how they will be treated to make sure that they, you know, adorn the building in a positive way that is -- that does minimize them falling into any sort of disrepair or taking away from the building.

ATTORNEY JAMES WAGNER: I mean, if this is approved or some variation of this that's acceptable to all three tenants, we'll do two things:

One is go back to the designer and

ask them what they recommend.

The other thing is we'll have to go back to Historic in any event to make sure they're comfortable with the Certificate that they have issued here. And they may have some good ideas about what would be consistent. As you say, the modern style of the building, the sign package here, and what they're trying to accomplish generally in Brattle Square. And, again, I think the chrome look is okay, but again, if people have suggestions, I mean, the more people, you know, we listen. So....

ALISON HAMMER: Right, I would be interested to hear that if you end up bringing this case to our Board again. The other thing I would say is that, you know, in a more general sense, you know,

I'm of two minds in a case like this. I feel like the Ordinance exists and, you know, you were aware of the Ordinance when you chose to lease the space, so on one hand it makes me feel well, you knew the rules. But on the other hand, I also do understand the argument you're making, and that is about the unique characteristics of this particular site which I do understand are unique and difficult and there are other places where there are two levels of retail throughout Cambridge and, you know, I think many of them possibly benefitted from earlier days where the sign ordinance was different. So personally I'm definitely interested to see what the public has to say, though, that is definitely going to be an important factor for me.

BRENDAN SULLIVAN: Jim, questions, comments?

JAMES MONTEVERDE: Ye, I think after the comments in the previous round I clearly wouldn't think what you're presenting tonight is much of an improvement. If you go forward with that, I don't think I could support. The board that you presented.

I think the suggestions that the board member made, which thank you for that and all that work, would be an improvement, quite a bit of an improvement to remove a lot of the disparity in the sign sizes. Just calm all that down. Get rid of all the clutter, the banners, etcetera. I think that would be a vast improvement and I think that was some of what we were trying to get across in the

first round. So I think if you were to consider going along that route, I think that would be much more successful. The material in the band, if it's not the green, I would such suggest chrome, but, again, that's a personal preference. But you really shouldn't stand out like that I don't think personally. But I think if you're willing to entertain these suggestions and think these through, I think this would take it a long way and I can support it.

GEORGE BEST: And I just want to say that the green itself is a loud color. It makes a statement. And so in that building, it takes away from the look of the building, to me and also it is -- it looks like it's a very loud statement of advertising. So that's where I have a

problem is there's a lot of advertising going on on that. I like the white Citizens Bank at the top. That I can work with. But when it comes down to the green, to me it's very loud. So you're going to notice the bank anyway because the color draws your eye to the bank, but as much signage as there is on that, on the building, I'm not sure.

BRENDAN SULLIVAN: You know Johnny Cash once wrote a song about the 40 shades of green, but not that shade. Is that right?

GEORGE BEST: That's right.

BRENDAN SULLIVAN: It's not a Kelly green, it's not a shamrock green, it's a Citizens' green.

I'm going to open it up to public comment. There is one correspondence

which I will read to preface the comments of the citizens. It's addressed to the Cambridge Board of Zoning Appeal. "Dear Members of the Board" -- it's dated November 4th. (Reading) Dear Members of the Board: I write this letter to address in particular the as-of-right illustrative drawing submitted to your Board. I wanted to make clear that Leather World does not approve of this as-of-right design. We do not intend to give up our current sign area or good sign location in an as-of-right proposal. We urge, instead, that the Variance be granted so that all tenants can have a fair amount and allocation of sign area in new attractive signs on this difficult building.

They apologize for not being here.
Michael and Carol Noymer, N-o-y-m-e-r.

Okay. Let me open it to public comment.

ATTORNEY JAMES WAGNER:

Mr. Chairman, may I step back?

BRENDAN SULLIVAN: Sure, you can.

CAROL O'HARE: Good evening. My name is Carol O'Hare, 172 Magazine Street. I won't go into all of my spiel because Mr. Myers has gone a long way to addressing the issues I think, and thank you very much. That's so impressive to -- and it's a big help I think to everybody.

The signs that -- there are two signs that exist in the traditional sense that weren't even disclosed. There are two -- I sent this in, but I don't know whether you saw it. These -- yeah, it's right there. These, these signs, which I

don't really care about, but it's a preface to one of them. I'm going to say this sign the 30 Brattle and the companion sign on the other side were not disclosed by the applicants at all, ever. In addition, Leather World has 18 signs -- 16, I think, signs in its windows. These are signs. These are classified as signs by the definition in the Zoning Ordinance. There are some -- they have four windows and it's a kind of mess. And so among the things that I'm going to suggest is that they put in their windows --

DOUGLAS MYERS: A copy of the Ordinance?

CAROL O'HARE: Yes, something like this which Bob Slate has in its windows, a display of their products without this

kind of jambalaya of signs of every sort.

Bob Slate has two signs out now that haven't been discussed. These are the -- this sign on the street that's up now or was up last week, and this Bob Slate classic sign that's behind the window that hasn't been disclosed and was -- has been up I assume.

So, I mean, I'm very sympathetic to these merchants and I really think they need signage, but give -- you know, decorate your windows, put one sign up or two signs if you need it for this round, rounded building, but give the Citizens a break. We don't need, you know, it all.

And there was a unanimous City Council order if you -- if you're aware of it, on September 28th which in particular addresses only big banks. They said

storefronts for big banks are more about their marketing than our community needs and do little to enhance the vibrant streetscape desired in city squares. They requested the city manager unanimously to draft an Ordinance extending Cambridge's big bank retail storefront limitations to the rest of Harvard Square and other Cambridge squares.

So, your following of Mr. Myers' suggestions would be consistent and harmonious with that. The only thing that you haven't -- so the only thing you haven't addressed yet, which you hinted at, Mr. Myers, and that is the lighting. Eleven of these proposed signs are eliminated. I understand that the ATM sign would need to be illuminated for as long as the ATM is functioning, but given

dark sky and environmental's concerns. I don't -- I just don't think that 11 -- and if the banners weren't illuminated -- sorry, the banners were not illuminated, I just don't think that that much light is necessary, and I certainly would hope that you would put a condition on the lighting that it be turned off after business hours except for around the ATM and not, you know.... So I would suggest that you require them to remove all of the previously undisclosed signs.

And by the way, I checked with Liza Paden about all those window signs this afternoon to confirm that, that, that, those would be considered signs under the Zoning Ordinance and she confirmed that. So that they be removed before any, any Variance is effective, that we impress

upon Citizens Bank as you have,
Ms. Hammer, that they engage in better
maintenance of the facility which looks
kind of downtrodden down at the heel.

And what else? That's it I think.

Oh, and well, the conditions on the
lighting. That is it.

BRENDAN SULLIVAN: Great, thank
you.

CAROL O'HARE: Thank you very
much.

BRENDAN SULLIVAN: Anybody else
wish -- yes.

LAURA DONOHUE: My name is Laura
Donohue. I'm a resident of Cambridge.
I'm also the owner of Bob Slate Stationer.
I prefer to speak quietly here since I am
not sure who that man is back there who
will not identify himself and I'm very

uncomfortable with his presence.

JOHN HAWKINSON: I could not hear you, Ms. Donohue.

LAURA DONOHUE: I'm sorry, perhaps you would join me then.

I have several quick points. I wish to thank you for your attempt to move the project forward. I will gratefully accept your projected reduction in the alcove sign that seems satisfactory to me. So as long as everybody else in my team of retailers approves, then I approve. I think that reduction and the lettering would be, you know, immaterial in a sense to the visibility.

I wish to bring up a point about the size, and I'm sorry I have to kind of hold this up like this. I'm about five-foot, seven and this bar here is over my head.

So already up here in my window you're at least eight feet off the ground. Okay?

When you put product in a window that's a notebook, you can't really see it. So I just wish to sort of highlight so that -- luggage, it works a little better. You put a big piece of luggage in the window, you know, you could see it. What we've done is literally take pictures of our inventory and blow it up and blah, blah, blah. But the point is putting inventory in the window is problematic. This is very high up. We are real mezzanine level. Okay. So when we talk, and I've talked about this extensively with Leather World, we put a brand sign in the window. Absolutely. We didn't realize it was part of signage. Nobody knew that. When Moleskine says I want

your Moleskine decal in your window so that everybody knows that stationery includes Moleskine, you know, and they want to advertise that they have Samoa and Toomey, we didn't realize that was a problem. It seems to me it's the same as having a product in the window. But having a product in the window is something that's very difficult for me given -- I can't put a pen in that window. I have a supersize picture of a pen. We have made a supersized picture for Crane note cards. It's not easy. So that's where the sort of need to put a brand name in the window comes from. It's second level.

This up here is got to be 12, you know 18 feet off the floor. So that's where a lot of that conversation comes

from is a product in the window is not visible.

Okay, secondly I would think it would be intuitive obvious, but the vinyl sign that I currently have the in window would be replaced by this sign. So that one's the vinyl one. There was no intent to, you know, deceive anybody here. That's a temporary sign. The intent would be that this would replace that.

And in terms of this sign, my understanding from a conversation with the Historical Commission when they came to check out the building in our previous conversations previous to this. Was that this is considered inside the building. And he told me quite clearly that this was not a sign that would count. If there's confusion between me and him, I accept

that, but he was very clear. Because we talked extensively about this entryway. He was very clear that that was a different concept. So if you guys could clarify that for me, that sign is important because if you're taken away the banners and you're coming around the corner, you know, or you're coming from Brattle Street, that's what I've got. Again, no intent to deceive here. Just my interpretation of a conversation with I believe it was Mr. Sullivan.

So, finally and I'm sort of going out on a limb and speaking for Citizens Bank here, but lighting at the ATM is extremely essential. This is a very dark corner. There's a very dark park across the street. I am the last one out of the building most nights at 8:30 or 9:00, and

it is a haven for other activities that one would rather not have at one's opening. I find needles, I find gloves, I find used condoms. Okay? If I were a woman trying to use that ATM at night, I would really like some light. And this is one of the only outdoor ATMs that there is. I'm not looking for a spotlight for anything, but I got to tell you this corner is a real magnet for people who are coming and trying to sleep in my staircase at night. And some nights I come out and there's five of them. There's me and five guys. Okay, enough with the lighting.

And in terms of lighting do, you know, my personal feeling would be lights on for signs until nine or ten because shoppers are out at nine or ten. They're coming out at dinner, see it, okay, check

it, I'll come back tomorrow. But I have safety lights up in here that are on.

Signage, you know, closing a little earlier but yeah, nine or ten which is when busyness closes down in the square.

So those are my comments on this. But in terms of this proposal, I would be acceptable with my portion of the reduction that you proposed, so there.

BRENDAN SULLIVAN: Okay, good.

LAURA DONOHUE: I cannot speak for Leather World.

BRENDAN SULLIVAN: They have spoken.

LAURA DONOHUE: Indeed. Sorry to go on for more than my two minutes.

BRENDAN SULLIVAN: Anybody else to speak?

Heather.

HEATHER HOFFMAN: Heather Hoffman, 213 Hurley Street, and I just want to say you're doing great. Keep doing it.

BRENDAN SULLIVAN: Anybody else wish to speak?

Mr. Williamson.

JAMES WILLIAMSON: Go ahead, Carole.

CAROLE PERRAULT: I really appreciate your comments.

BRENDAN SULLIVAN: If you could identify yourself for the record. Identify yourself for the record.

CAROLE PERRAULT: Yes, please. I'm sorry. Carol Perrault. C-a-r-o-l-e P-e-r-r-a-u-l-t. I live at Nine Dana Street. So some of my comments are probably -- have been mentioned tonight, but I will give you my two cents here.

Over the past year other members of the public are in clear opposition to the petition's successiveness and quantity of signs dimensions and illumination to the decided intrusion its implementation would have on the public way and to the fact that it has been a design driven by branding. At the May 28th hearing this Board in the words of member Myers clearly directed the applicant to submit, quote, your most appealing satisfactory proposal of right, unquote. Although the as-of-right design, tab 2 of the applicant submittal, is exceedingly more calming, it lacks creativity and an equitable solution for all businesses. The designers are the Philadelphia Design Company of Palmyra, New Jersey, a company whose logo includes, quote, bringing the world's brands to

life, unquote.

The creativity that this sign company might bring to light is not the type of creativity that we citizens of Cambridge desire for our streets in Harvard Square, a fact that was made apparent on September 28th when all nine City Councillors voted in favor of a policy order which would extend big bank retail storefront limitations to Harvard Square.

In the Cambridge policy or the resolution the following is stated, and Carol mentioned this: Quote, storefronts forbid banks are more about their marketing than our community's needs and do little to enhance the vibrant streetscape desired in the city squares.

At the May hearing I suggested the

applicant contact the City's storefront improvement program if it was available to them, did they do so?

In addition to the aforementioned creativity deficiency there is lacking an equitable design rationale which identifies each business location within the building and how each is entered. In this regard it seems citizens signs, and this is where I differ from most people who spoke tonight, I think that these Citizens signs should be limited to the street level band and the other store signs to the upper level as it seems inappropriate to me to have the Citizens sign above the second story Leather World window. Is this a Citizens' building? With the elimination of the second story Citizens sign I would support three

Citizen green signs as you suggested here, here, and here. And in the Citizens sign band, however, I'm concerned about this grey strip. Is that metallic? You mentioned that. Is it going to reflect? And is this something -- because it involves the building, would it have to go before the Historical Commission again for that change? That's a question.

It seems that Bob Slate -- the signs at the shared entrance stairway to Bob Slate and Leather World and for the second story are not strongly realized and integrated. And I'm talking about their tab 2 pro -- as of right. It seems that the Bob Slate and Leather World signs at either side of the stairway should be more compatible with one another in dimension.

I missed something along the way,

and I don't know why Bob Slate is not included on the building itself in a more compatible relationship with Leather World. That would draw your eye more systematically to the entrance rather than have this unbalanced an assemblage. I question -- and Mr. Myers suggested removing that, I questioned it as well, but I can see somewhat the value for the business because it describes Leather World. It could be any type of leather and this really identifies a certain type of merchandise.

So finally, I can continue to not support banners. I continue to support a significant reduction of illumination, and I continue to believe that excessive signage on any one building is not necessary in Harvard Square with its

compact and view streets, narrow sidewalks, and the society with electronic way finding devices in hand. And I just find this light pole here very troublesome in this location, and I don't know whether it could be moved or whatever. Probably not. But I do, I do have problems about illumination, because if you're coming from down Brattle Street, you can see that ATM machine all the way to the ART Theatre at night. So, I think it's pretty bright there, but you're there every night.

LAURA DONOHUE: I'm there everyday.

CAROLE PERRAULT: Thank you.

BRENDAN SULLIVAN: Thank you.

Is anyone else wishes to speak?

JAMES WILLIAMSON: Yes, if I could.

BRENDAN SULLIVAN: 1000 Jackson Place.

JAMES WILLIAMSON: Yes, thank you. Can I borrow this? Yes, thank you.

So I'm sorry to have gotten here late. My name is James Williamson, 1000 Jackson Place. No rest for the weary. I've followed this -- I've been to at least two of the hearings and maybe one that was postponed because it was going to the City Council. I have, you know, looked at it with considerable interest and I've listened carefully with some of the people who are a little more keenly interested in it. I mean more engaged than I've been and what they've all been having to say in e-mails and things like that. My understanding is that this is the current proposal and that this is

something that Doug Myer (sic) has proposed as a way of managing this set of issues. And I'd just like to say that many of you were just fantastic in your attention to detail and your conscientiousness on an earlier case is greatly appreciated and I think, you know, you're doing -- you seem to be doing a good job on this as well.

Here are a couple of thoughts: I agree having just one blade sign if that's what's being proposed by Mr. Myer (sic), I think makes some sense rather than the two in the earlier one. I don't have a -- I'm not sure exactly what the dimensions are and there may be a case made to reducing this one if that's the alcove sign. It doesn't seem terribly offensive to me. I have to say that I don't particularly -- I

don't find these particularly -- the travel gear gift, you know, under the Leather World signs particularly, you know, particularly attractive. I'm very sympathetic to removing the banners. And basically the general direction of what I understand to be Doug Myers suggestions, I'm in agreement with maybe one or two exceptions.

I kind of would like to see a sign here and one of these signs not here. So the Citizens Bank, the big Citizens Bank sign and the one over the immediate entrance is a bit odd in that this is really, as you look at it, that's where the ATM machines are and you have this tiny little sign there. I could almost see one of these reduced in size there, maybe that one. People will figure out

where the entrance is if this sign remains above it. So I just -- I'm thinking, you know, aesthetically and in terms of when granting a Variance, what could we ask that would make sense and end up with a more pleasing result. I don't know if anybody's ever looked at that so far during this process, and I thank you Carole for holding that for all this time.

So, I don't understand, the Citizens Bank ATM surround. I'm not sure I understand what that is. What is that? Is that shown here?

DOUGLAS MYERS: That's just a jargonistic term that's used to describe the area, the enclosure immediately around the ATM.

BRENDAN SULLIVAN: This.

JAMES WILLIAMSON: So this little

sort of faded, that thing there?

BRENDAN SULLIVAN: It's that.

JAMES WILLIAMSON: Yeah.

I would almost prefer a sign there and removing, reducing this as suggested I believe, and maybe removing that. You know, and I think it's worth thinking about and I do, you know -- so, anyway, I think it's hopefully compatible, you know, contributing something that's consistent with what apparently Mr. Myers has been suggesting.

Thank you.

BRENDAN SULLIVAN: Thank you.

Anyone else wish to speak on the matter?

(No Response.)

BRENDAN SULLIVAN: I see nobody.

ATTORNEY JAMES WAGNER:

Mr. Chairman, can I respond to

the -- simply.

BRENDAN SULLIVAN: Yes. I will close public comment, and Mr. Wagner.

ATTORNEY JAMES WAGNER: I cannot speak for Leather World. As --

BRENDAN SULLIVAN: Well, Leather World has spoken for themselves and they basically are saying that they're not going to go along with changing of anything. So all of this, the -- is to me mute because Leather World is not going to change their existing signage. They have made that quite clear.

ATTORNEY JAMES WAGNER:
What -- okay, so first off,
Citizens -- well, Mr. Hess will have some wrestling to do back at headquarters.
Citizens will accept Mr. Myers' proposal,
which I appreciate again the amount of

effort, again, above and beyond the call. And Leather World's comment was they didn't accept a proposal, the illustrative proposal which had the signs quite small. I will do everything in my power to --

BRENDAN SULLIVAN: They do not intend to give up their current sign area or good sign location in an as-of-right proposal.

ATTORNEY JAMES WAGNER: Right. So, but Mr. Myers is not suggesting an as of right. He's suggesting an expansion of the as of right amount.

DOUGLAS MYERS: I don't want to seem like an Indian giver here, but I did make it clear that it was a suggestion and it was subject to discussion by the Board. And I do -- as with all suggestions in our process here, we don't deliberate until

after the public speaks and we listen and talk. And I certainly -- I don't mean to preempt you. I'll give the floor right back to you, but I certainly wanted to say that listening to people and if Board members are inclined to be more stringent, I just say consistent with what I said, if you eliminated the Citizens Bank sign in the middle, what is called the wall letter sign, if you eliminated it in its entirety, which has been suggested and other board members haven't -- we haven't discussed the merits, that would reduce the whole proposal by an additional 21.6 feet. It would leave it only a few feet over the Ordinance. If that is the sense of the Board, it seems to me that is imminently worth discussing, that's all.

ATTORNEY JAMES WAGNER: So as I

say, I cannot speak for Leather World. They had to be down with their daughter and so I -- I will do my level best to wrestle them into this proposal if this is what the Board approves.

Second thing I wanted to mention is that exterior signs are treated differently than window signs under the by-law. In addition to 145 square feet as of right of exterior signs, we're also entitled to 72.5 square feet of window signs. There's been no evidence or testimony that the window signs are anything near that amount.

BRENDAN SULLIVAN: It can't occupy more than 20 percent of the glass area. But anyhow, there's a whole -- again, there's
a --

ATTORNEY JAMES WAGNER: I'm
sorry --

BRENDAN SULLIVAN: -- further
measuring sticks involved in that, too.

ATTORNEY JAMES WAGNER: I
apologize. I'm telling you things that
you already know well. I didn't have to
mention that.

I will say, however, that the white
channel letters over the entrance are
critical to Citizens. That is what
creates visibility from anywhere besides
the sidewalk, and so that is -- it is
mission critical. I mean, that and the
ATM surround are, you know, the things
that are most important for
identifying -- well, one for the entrance
and one for the ATM. So I will throw that
into the mix. And so for what that's

worth.

DOUGLAS MYERS: Fair enough.

That's my reply, fair enough.

BRENDAN SULLIVAN: So, you've concluded?

ATTORNEY JAMES WAGNER: Sure.

BRENDAN SULLIVAN: I will conclude testimony and the Board will discuss it among themselves. Somebody jump in.

DOUGLAS MYERS: I've spoken enough, I know that.

GEORGE BEST: I've said what I had. You know, it's a loud, it's a loud area on a small building. So I don't --

BRENDAN SULLIVAN: Well, what I think -- there's two things. Well, there's three things before us.

There is a proposal and, Mr. Wagner, I'm going to basically have you sort of

come back up here again so that we can -- I want to identify exactly what your proposal -- what you're proposing. There is date stamped here September 3rd. No, that is not what you're proposing because there's been a revision since then; is that correct?

ATTORNEY JAMES WAGNER: The September 3rd one is the proposal. Is a modified proposal that's before you.

BRENDAN SULLIVAN: Can we say signs without the banners or you're asking for the banners?

ATTORNEY JAMES WAGNER: That was our proposal. If Mr. Myers' proposal is acceptable to the Board, we can live without the banners and not having to go --

BRENDAN SULLIVAN: So we have a

proposal before us.

We have Mr. Myers' revision and proposal on the -- as an alternative.

The other alternative, course of action, would be to vote yea or nay on this.

The only thing I -- and, again, I applaud you, that's the omen's work and you should get more than a gold star, but in order for your plan to work, Leather World has to go along with it. And they have said that they will not give up what they have. Unfortunate.

Now, that being said, if landlord, tenant can exercise and exert some influence on Leather World to change their signage and bring it in to something like that, it would be a, I think a net reduction and we're getting closer to that

145 square foot magic number. And I think what maybe tips the balance is that surround in the ATM which I think can be simply done with a -- all that green is counted as signage, which can be I think handled with a very simple Citizen Bank over the ATM machines and not all of the greenery because that adds that number up, pushes that number up.

So, there are three ways we can do it. I can make a motion to -- on this proposal or a variation thereof. So this could be voted up or down or however the Board wants to handle -- and, again, the only problem with Doug's is that if we were to approve the analysis is that, then that requires Leather World to go along with it and they're saying they will not.

JAMES MONTEVERDE: That's subject

to your ability to --

ATTORNEY JAMES WAGNER: They've never seen Mr. Myers' proposal. So then the as of right where they actually have a reduction in their sign area, that's what's unacceptable to them.

BRENDAN SULLIVAN: I can only go by their testimony. If they were here, they would probably just reiterate that they would not change anything.

JAMES MONTEVERDE: Isn't there one more option, God forbid, that he withdraw, take that advice, talk to Leather World and come back?

BRENDAN SULLIVAN: Well, it can't be a withdrawal.

JAMES MONTEVERDE: Or a continuance or some other method?

BRENDAN SULLIVAN: I really

would --

JAMES MONTEVERDE: Stop the clock.

BRENDAN SULLIVAN: The thing is if you can talk to -- I think you can do it under the Ordinance. I really do. I mean, we're very close to it, and I think with some tweaking we're eliminating all that greenery around the ATM machines with just a simple signage, that will get you there. That will get you across the goal line. Or you reduce some of that sign. I think they can do it.

GEORGE BEST: I do.

JAMES MONTEVERDE: I don't doubt that they could do it.

BRENDAN SULLIVAN: What?

JAMES MONTEVERDE: I don't doubt that they could do it. It would just be nice if it's demonstrated to us as opposed

to being done --

BRENDAN SULLIVAN: Well, they didn't.

GEORGE BEST: We asked for some creativity and I don't see the creativity. That's my thing. So....

BRENDAN SULLIVAN: So make a motion?

JAMES MONTEVERDE: Yep.

BRENDAN SULLIVAN: Let me make a motion, then, to approve the plan as submitted without the banners, eliminating the three banners as per the submittal dated September 3, 2015, and initialled by the Chair.

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

The Board finds that as per the presentation, that this is somewhat of a unique building. And that the visibility of such is somewhat limited. And that as such, the petitioner requests and requires additional signage for itself and a relocation of other signage for other tenants of the building to be more visible and as such, accessible to the general public.

The Board finds that the hardship is owing to the size, shape of the building, location of the building, fronting on two streets.

As per the application, the Board finds that desirable relief may be granted without substantial detriment to the public good.

And relief being granted will not

nullify or substantially derogate from the intent and purpose of the Ordinance.

All those who are in favor of voting to accept the proposal dated September 3rd.

(No Response.)

BRENDAN SULLIVAN: All those opposed?

(Show of hands.)

BRENDAN SULLIVAN: Four?

ALISON HAMMER: I guess.

BRENDAN SULLIVAN: Five opposed.

(Sullivan, Myers, Best, Monteverde, Hammer.)

BRENDAN SULLIVAN: The Board finds that a literal enforcement of the provisions of the Ordinance would not involve a substantial hardship to the petitioner.

The Board finds that there is nothing unusual about these soil, shape, or topography of the land.

The uniqueness of the building, the fronting on two streets, which is somewhat prevalent in the area and in the district.

And the Board finds that there is nothing unique about the petitioner's ability or lack thereof to identify itself and the other commercial enterprises on the other enterprises of the other occupants of the building.

The Board finds that desirable relief cannot be granted without substantial detriment to the public good.

And that it cannot be granted without nullifying from the intent and purpose of the Ordinance.

The Board will cite Section 7.11.1b

where the regulation of signs is necessary in order to preserve and enhance the substantial governmental interests of the City of Cambridge in its natural, scenic, historic, cultural, and aesthetic qualities.

The Board finds that regulating signs will improve the City's appearance, make the City's commercial, residential, and industrial areas more attractive for commercial and residential uses and commercial development and enhance the economic climate of the city.

The regulations set forth in the article in the Ordinance will directly advance the public interest and aesthetics and other qualities of life by preserving and enhancing the appearance of residential, commercial, and industrial

buildings and areas preserving and enhancing the appearance of public streets, parks, and other public properties and minimizing the intrusiveness of sign structures.

The Board finds that the granting of this Variance wouldn't in fact violate the intent and purpose of that Ordinance.

Any other friendly adds?

(No Response.)

ATTORNEY JAMES WAGNER:

Mr. Chairman, is it necessary to have this aspect of the vote a denial is a denial?

BRENDAN SULLIVAN: Well, just so that we -- in a denial then there should be good reasons why we're denying it.

So all those who concur with my --

DOUGLAS MYERS: You understand this is a statement of our reasons for

voting to deny the original application?

ATTORNEY JAMES WAGNER: I understand. I've never had a -- before a negative and then a positive --

BRENDAN SULLIVAN: It's times --

DOUGLAS MYERS: It's just a statement we're approving of what the Chair just said as our statement of reasons.

BRENDAN SULLIVAN: And the reason why the motion is denied.

All those in favor of that?

(Show of hands.)

BRENDAN SULLIVAN: Five.

Thank you.

ATTORNEY JAMES WAGNER: Thank you for the time of the Board.

(Sullivan, Myers, Best, Monteverde, Hammer.)

* * * * *

(8:30 p.m.)

(Sitting Members BZA-008353-2015:

Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Janet Green, Douglas
Myers.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 008353, 67 Clifton
Street.

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

DEANNE RYKERSON: Good evening.
My name is Deanne Rykerson of Rykerson
Architecture. I'm here to represent
Regina Szwadzka of 67 Clifton Street in

North Cambridge.

Here is the existing building. The conditions are it's a corner lot, a fair amount of space to the rear, no space to the side, front, and other side. I've been working with the owner in the renovation of this building and it's a pre-existing non-conforming structure. They want to actually create a better rear egress because that's where the parking is, legal parking, and to improve the egress to the apartments. It's a two-family, legal two-family. It's staying as a legal two-family.

The proposal has the most minimal that we could figure out, improvement to the egress, to the two apartments which changes the non-conforming FAR from I think 0.8 --

CONSTANTINE ALEXANDER: 0.84 to 0.9.

DEANNE RYKERSON: -- to 0.9. So it's 0.6 change --

CONSTANTINE ALEXANDER: Truly, what this is all about is you're trying to get additional living space within the structure.

DEANNE RYKERSON: No, it's not additional living space. It's porch space.

CONSTANTINE ALEXANDER: Well, interior space, inside.

DEANNE RYKERSON: Interior space.

CONSTANTINE ALEXANDER: What would that be used for if we were to grant you relief?

DEANNE RYKERSON: Oh, I really don't know, but it's not -- the use

wouldn't be changed. But the egress would definitely be improved. The existing stairway is sort of pretty shabby.

CONSTANTINE ALEXANDER: But you could repair them, you don't have to build a whole new --

DEANNE RYKERSON: You could, but it would actually infringe so much on the porch space that the egress around the porch really wouldn't work.

CONSTANTINE ALEXANDER: One member of this Board has expressed concern in the past about -- because we've seen a number of cases now, where people want to take interior staircases and put them on the exterior. And I guess it's one way of creating additional space in the interior as opposed to putting an addition on or some other relief. And that's why -- and

I'm not sure -- and as a concern I think of this Board. It doesn't mean we'll turn you down or turned others down.

DEANNE RYKERSON: I understand.

CONSTANTINE ALEXANDER:

Particularly when you are already non-conforming structure in terms of FAR. You're almost 50 percent more than what is permitted by our Ordinance. And you want to go even ten percent more, roughly ten percent more on top of that.

DEANNE RYKERSON: Well, 0.06.

CONSTANTINE ALEXANDER: Okay, six percent. You're calling me a liar. No, I'm just kidding.

That's the only concern I would have. I mean --

DEANNE RYKERSON: I understand.

CONSTANTINE ALEXANDER: If you

came to us and said, we need this as a second thing because we have problems with the Building Code, State Building Codes, or safety issues or the like I don't hear any of that.

DEANNE RYKERSON: Well, if you do look at the plans, actually, if you increase the stairway on the porch to a full three feet, which is not -- and actually increase the tread and rise of ratio to a legal stair, then there would be basically not very much space in the porch left at all. So you'd be, you could do it. I hear what you're saying, but, but we really did work for a couple of months to make the addition as minimal as possible in massing and in volume and in area, and it allows sort of a separation of egress rather than going through

another person's porch to get to the second floor.

CONSTANTINE ALEXANDER: I understand.

I take it the current arrangement doesn't violate the State Building Code in terms of --

DEANNE RYKERSON: Oh, well, it does, but I mean it's pre-existing, again, you know, it's grandfathered.

CONSTANTINE ALEXANDER: Okay. Then what you're saying is you want to make a change that would make it, you don't have to rely on the pre-existing nature. You would be compliant as from day one?

DEANNE RYKERSON: Correct.

CONSTANTINE ALEXANDER: To me that's significant. Okay.

DEANNE RYKERSON: And the owner is actually doing relief work in Africa but we do have the owner's representative here if you have any questions for him.

CONSTANTINE ALEXANDER: Give your name and address to the stenographer.

JURUK GLOD: My name is Juruk Glod, J-u-r-u-k G-l-o-d, 31 Clayton Avenue, Medford.

So I have know Regina for many years and she unfortunately cannot be here. She is assisting population in the Civil War and when she bought this building, there were a lot of issues that she had to address and, you know, gradually building is getting better appearance. She's made many improvements, and we are hoping with this will even more improve the appearance of the house, the usage, and the egress.

And we have full support of the neighbors, everybody on each side. And we feel like it's gonna only improve the conditions of the house and the appearance. And recognizing, invested a lot in this housing and hoping to continue on that path.

CONSTANTINE ALEXANDER: Thank you. Thank you for taking the time to come down.

Questions from members of the Board at this point?

BRENDAN SULLIVAN: Well, I think the Chair asked you, what is this space going to be used for and you said you didn't know. And I sort of found that kind of odd that if you're designing an addition and don't know what the space that you're capturing is going to be used

for, either is evasive or disingenuous or naive. Personally myself, and I am the member that he spoke of or referred to, all this really is a land grab of taking interior space. And, you know, the building's been there since the turn of the century and it has worked for all of these years. The turn of the previous century. It was built in 18 --

CONSTANTINE ALEXANDER: '96.

BRENDAN SULLIVAN: '96. And it has worked well. This back staircase, sure, they're narrow and they're somewhat steep and so isn't every house built in the 20s and 30s and 1896. They were grandfathered in. And really all it is is an attempt to let's capture this space to use an interior and then push what is now interior space to the outside, which I

think has an effect, a detrimental effect on -- even though it complies with the rear yard setback, doesn't comply with the left -- right side I think it is. But it adds to the massing. And, you know, you're filling in backyard space. Your next-door neighbor enjoys that vesture, that open space now, and now all of a sudden there's going to be a structure there. I just, I'm not a fan of this stuff at all. Because I think that's what it is. It's taking interior space and pushing it outside and then using that interior space.

DEANNE RYKERSON: I'm certainly not being disingenuous. The additional space is being used for the stair, a new legal egress stair. The --

BRENDAN SULLIVAN: No, no, the

interior space.

DEANNE RYKERSON: The interior space is part of a porch as I said. That was not disingenuous at all. I said it's part of a porch. It's going to remain a porch.

BRENDAN SULLIVAN: Right, but then that's going to become part of the interior living space.

CONSTANTINE ALEXANDER: That porch, you're going to increase the living space on the porch.

DEANNE RYKERSON: That's correct.

CONSTANTINE ALEXANDER: That's the point Mr. Sullivan's making.

DEANNE RYKERSON: Two and a half feet by six feet I believe, maybe. Yeah, maybe 20 square feet additional area. And 20 square feet -- to go through a Variance

process to get 20 square feet is obviously not the intent in interior. The intent is actually is to make it more clear where the egress is for the second floor apartment and the first floor apartment, to separate them, and to make it a much safer, and, and to tell you the truth, a much more, a much more separate way of getting into the two apartments. I understand the social history of the 1896. I also believe that, that we can do things a lot better and a lot safer these days and there's, this is a case where I think it would be worth doing that.

CONSTANTINE ALEXANDER: Okay.

DOUGLAS MYERS: The staircase will in no way be visible from the outside, correct?

DEANNE RYKERSON: The actual stair

treads?

DOUGLAS MYERS: The actual staircase.

DEANNE RYKERSON: No.

CONSTANTINE ALEXANDER: There will be a shell around them.

DOUGLAS MYERS: It will be completely enclosed?

DEANNE RYKERSON: Correct.

CONSTANTINE ALEXANDER: Other comments or questions? I'm sorry.

JANET GREEN: I have a couple of comments. I'm really -- I really appreciate the argument for bringing a staircase up to code. I just think that as people get older, they need it or if you have children, you carry them up and down, whatever. I just think bringing it up to code, there's a reason the code was

changed and that's, I don't -- I feel that that's a positive.

I also think it doesn't decrease any parking space. It doesn't put more cars on the street and it doesn't add a bedroom. So it's not like putting more people into that space. If the neighbors had come forward and objected to it, I might feel a little bit differently about it, but since the neighbors aren't here as well.

CONSTANTINE ALEXANDER: You're not the petitioner. Have you spoken to your neighbors?

JURUK GLOD: Yes, yes.

CONSTANTINE ALEXANDER: We don't have anything in the file from your neighbors.

JURUK GLOD: They were in full

support. They really appreciate what has been already done with the house. It looks better and better every month and they express full support when we approached them and asked them about this project.

DEANNE RYKERSON: And I guess the additional factor, since we're talking about social history, is the automobile. Now that the back is the main entrance, whereas when this house was built, the front door was the main entrance, that was the main stair. It's no longer true.

CONSTANTINE ALEXANDER: Other questions?

(No Response.)

CONSTANTINE ALEXANDER: We have time for comments after we have public testimony so we can talk a little bit

further about what we've been talking about.

Is anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: I'm seeing all nods saying no. Okay. There's no one wishing to be heard. As I mentioned, we have no letters in the file from neighbors either pro or con.

So I'm going to close public testimony and I think we can move to deliberation. And I just would make one observation on my behalf, is that I am concerned about this moving exterior -- interior space to exterior increasing the massing of the structure. However, I am, as Janet is moved, quite a bit by the safety issues. I think what

you're doing will improve the safety of the occupant of the building. The additional space you're creating interior is not great as you've pointed out. I'm glad to hear that. So this would be, I think, I'm going to look at every interior to external staircase separately and with a little bit of a critical eye. It seems to me this is one that I can support for the reasons you've said. Mainly it's bringing this up to code and improving the safety egress, safety for people who live in the apartments.

Anyone else wish to comment?

TIMOTHY HUGHES: No.

DOUGLAS MYERS: I'm sympathetic to the point of view that you and Janet have expressed. In an effort to rationalize the staircase in a way that is not, does

not seriously violate the FAR, and on the interior floor plan is not abusive or any sort of an end run to do anything lavish or improper outside and the external result is completely acceptable. I think it's okay to improve an old staircase and bring it up to code.

CONSTANTINE ALEXANDER: Just one addition to your comment, Doug, just to remind you that if we grant relief, the FAR for this structure will be almost twice what is permitted under our Ordinance.

DOUGLAS MYERS: Based on a small increase.

CONSTANTINE ALEXANDER: Ye, six percent more up to 50 percent before.

DOUGLAS MYERS: Right.

CONSTANTINE ALEXANDER: Okay, just

so you know.

DOUGLAS MYERS: That can't be helped.

CONSTANTINE ALEXANDER: Just to make it clear.

DOUGLAS MYERS: I understand.

CONSTANTINE ALEXANDER: Not arguing with you.

DOUGLAS MYERS: As percentages go, not too many people fall off their seats at a six percent increase. I hear you. In some cases it might be significant.

CONSTANTINE ALEXANDER: Anything more? But are you ready for a vote?

TIMOTHY HUGHES: I'm ready for a vote.

CONSTANTINE ALEXANDER: How come I knew that?

Okay, the Chair moves that this

Board make the following findings with regard to the relief 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 this is an older structure with an inadequate staircase at least in terms of modern safety concerns, and a staircase arrangement that would not be permitted under current State Building Codes.

The hardship is owing to the fact that this is already a non-conforming structure, and it's a -- the shape of the lot is such that it's very long and narrow.

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 site the fact that if we grant relief, it would allow the rear staircases to be brought to code, which I do think is a significant factor for us to consider.

So on the basis of all these findings, the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with plans submitted by the petitioner.

These are the final plans, sir?
Because we don't allow you to modify them afterwards.

DEANNE RYKERSON: That's fine.

CONSTANTINE ALEXANDER: I mean you can, but you have to come back before us.

DEANNE RYKERSON: Okay.

CONSTANTINE ALEXANDER: I don't

think you want to do that.

DEANNE RYKERSON: No.

CONSTANTINE ALEXANDER: You don't want to come back.

DEANNE RYKERSON: No thanks.

CONSTANTINE ALEXANDER: There are one, two, three, four, five, six, seven, eight, nine pages, the first page of which has been initialled by the Chair.

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

(Aye.)

(Alexander, Hughes, Green, Myers.)

CONSTANTINE ALEXANDER: Opposed?

(Sullivan opposed.)

CONSTANTINE ALEXANDER: Four in favor, one opposed. Motion is granted.

DEANNE RYKERSON: Thank you very much.

* * * * *

(8:45 p.m.)

(Sitting Members BZA-008377-2015:

Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Janet Green, Douglas
Myers.)

CONSTANTINE ALEXANDER: The Chair

will call case No. 008377, 299-301
Columbia Street.

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

ATTORNEY JAMES RAFFERTY: Good
evening, Mr. Chair and Members of the
Board. For the record, my name is James
Rafferty. I'm an attorney with offices at
675 Massachusetts Avenue.

CONSTANTINE ALEXANDER: Is there a
problem?

MARIA PACHECO: No. They're here
in favor of the next case, but they can't
wait any longer.

ATTORNEY JAMES RAFFERTY: This is
going to be continued case so it won't
take long.

CONSTANTINE ALEXANDER: This one?

ATTORNEY JAMES RAFFERTY: This

one.

CONSTANTINE ALEXANDER: It's going to be continued?

ATTORNEY JAMES RAFFERTY: Yes.

CONSTANTINE ALEXANDER: Well, don't go yet. We're going to be ready for you in about less than three minutes. Mr. Rafferty, talk fast.

ATTORNEY JAMES RAFFERTY: So he says.

William Finsthwait, F-i-n-s-t-h-w-a-i-t seated to my right, the applicant. And this is an application I'm sure that the Board has seen for a Variance to allow a conforming addition to a non-conforming structure. There are abutters present this evening who are in opposition to the application, and I -- when I learned of their opposition, I

informed them that I would like an opportunity -- we were going to be requesting a continuance to see if we could understand what that opposition is and see if we might be able to address those concerns.

CONSTANTINE ALEXANDER: Good idea.

ATTORNEY JAMES RAFFERTY: So that is the request we have.

CONSTANTINE ALEXANDER: We're only going to talk about an continuance, Ma'am. Are you opposed to continuing the case?

UNIDENTIFIED AUDIENCE MEMBER: I am.

UNIDENTIFIED AUDIENCE MEMBER: We'd like an opportunity to be heard on the continuance.

CONSTANTINE ALEXANDER: I should do it one at a time. Please come and give

your name and address to the stenographer.

MELISSA TONASCHEL: Certainly.

Melissa Tonaschel, T-o-n-a-s-c-h-e-l, 303
Columbia Street. We'd like an opportunity
to be heard on this matter of the
continuance if that's possible.

CONSTANTINE ALEXANDER: Okay. The
floor is yours who wants to speak with
regard to the matter of the continuance?
I'm afraid those folks who wanted to --

LAURA BOOTH: Laura Booth,
B-o-o-t-h, 303 Columbia Street.

KIMBERLY RAYMOND: Kimberly
Raymond. 297 Columbia Street.

CONSTANTINE ALEXANDER: Can I make
one observation -- please sit down or
before we start. We're talking about a
continuance.

LAURA BOOTH: Right. We want to

be heard on the continuance.

CONSTANTINE ALEXANDER: I know. I know. But my point is is that a continuance usually makes sense. It gives you an opportunity to talk to the petitioner, the petitioner to hear from you. Often modified plans -- I can't guarantee it, come out of this. To force the issue tonight doesn't strike me -- the only problem from your point of view is you have to come back a second time. So does the petitioner -- so I just want to caution you about that. If you want to not continue the case, we'll go ahead and you may lose or you may have it -- you may, I'm not prejudging. Or if you've had an opportunity to talk further with the petitioner, you might come up with something that's a better situation than

what's before us tonight.

LAURA BOOTH: Understood. A couple of things to that point, and first of all thank you for the opportunity. We also have neighbors from across the street as well that would like to be represented. Just on that question, I guess I feel that the attorney engaged us in an informal conversation to find, to dig for some information about the strength of our concern about the proposal before you. And hearing that has decided to go for a continuance. We have school children. These folks have left their girls at home. We have one of our children here taking off time. I think that it's just -- I feel a little bit caught in what I thought was a friendly conversation from somebody that I know from being a life-long

resident of the City of Cambridge has now turned into a bit of strategy. So that makes me uncomfortable. So I wanted to express that.

CONSTANTINE ALEXANDER: Given all that, you still want us to push ahead tonight and take the chance that you may get worse than you would get if you had a continuance? That's your call.

LAURA BOOTH: I don't -- I've never been before the Board before.

CONSTANTINE ALEXANDER: Let me try, I mean, and --

LAURA BOOTH: I don't know that any of us have anyway.

CONSTANTINE ALEXANDER: By the way, let me make my point. If we do continue the case, it will be to a time, a date, the time would be seven p.m., but to

a date that works for you as well as for the petitioner. It wouldn't be a situation where you won't be able to talk to us unless something comes up between now and the date we continue it to. So, I just want you to understand that.

LAURA BOOTH: Is it also true we're not granted notice in the instance of a continuance?

CONSTANTINE ALEXANDER: There's no further notice. It's posted. Maria's not here. I believe it's posted on the city website there. But you'll not get another mailing.

TIMOTHY HUGHES: You wouldn't get another mailing.

CONSTANTINE ALEXANDER: There won't be another mailing or -- a newspaper advertisement.

JOHN HAWKINSON: But the date will be set tonight.

(Several people speaking at once.)

THE STENOGRAPHER: Please speak one at a time.

TIMOTHY HUGHES: The posting would be changed to reflect the new time and date.

CONSTANTINE ALEXANDER: Yes. The sign that's on the property would be changed so anybody that walks by would see that.

LAURA BOOTH: Well, we do everyday.

CONSTANTINE ALEXANDER: So, again, I'm not trying to just -- if you want to oppose it, you oppose it. I'm trying to make sure you understand what you're doing and the pros and cons of what you're

proposing.

MELISSA TONASCHEL: And you understand our collective frustration of having -- I've taken an evening off of work. We've got a young child here. We've been waiting. We feel a little bit tricked. And we've never been asked for a conversation directly about this proposal. And in fact work has already proceeded and taken place. It's already impacted our quality of life. So our sense of impatience --

CONSTANTINE ALEXANDER: I understand that.

MELISSA TONASCHEL: -- is part of what you are facing right here.

CONSTANTINE ALEXANDER: The proceeding by the way with regard is not a subject to the Variance relief.

MELISSA TONASCHEL: Understood.

CONSTANTINE ALEXANDER: That's the front house.

MELISSA TONASCHEL: Yep.

CONSTANTINE ALEXANDER: And we're talking about the rear house.

MELISSA TONASCHEL: Yes.

CONSTANTINE ALEXANDER: Given all that, I mean now the petitioner, maybe hasn't done it before, is now willing to sit down with you and see where you can go. I still return to the question if we pick a date that works for all of you as far as you can tell tonight, would you not be -- would it be preferable to continue the case and have your chance for a conversation? I'm not trying to talk you into it. Do what you want, but I'm just trying to lay out the pros and the cons

for you, that's all.

TIMOTHY HUGHES: The other thing is the Chairman hasn't pointed out is that we're reluctant to open this case and then have to continue it after hearing all of it, you know, the conversation for some other reason you know. If we can continue it now, then we don't have to impanel the same five members and then we can -- and anybody can hear this case. If we open the case, then we have to pick it -- and then we don't resolve it tonight and then we continue it, then we have to impanel these same five members and we have to find a date that's amenable to all of us that we can all do. And coming into the holiday season that gets more difficult and, you know, so....

CONSTANTINE ALEXANDER: Let me ask

you.

MELISSA TONASCHEL: I appreciate the explanation of the process because we're not represented by anybody but ourselves.

CONSTANTINE ALEXANDER:
Mr. Rafferty?

ATTORNEY JAMES RAFFERTY: Yes.

CONSTANTINE ALEXANDER: What date were you going to propose to continue this case to just have idea of time frames?

ATTORNEY JAMES RAFFERTY: I hadn't thought that far in advance. My thinking, and I don't want to turn any of this into a debate, but I'd like to emphasize a couple of points:

One is I don't want anyone to think that this was part after a trick. There was a letter prepared because I assisted

in preparing it and sent to all of the neighbors alerting them to this hearing and the proposal with an invitation and phone number to contact the applicant. There was nothing in the file when I reviewed it, indicating that there was opposition. When I arrived here tonight, I learned from my client that his neighbors were here and he had a keen enough sense of --

LAURA BOOTH: His neighbors?

CONSTANTINE ALEXANDER: Excuse me, let him -- one at a time.

ATTORNEY JAMES RAFFERTY: He doesn't live there. So his abutters. Okay, so point taken. Very good.

LAURA BOOTH: I have no idea where he lives actually.

ATTORNEY JAMES RAFFERTY: If we

have a meeting we'll cover that.

So my point is that we, it was clear that there was opposition. I was unaware of it. So with all due respect, I think it's the longstanding practice of the Board to allow continuances in these case, frankly to encourage those types of continuances, and I don't want anyone here to think that this was some strategy or trick I employed when I spoke to you. What I did is I came back and I said I want to share with you something, we are going to be asking for a continuance so that this would not come as a surprise to you. And it's in my experience that continuances we may be able to reach accommodation, we may not, but the applicant obviously wants to give that a try. And that's --

LAURA BOOTH: And I think our preference is to actually hear from the Board rather than someone who's representing the person who --

CONSTANTINE ALEXANDER: Well, you've heard from the Board tonight.

LAURA BOOTH: Right, no, that's what I'm saying. To hear factual information about the process and the opportunity from members of the Board versus representation from the petitioner.

CONSTANTINE ALEXANDER: And I want to return to what Mr. Hughes is pointing out, is if we did get more into the merits of the case and then everybody decides let's continue so you can have conversations, that makes life difficult for all of us; us and you because you need the same five people.

LAURA BOOTH: That sounds like a bad start.

CONSTANTINE ALEXANDER: If we can continue it to another day without opening the case, we'll have five people. It may not be the same five people we have today, but we'll be able to get five people.

MELISSA TONASCHEL: Understood.

LAURA BOOTH: We want to start off on the right foot. That sounds like that would be the right foot.

CONSTANTINE ALEXANDER: Okay. Now, Mr. Rafferty, since you're the petitioner do you have a suggestion as to a date of when you want to continue to?

ATTORNEY JAMES RAFFERTY: Well, obviously there are a number of concerned parties and I would defer to people's schedule. The Board would be giving out

typically at this point December dates, would they?

MARIA PACHECO: We only have one in December and we already have three continued, the next one would be January 7th.

CONSTANTINE ALEXANDER: Can you make it on January 7th? It would be seven o'clock at night hopefully. Okay? And that will give you between now and then to chat. Chat is a nice word, with Mr. Rafferty and his client, okay. And maybe you can better understand what's going on. Maybe you'll reach an agreement on something, maybe you won't.

LAURA BOOTH: All right. Fair enough.

CONSTANTINE ALEXANDER: Okay, we have to take a vote. You can leave.

The Chair moves that this case be continued as a case not heard until seven p.m. on January 7th subject to the following conditions:

One, that the petitioner sign a waiver of time for decision. I suspect you've already done.

ATTORNEY JAMES RAFFERTY: No, not yet.

CONSTANTINE ALEXANDER: You will in a second.

Second, that the posting sign, the posting sign that's up there now, you take that sign, with a magic marker, change the date, January 7th, change the time, also important, to seven p.m. And that sign, as modified, must be up for the 14 days before January 7th.

And lastly, to the extent that the

plans that you've submitted to us before are modified in any way, the new plans, the modified plans plus any new dimensional form, must be in our file no later than -- stay there for a second -- no later than five p.m. on the Monday before January 7th.

This is just to instruct you there will be in the -- I mean, you'll have conversations. But if you really want to check things out after your conversations are all over, by five p.m. on the Monday before January 7th what he's looking for relief will be in the files and you're free to come to the Inspectional Services Department and review the files.

LAURA BOOTH: Thank you.

MELISSA TONASCHEL: Thank you.

CONSTANTINE ALEXANDER: All those

in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Case
continued.

ATTORNEY JAMES RAFFERTY: Thank
you.

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

* * * * *

(9:00 p.m.)

(Sitting Members BZA-008439-2015:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Janet Green, Douglas
Myers.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 008439, 21-23 Bay
Street.

Is there anyone 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
Offices in Cambridge. I'm here on behalf
of the applicant Scott Zink, New Market
Properties, LLC. And --

EDRICK van BEUZEKOM: Edrick van
Beuzekom, EVB Design.

ATTORNEY SEAN HOPE: So this is an
application requesting Variance relief to

alter portions of the roof structure thereby increasing the gross floor area, requiring a Variance. And also there are portions of the side or the side yard that is within the setback. So even of those additions within the footprint, they would require Variance relief.

So this is a unique building. It's a single-family structure that's also connected to an existing three family, located on a corner lot in the Residence C-1 District. The structure and the lot are extremely non-conforming. The lot is about 2500 square feet in a 5,000 district. And the FAR is well over the allowed allotted zoning.

Just by a little bit of background. We actually went to the Historical Commission and looked at how that

structure came to be. You don't normally see a connected two structures. So the three-family was actually built prior to 1900 and there was a series of additions adding a third floor and then later on adding what is now a single-family. The point of these additions were these were patchwork additions, and what it resulted was the third floor on both the three-family and what's known as a single-family now had extremely low head heights. Oftentimes you'll see this peaked roof on a single-family and that would be an attic. That was actually living space, it was a bedroom. Prior to the application I had I opportunity to go in and tour the inside myself.

CONSTANTINE ALEXANDER: The structures were built, presumably they

were built not to be living space. It was built to the attic like many houses in Cambridge.

ATTORNEY SEAN HOPE: You could be right write. I just think the existing use wasn't an attic. It was habitable space. This was actually a functional bedroom on that third floor. And part of the nature of what our request is that to actually enter that third floor, not only is the head height small but the actual access and egress with -- the architect can speak to more specifically, it doesn't meet code. And oftentimes things don't meet code, but this has extremely steep stairs and the head height to get into this third floor unit.

CONSTANTINE ALEXANDER: So maybe the third floor should no longer be used

as living space and just be used as attic space.

ATTORNEY SEAN HOPE: Potentially, but I think the idea of converting living space to attic space. So what we're trying to do is be able to utilize both the single-family and the third floor as functional living space as well as bring those up to code. And so, in addition to bringing that up to code by not even just raising, but also altering the position of that peaked roof structure. If you notice on that single-family side, it's extremely close to the property line and there's a dormer on that side as well that we're proposing to take off and to move and to be able to make that functional space.

And also on the three-family structure we are adding what would be an

addition to the rear. That as well to be able to have circulation for stairs in the rear. Now there are existing stairs in the front of the building. They don't meet code and they also make for unfunctional living space. So you have three units. And so because of where the stairs are located, the rooms are really chopped up.

CONSTANTINE ALEXANDER: Can't you move -- can't you do the -- fix the stair situation without getting zoning as a matter of right?

ATTORNEY SEAN HOPE: We, and I --

CONSTANTINE ALEXANDER: You're not asking for relief on the stairs I don't think.

EDRICK van BEUZEKOM: No, we're asking -- yeah, but we're asking for some

relief for the headroom for the stairs and the position of the stairs. This is once we bring the stairs up to code which would promote a lot renovation of this -- the stairs need to be brought up to code requires more space. And if they stayed in the location they are, it sort of cuts off one's -- it makes the space much more difficult to use. And so by rotating the stairs and pushing them to the back, we're able to make better use of the space. It's -- we're trading off, we're taking off a little gable roof piece in the back, which is reducing height in one portion and then raising it in another portion by doing a flat roof piece which is stepped back. If you want, I can show you in the drawings.

CONSTANTINE ALEXANDER: It's your

presentation.

EDRICK van BEUZEKOM: Okay.

CONSTANTINE ALEXANDER: While you're looking for those drawings, how long have you owned this property, sir?

SCOTT ZINK: We bought it in the middle of the summer.

CONSTANTINE ALEXANDER: And we're not planning -- if we grant you relief, you're not planning to use this structure for your family?

SCOTT ZINK: That's correct.

CONSTANTINE ALEXANDER: You're going to condominiumize or sell?

SCOTT ZINK: Correct.

EDRICK van BEUZEKOM: I will, these two views show the existing house from Bay Street and the proposal. So what you can see here is there's an existing

bay on the front here and a gable roof. This is -- the shed dormer is over on the side here adjacent to this house here. What we're proposing is to remove that shed dormer and bring the roof up a little bit this way to shift the space over essentially from the neighbor's side. And that's shown in this view here. We also just want to square the bay off to make it a little bit more functional. So that's -- the blue area is shown in this diagram and I can, maybe I should pull this a little closer so you can see it better.

DOUGLAS MYERS: Hold it up if you would.

CONSTANTINE ALEXANDER: That's a recording that's going on.

EDRICK van BEUZEKOM: The blue

areas that are the blues, and the red is what we're taking off. So in the back is this little gable that we're removing and flattening that out. So it's cutting down the height on the Franklin Street side and then raising it a little bit with the additions here.

We've done shadow studies. It's really minimal change in the shadows for the neighboring property.

The other thing we're trying to fix is -- the connection between these is really in a shambles and we're trying to just -- we're increasing one floor of that just to get better, again, make that space work better and connect these better. So, again, it's for easier access to the stairs, trying to make it a safer and more code compliant building essentially, but

also improving the space. And we're trying to make it look a lot better. And so the building is really sort of chaotic on the exterior right now, and so we're trying to do something that's got a little bit more organization to it and staying within the scale of what's there essentially. Really minor changes in the volume of it.

JANET GREEN: You would still have the same number of units in the building?

EDRICK van BEUZEKOM: We're reducing it from four to three units.

CONSTANTINE ALEXANDER: And the hardship is?

ATTORNEY SEAN HOPE: So the hardship is really the pre-existing conditions of the size and the shape of the lot, and it's the fact that any

alterations of this structure, and we believe that the hardship is really about the safety concerns accessing that third floor. And so the hardship, to be able to utilize that third floor in part of this renovation, we wouldn't be able to have the appropriate head height to be able to access that floor.

CONSTANTINE ALEXANDER: You come back -- I'm going to elaborate on my concerns. You keep coming back to the third floor. You have a building that has dwelling units. It's been used for a hundred years perhaps, might not be the most attractive building as its grown like topsy, but it is there. There's no right to have more bedrooms or bigger bedrooms on the third floor that constitutes a hardship. You know, let me maybe be frank

in my concerns. Everybody in the city from the City Council, everyone talks about the lack of affordable housing or the diminished affordable housing in Cambridge. This is a structure that provided affordable housing. And with some TLC, some modifications, you can continue to provide affordable housing to the citizens of the city, maybe less affordable than before because you have to recover some of your investment, but it would still be affordable housing. What you're looking for us to do by this claim of hardship, is to create value for this. You made an investment, you bought the property based upon the condition of the property that's there, you want us to now sign a piece of paper, give you a Variance, that allows you to make three

very nice condominium units, which you're going to sell, which is your Constitutional right. You're taking away affordable units for the city. That I have a problem with.

ATTORNEY SEAN HOPE: So, when you say affordable housing, I'm not sure where that's emanating from. Are you saying affordable because it's rundown and less likely expensive than it will when it will be done or are you saying affordable because it's income restricted?

CONSTANTINE ALEXANDER: I'm saying that when -- it's rundown now and needs some TLC, no question. And when you do that, the building will still have four units and the rentals will not be, there will be four rental units presumably, and they'll be at a level that's more

affordable than what you're going to have with three condominium units which are going to be much more luxurious and take these units, this building off the rolls of the city for the purposes of affordable housing.

ATTORNEY SEAN HOPE: Well, I mean, I guess I have a little bit of an issue of the idea that because they're rundown and they're smaller, they're going to be more affordable. I could say that if you wanted to renovate these as is and sold them each as condominium units, depending on what the market might bear, they actually may not be as less or more expense than they were previously. I think that's an assumption, but I don't necessarily know that to be true.

I also do know that a goal of the

City Council is to provide family-friendly housing. And oftentimes the developers will be taking a large single-family and they'll want to make smaller units. Part of the reason we why we got support from the neighbors, was they supported the fact that we're actually reducing the unit count. So by reducing the unit count and part of coming here was to make sure we had the requisite support from the neighbors. I'm not saying the neighbors wouldn't support it if we just did the renovation, but they actually liked the fact that we were reducing the unit count. Their assumption was that be reducing the unit count, that we were reducing density. We can't say that to be true or not, you could have a larger family. But I do think we're achieving the goals of, as you

mentioned, one of the City Council which is providing for larger family-friendly units, whether they be a family or not. I think the neighbors supported the renovations and the idea that even the changes in the roof structure we made they thought aesthetically the design makes sense. And I do think this is different than when you're trying to take empty attic space and you're trying to add it to living space. This is an existing bedroom area, and I think, you know, if this wasn't on the roof, but this was on the first floor. We wouldn't say well, abandon this back room because somehow it doesn't meet code, we require you meet code. But I think because there's a health and safety issue in an existing area, that if we did a -- if we did just

did a patch and match renovation, we would still have to do something. I think likely my experience we would have to add a dormer or do something else to get a Certificate of Occupancy from the Building Department. So I think this is a pre-existing condition that has been unsafe. This is an opportunity to make that safe. And I do think that, you know, most developers are going the other way. They're making smaller units because they're actually higher per square foot. This is a point and my experience in the market, that you can't continue to charge the larger units. There is a breaking point. And I would say that even -- and you could speak to this, that the larger units are actually sitting on the market. Things that are going over a million

dollars are not moving as fast without parking and some of these other things. So I think market forces will bring this into alignment. But I'd also say, too, that, you know, if this was going to be a rental that because of proximity to the different universities, that you might be able to justify the numbers in that. But Scott is a residential developer and I think that was -- there were different options. You can make speak to what you looked at.

SCOTT ZINK: Yeah, I want to speak to that comment, but just one other thing. You know, when we bought this building, we started -- we had a demolition permit pretty much when we closed and we started demoing it right away. And we had every intention of working within the existing

shell. And, you know, as you can speak to that we've got about 20 different versions of floor plans. And, you know, it became apparent to us that with the existing shell it was going to be really hard to make these code compliant staircases. And also, you know, if you look at the detail, the floor to ceiling height on the first floor as it is, is seven-foot, nine. But we only have five foot -- excuse me, five-inch joists. So we're going to have to use ten-inch joists to make, you know, a clear span. So that's going to even further reduce the height. And then when you look at the second floor to the third floor, it's, you know, it's seven-foot, four which is compliant but, again, we're going to have to beef up the structural members and it's really going to bring,

you know, may bring it under seven feet.

EDRICK van BEUZEKOM: We're struggling it to keep it within the code required height --

SCOTT ZINK: Yeah.

EDRICK van BEUZEKOM: And there's also, the floor's pitch from one end of the house to the other is 14 inches. So just to level that out takes a certain amount of space. So it just reaches the point where there's so much work just to make the Building Code compliant and almost -- you know, it's virtually impossible in some ways to be able to maintain the usable space that there was currently. Once you fix all those things, and then you have to bring the stairs up to meet code because the stairs, you know, there is a provision you can leave

existing stairs when you do certain level of renovation if the inspector deems them safe. I don't think they would deem these stairs safe. They're very steep, they're narrow, and when you do this level of work it's just not -- it really isn't safe to leave them the way they are, and particularly on the single-family side. It's a ship's stair leading up to that bedroom space, but it's been a bedroom space and that's why it has the dormer there for the headroom for the stair that's there now. And so we're, you know, we're trying to take an approach that -- to minimize the amount we're adding to it and try to minimize the impact on neighbors, too, by taking off the dormer on this side.

BRENDAN SULLIVAN: You know we

hear that all the time, and just again to go in the same vain that the Chair has mentioned that we have people coming down before us all the time and saying oh, we need to expand, we need to change, we need to code compliant, and all of a sudden this is the catch word "code compliant," when you really don't have to do anything that's code compliant. Once you touch it, obviously you have to bring it up to code, but you don't have to touch it. But in the purchasing of it and somebody's asking \$1.3, \$1.4 million, oh, my God, no, this is a terrible building. You know, look at the staircase, look at the way the floor's built. It's basically to drive the price down and pointing out all of the defects. And then once you have a settled on a price, once you have purchased it by

getting it down and pointing out all of the defects in the building, then the next exercise is now, how can we enhance that investment? So say you say, I don't know, four units there now? Purchase price, what, 1.2 -- 1.25 say? So you're talking basically 300, 325,000 dollars a unit. Okay? You're not going to sell these things -- obviously you're going to do some improvements. But you're talking in the eights and nines per unit?

SCOTT ZINK: It could be, right.

BRENDAN SULLIVAN: Right. My point exactly.

SCOTT ZINK: If we don't have the ceiling height, though -- if we of have, you know a floor to ceiling height --

BRENDAN SULLIVAN: We've gone from something affordable to now something out

of reach.

CONSTANTINE ALEXANDER: That's the point. You're asking us to create value for you. That's my problem. The bottom line is you've made a deal, you bought a building, you got it because it's got all these problems. And now you come to us and say sign the piece of paper and increase the value of my investment. That's not our judge in my opinion.

ATTORNEY SEAN HOPE: This is not totally to create value. It's not like that we would have a lemon if we don't get this addition. We could still do lots of things. But it would decrease the functionality and it would also make it so that we have a condition where there's a bedroom, where the occupant, now the petitioner, and his interests are

financial, but also for the future occupants of this building would have a much reduced living space. And I think this is naturally going to be a bedroom, it's not on the first floor. I think the fact that they're going to be adding value there, I don't think all the value is in this room. The renovation itself, this is a prominent building on a prominent corner in a great location. The value's already there. I think when you have a health and safety issue and you also have very logical functionality. We're not looking for a rear deck or a master bedroom. This is just to make an adequate bedroom and for egress stairs.

I think there is added value, but I don't think that's the soul basis of why we're here. And if you rejected that,

they would still do the renovations, but obviously the occupant of the building would suffer and so would the petitioner. I think also reducing the unit count you could say in some ways I don't think we're going to lose value there, but I also think we're not necessarily going for what some people say were the highest value. Keep the multiples, you could and sell condos and multiple users and make more money in smaller units. I don't think this is just about adding value with no rationale. I do think the health and safety issues, although you could do different things, and we could be back before the Board to be required to do a dormer or something else. It's not quite clear that we wouldn't be back here to make that a habitable space. I think

we've come up with a way to make habitable space that the neighbors approve of, reducing units count that's gained neighbor support. And I think overall allows for this level of development. I think if you say you're not going to make so much money, you scale things down. Very naturally, I don't think -- who benefits from that, the idea that you're not going to make as much money so you have to make different choices. And I think the design is appropriate. I think we've only asked for the minimum necessary to have egress stairs. 211 square feet is all we're asking. And I think it's placed in a position that would really focus on what we're asking for. And so I do understand your point, but I don't think we're just here adding value, looking to

add on an addition to another bedroom. We're keeping within framework of the building. We're adding any other -- we're adding square footage, but we're not adding additional living area.

BRENDAN SULLIVAN: My consideration is not whether you make a dollar or a million dollars or somewhere in between, it's crossing that threshold of we have a real hardship here, and I'm not convinced that there is a real hardship other than a desire to enhance our investment basically.

DOUGLAS MYERS: On the contrary, on that particular point it seems to me that because of the absolutely eccentric structure of these buildings, there's every element here of what is traditionally considered a hardship under

zoning laws when it comes to improving these buildings. These buildings are awkwardly configured under pre-existing zoning law, and to me the hardship is not the issue. I also say it's just interesting, people are people, you go to five board members on a Board of Zoning Appeals, you get different vantages. I have to say speaking for myself, the value added and the housing policy issue, is a little recondite that goes in so many different directions, there's full of so many imponderables. My response to that is kind of what else is new? A developer builds -- buys a building and wants to develop it, comes to get a Variance. But, but and even if there's a hardship, where my ears perk up is you still have so satisfy the zoning requirements when you

get a Variance. And this Board has a lot of discretion to exercise and it could have doubts on perfectly valid zoning grounds that are not directly related to a discussion of housing policy.

For example, for example, I'm concerned by the elevating the roof on the single-family dwelling, even though it's within limits, you're going to create a very awkward appearance of that roof becoming higher than the very large massive building that's next to it. That causes me -- that's something I'd like to discuss and like to hear other members of the board talk about.

On the side facing Bay Street, I see a significant third floor build out in the plans. I think in terms of, and I also see what I would say is if not a massive,

a very significant in-fill on the third floor. I think Mr. Van Beuzekom alluded to that, but to me there are significant zoning questions of massing and density. I also think the result is you're going to have a much higher dense building in an already congested area which you have alluded to. And as well, I'm also concerned, even if the FAR increase is modest, I note also with having to do with congestion, which is another very valid consideration under our City Ordinance, under our Zoning Ordinance, I note the 25 percent reduction in open space on a building that's already, not in violation, but a building that's on the low side in terms of open space. So just because I take a different view of housing policy, and I don't think that's ever going to

come to a vote before this Board, and because you're good listeners and know all about the code compliance and upgrading and safety, I understand that, but I think there are very heavy zoning issues here that I would want to discuss at length and I would want to be satisfied about.

BRENDAN SULLIVAN: I think we said the same thing except you said it far more intelligently.

DOUGLAS MYERS: Would that it were so. Would that it were so.

CONSTANTINE ALEXANDER: And just for the record, in terms of the density and the like, the building right now, the FAR on the building is 1.94 and that's going to 2.03 in a 0.75 district. So this building when finished will be almost three times what is permitted.

DOUGLAS MYERS: And rescinding from those facts concerning one lot in a very congested neighborhood.

CONSTANTINE ALEXANDER: I didn't mean to take away.

DOUGLAS MYERS: We're not stealing your thunder. I hope you can tailor your presentation to respond to these points, it would be more effective.

EDRICK van BEUZEKOM: Let me first address the open space issue, because that's a tricky one. The requirements for the 15-foot clear dimension or 50 percent of the open space, and already there's barely any part of the lot that has the 15 feet. And essentially what's happened because we're trying to make the entrance porches code compliant and the proper dimension, they now project into that 15

feet a little bit, so we no longer meet that dimensional requirement. And so that's -- even though if you look at the footprint of what we're doing, it's really the ground is pretty much the same. It's just that those entrance porches take up a little more of the space and so, they're right in the spot of where that 15 feet was. So it has a big impact.

ATTORNEY SEAN HOPE: If I can jump in, it's not 25 percent of what would be considered normal open space is now covered. It's 15-by-15 are the countable open space. So because you lose the 15-by-15 dimension, there's certain space that's actually open that you can't count. So it's not like --

DOUGLAS MYERS: The reduction was 25 percent is what I said.

ATTORNEY SEAN HOPE: I think in terms of physical open space, we cannot longer count certain sections is what he's saying. We don't have that 15-by-15 dimension. I wanted to make it clear you're not taking away 25 percent by covered by building, we're staying within the footprint, it's that when you count it, you can only count 15-by-15 or half of it. Your calculation is correct. The magnitude really isn't you're taking a quarter of what's there and putting it, building it, and covering that.

You can continue.

EDRICK van BEUZEKOM: Okay. As far as the height of the building, I mean this -- maybe I should have done changes to the -- let me get the elevations here. Here's, this is the existing Bay Street

elevation here. You see the gable roof here. And here's our proposal.

CONSTANTINE ALEXANDER: Side by side.

DOUGLAS MYERS: It is helpful if you hold them up.

EDRICK van BEUZEKOM: Okay.

DOUGLAS MYERS: Even higher. Great, that's great.

EDRICK van BEUZEKOM: So the dashed line here shows where that roof is. We are slightly higher here with just this little bit of peak. We're losing that shed dormer that's here. So I understand your concern about the massiveness. It's still within the height limit and it's set back from this. So I think the image from the street does not make it feel, and you can get that sense from this 3-D view.

This is, this is, this is taken from across the street here and, you know, it's basically -- it doesn't, it doesn't feel higher than that because it's set back. That's the perception of it basically. So, you know, if they're, you know, that's -- making this connection was a way to get the stairs to work in the center there between the two units, and that's what we're trying to achieve. And so it's this little piece here where we're connecting between from the -- so that's, that's the added piece there on top. Which, yes, that's a new piece we're adding in an already non-compliant building. But, again, it's to try to make that space work for the circulation.

JANET GREEN: Explain the circulation to me again?

EDRICK van BEUZEKOM: So --

JANET GREEN: I mean, that -- why is that piece necessary?

EDRICK van BEUZEKOM: In order to get the stairs from this space you got to get across to that stairs. There's no way -- we couldn't fit stairs in the -- the living space here is really quite small. So to put stairs that get from there to here without using that existing dormer, and that existing dormer -- that's where the stairs are now. It doesn't have the proper headroom nor the proper rise for the stairs. When we do code compliant stairs, it takes up a lot more space. And you pretty much lose the use of a lot of the second floor there. We were trying to shift it over to here so we could still use this space and

then we need to, we need to be able to get between the stairs and the space there.

On the back side of the building, if you turn that one around. So here you see the back of the building as it is currently. What we've done back here is this dashed line shows you where the current roof line here. Here's the dormer we would remove. And here's where that roof is currently. And we're stepping in two sections, one -- with the higher one being where we connect over to get over to the stairs. And then we added, we took off this little gable here which, you know, which is a space that was in use, but it's really not at all close to being a real usable room. But we're taking that off and pulling this back so that we have -- the stairs are in here and we've

basically brought this up, the lower part of this sort of catches the outer part of the stairs which is the lower part coming out and you get to the landing and go higher. And so we're stepping it back. So, again, we're trying to minimize the impact on the neighbor, any shadows, any perception of the massing of the building. This is happening in the middle here where you can't really see much of what's happening there from the street. If you stand on Franklin Street, this is really hard to see this part of the building. If you stand on Bay Street, you can see that gap between the buildings, but it's pretty far set back from the street. So, you know, I think it's in terms of the perception of the mass of the building from the street, there's really -- it's a

pretty minor change. So, you know, I know normally we don't -- I know you don't do tradeoffs of FAR and that's not really -- you know, we weren't doing this to trade off FAR. We were doing this to just make it work.

CONSTANTINE ALEXANDER:

Understood.

EDRICK van BEUZEKOM: And as Scott alluded to, we did a lot of studies to work within the existing envelope. That's the approach we took when he bought the building. I -- and I said this is going to be tough, you know, it's going to be tough to make changes on this, on the exterior. So we have to make it work on the inside and we ran into in terms of a road block to make the stairs work. And once you bring the stairs up to compliance

and, again, I've done a lot of projects where we were able to leave the old stairs and not lose all that space, this is one where I don't think this is a feasible option. And it's a significantly more greater amount of space that that ticks up inside the building. So to still keep the same number of bedrooms that we had before becomes a real challenge. And to be able to make the circulation work and, you know, so --

JANET GREEN: So when you say keep the same number of bedrooms, is the same number of bedrooms divided by three as opposed to the number of that same number divided by four? I mean, are you looking for the same number of bedrooms --

EDRICK van BEUZEKOM: Well, in the end we have two different configurations.

I would -- I think we actually probably if you added up all the bedrooms, we probably do have about the same as what there are currently.

JANET GREEN: Same as what they are --

EDRICK van BEUZEKOM: Divided amongst three units --

JANET GREEN: I found the plans hard to read. Maybe I'm hard to read.

EDRICK van BEUZEKOM: These are really complicated.

JANET GREEN: I could not walk my way through what you were trying to do.

CONSTANTINE ALEXANDER: It's an odd structure.

JANET GREEN: So explain to me why you have to have that bedroom that the Chair has mentioned in the house part of

it? The single house?

EDRICK van BEUZEKOM: In this part here?

JANET GREEN: Yes.

EDRICK van BEUZEKOM: Well, there is currently a bedroom up here.

JANET GREEN: I understand that. I've got that.

EDRICK van BEUZEKOM: And then what we wanted -- the stairs come up underneath this dormer here. And then they don't have the proper headroom. They don't comply. So we wanted to make the stairs compliant, but there's no way to fit them and get them up there without taking up almost the entire floor area there to bring the stair.

JANET GREEN: And that unit that that bedroom is part of --

EDRICK van BEUZEKOM: Yep.

JANET GREEN: -- how many bedrooms would be in that unit if you didn't have that bedroom?

EDRICK van BEUZEKOM: We could go from three bedrooms to two bedrooms if we don't have that one. Yep. Currently there's three bedrooms?

SCOTT ZINK: Three, right.

JANET GREEN: See, it's hard.

EDRICK van BEUZEKOM: There's been so many iterations on this.

JANET GREEN: Well, I was very sympathetic to the 14-inch change elevation.

ATTORNEY SEAN HOPE: And the house is leaning, you see the fact that the house is tipping.

JANET GREEN: But I still think

that that doesn't quite answer the question about the massing and in the way that, you know, I don't think it answers that question clearly enough to me.

ATTORNEY SEAN HOPE: Specifically the question of the concern about massing or --

JANET GREEN: Yes. It's -- at first when I looked at the plans, I thought well, what's the point of having this right in the middle. Why don't you just divide them and you'll have this part, you know, these people over here and this single-family over there, and you deal with those two. But I realize you can't do that. But then I didn't understand why -- I mean, other than for the economics of it, you needed to have that bedroom up there which seemed to

cause so many more other things to have to happen.

SCOTT ZINK: Yeah. Just on the massing, again, you know, we really -- most of it is behind the -- is existing structure so you don't see it from the street. And even, you know, from this angle on Franklin you're not going to see it. It's just a, you know, it's like a puzzle piece. This is really going here and this is getting a little taller and this is just, you know, squared off. And again, you don't, I don't think it's a huge visual impact from the street in terms of massing.

ATTORNEY SEAN HOPE: Yeah. And I'd just like to add some context. I think sometimes when you're looking at a 2-D image, you can feel what the massing

might be. I just like to point out that one, all the additions are outside the front yard setback and they're below the minimum height. And in terms of what zoning allows and what zoning provides, not the overall FAR, but in terms of building, how high could it be? How close could it be to the street? These are all within what zoning allows. Also, too, that the neighbors that are most affected on this side and in the rear where the setback is maybe seven feet, they're in full support of this addition of what we're trying to do. Primarily I believe it's because of the aesthetics, it could be one. And to be frank, we're reducing the unit count. They understand the number of bedrooms may not change. They probably didn't focus on what we're

focusing on here today, but in terms of walking that experience everyday, you know, we have two fronts and two sides, and I understand sometimes we have a lot of massing within the front yard street, it overwhelms the street. But, again, this is within -- they're close to 15 feet away. We're trying to take the massing and tuck it in this middle part. If you have two peaks here, this is a natural place to be able to in-fill. And, again, that in-fill is really for stairs. That in-fill is not to make this a larger bedroom. We are going to get a larger bedroom because we're increasing that peak. But that peak is still below 35 feet. In terms of what someone could expect as a neighbor and abutter what would be there within that scope. This

larger portion, this is a part that's out of conformance, we're not touching that, we're not reducing that but we're not touching that. Do I take some pause, I do really think that I think in terms of what zoning allows, I think we're within that. I think if we were within the front yard setback or exacerbating a non-conformity I would understand your issue. I think we're within that scope. Also the neighbor's feedback should be important in terms of what is consistent? What is, what fits within the neighborhood character? You know, and I do think that the design is something that they like, but I also think the massing really isn't maybe what, you know, the portrayal and maybe it's to the image. But this is all allowed by zoning. And even though you're

going from a 0.75 to a 0.201, there's still 200 square feet from access and egress. You're right, it is a big building. I think what we're adding and where we're adding it is appropriate and would allow for functional bedrooms. And I think if we didn't do it, I'm not saying we can't go back to the drawing board, but we really would have less functional space. This is a very odd building, and as you said, it's the size and the shape of the lot. You have two connected buildings on a corner lot that's extremely small. I think in terms of the statute, I think it does meet the element of the hardship. I think to your point substantial hardship to the petitioner. I think whenever time you have a developer, frankly it's harder to meet that hurdle

and that threshold. But I think this is -- you know, I understand where you're coming - --

CONSTANTINE ALEXANDER: Is that a justification to grant the Variances?

ATTORNEY SEAN HOPE: But I really don't think that the, whether it's a developer or a homeowner shouldn't really matter when you have such a unique case as this. You have this structure that would never be built, wouldn't be allowed to be built, and I think the placement of what we're adding is really not a GFA grab. It's about functionality and really about egress stairs and that should be significant.

SCOTT ZINK: I just wanted to add on to what Sean said. You know, I didn't -- when I bought this, I didn't

say, you know, let's go get a Variance and make it bigger. This building is big enough to get -- you know, you go through the motions to add 200 square feet, I really didn't want to do it. It's a tiny amount. The square footage, you know, when I sell the building is not going to help me. But adding staircases and making, you know, making it code compliant and getting the ceiling height is really what's going to make this a better building. Again, we tried really hard to figure something out that was going to work and, you know, unfortunately we ended up here, but we felt like, you know, once we got the plan, I went around and talked to all the neighbors and said look, here's what we're doing, we need a Variance.

CONSTANTINE ALEXANDER: We have

letters which I'm going to read into the file in a second.

SCOTT ZINK: You know, so I made an effort to talk to the neighbors and let them know what we're trying to do and, you know, I think we're like ten for ten in terms of people I talked to and people that are supportive of this.

DOUGLAS MYERS: And so if I'm holding up what is page A-21 in your plans, do you have a display board or three-dimensional portrayal of that page that would, that might illustrate what you're talking about with respect to the massing that's in the rear as you say are setback?

EDRICK van BEUZEKOM: Yeah.

JANET GREEN: Thanks for that.

EDRICK van BEUZEKOM: I have two

versions.

DOUGLAS MYERS: That's the page that I mentioned troubles me. It --

EDRICK van BEUZEKOM: Why don't we start with this one. Here you can see this is the proposed, this is what's there existing. So you can see changes in this roof here to cut that back flat and then step it up here where the stair would be going. You can see the changes in this roof here where we've brought that up and we're actually, the height that you see at this street we're stepping it back on the back side here because we didn't need that for the access through there, so we're actually bringing it back down a little bit on that back section.

This view here is that side. So this is the area here. I didn't, I didn't

do an existing view from here, but if I had, what you would see is from this line here a pitched roof going back.

DOUGLAS MYERS: Yes, where are the roofs? Where are the pitched roofs in your presentation?

EDRICK van BEUZEKOM: The existing pitched roof is here.

DOUGLAS MYERS: But it's not shown what is No. 6, view No. 6, right?

SCOTT ZINK: You can see it.

EDRICK van BEUZEKOM: Here you can see it. Here's the pitched roof and this is the proposed. All right. So this is the --

SCOTT ZINK: This is a bigger version right here.

EDRICK van BEUZEKOM: This is proposed.

DOUGLAS MYERS: I don't see this little section with the window on the left-hand side.

EDRICK van BEUZEKOM: That's back here.

DOUGLAS MYERS: And the pitched roof.

EDRICK van BEUZEKOM: There is no pitched roof on the proposal.

DOUGLAS MYERS: This is the proposal. It says proposed building.

EDRICK van BEUZEKOM: Yeah. But the only pitched roof you're seeing there is far in the back. That's the, the roof way back.

DOUGLAS MYERS: Is that the abutter's house you're saying?

EDRICK van BEUZEKOM: No. What is now the single-family.

DOUGLAS MYERS: But it's visible.

EDRICK van BEUZEKOM: Well, that's back here. You see that, right? So here -- again, here's the existing. This is that existing pitched roof that we're going to remove. Propose to remove. This is the pitched roof on the single that's over there, right? So that pitched roof, you see it again here with a slight change in height. You see how it goes a little bit above that line there, all right? And then this section we've made flat roof instead of this pitched roof here which is stepped back from the street more. Again, to sort of bring the -- bring the scale back from the street essentially are.

CONSTANTINE ALEXANDER: The --

DOUGLAS MYERS: It still looks dense to me.

CONSTANTINE ALEXANDER: Along
those lines --

DOUGLAS MYERS: A lot more
massing.

CONSTANTINE ALEXANDER: I'm sorry.

DOUGLAS MYERS: No, no, I'm
finished.

CONSTANTINE ALEXANDER: The
Franklin Street neighbor who is going to
be most affected --

EDRICK van BEUZEKOM: On this side
here.

CONSTANTINE ALEXANDER: Is he one
of the persons that's written a letter?

SCOTT ZINK: There's two letters
back there and both of them have written
letters.

ATTORNEY SEAN HOPE: And one of
them was actually here.

SCOTT ZINK: She was here.

CONSTANTINE ALEXANDER: The people who were here earlier, they left a note.

ATTORNEY SEAN HOPE: They left.

CONSTANTINE ALEXANDER: I'll get to that.

TIMOTHY HUGHES: They left their names.

ATTORNEY SEAN HOPE: You know, I think I am -- hopefully what we showed today is that we thought through these plans very thoroughly, and before we came to the Board and part of the conversation we had before was if we're going to go for a Variance and Edrick knows this, and we also told Scott that it has to be defensible, that we can't just go and ask for additional space. Because of the uniqueness of the structure, and frankly

for me, because this was habitable, usable space, if we did a renovation, we would be addressing this access code as well. You know, because of the siding of the addition, because of the -- what we feel was de minimus amount of square footage, and really from the feedback of the neighbors we felt this was appropriate. I do think the hardship is there. I think this is unique and I think this is also defensible for the Board. Lots of people come for 100 square feet. We're not the first to ask for a small amount of square footage. This is de minimus amount to have functional layout of the floor and the stairs. And I feel that's the crux of a hardship. If we don't have that, we don't have functional space and we will have a health and safety issue that we would need

to address. I'm not convinced that if you turn this down today that we go for a renovation that we won't be back here because we can't get a CO because we need some sort of height, you know, and I think in this experience that exercise we're trying to avoid that. And we're actually trying to come up with something that's not just a dormer, but something that actually aesthetically looks well and was acceptable to the neighbors and that's what I think we tried to put together.

CONSTANTINE ALEXANDER: Okay.

Comments or questions from members of the Board at this point before we go to public testimony?

TIMOTHY HUGHES: I don't have any questions but I'll have comments.

CONSTANTINE ALEXANDER: Okay.

First of all, is there anyone here wishing to be heard on this matter in the audience?

(No Response.)

CONSTANTINE ALEXANDER: There is none.

We have do have, as Mr. Hope has pointed out, we do have a number of letters and some comments. First of all, there were certain abutters who were here tonight but had to leave and they left a note with Maria saying they were in support, and it's the occupant, it's Sandra Allik, A-l-l-i-k at 539 Franklin Street. Phyllis Baumann, B-a-u-m-a-n-n, 19 Bay Street. Joyce Singer, 524 Franklin Street. And Beth, looks like Wigden, W-i-g-d-e-n, 529 Franklin Street. They also left a comment that they would also

like to encourage whoever buys it, to rent parking spaces.

I assume there's no parking obviously on the premises, and so they would like, I assume, to alleviate some of the parking issues on the street.

We also have a letter, letters, one from a David Roe, R-o-e who lives at 527 Franklin Street. (Reading) I would like to offer my support for the renovation project proposed by Al and Scott Zink at 21-23 Bay Street. I believe that the renovations would be an improvement to the neighborhood and see know reason that they should not be approved. The variances that they request are essentially the same as those of the existing property. I am the owner of the adjacent house on Franklin Street and I am basing my

assessment on plans provided by the developer's version of September 29, 2015.

Which I take it is this, right?

EDRICK van BEUZEKOM: Yeah. This is actually a newer version. But the only changes were internal. The exterior that he say was exactly what you're looking for.

CONSTANTINE ALEXANDER: Feel free to contact him.

A letter from a Thomas Rybka, R-y-b-k-a resides at 525 Franklin Street. (Reading) It is my pleasure to write a letter of support for the renovation project at 21-23 Bay Street proposed by New Market Properties. These renovations will enhance our neighborhood and I have no concerns. The variances requested are minimal and their impact outside the

bounds of the property are negligible. I own the property at 525 Franklin Street which directly abuts this property to the rear. He pointed that out. Scott Zink has reviewed the plans with me as issued on September 29, 2015.

A letter from Ted J. Kaptchuk, K-a-p-t-c-h-u-k. (Reading) I live at 27 Bay street, Cambridge, directly across the street from 21-23 Bay Street, and to say the least, the building has been an eyesore and structural disaster for many years. The proposed alterations would be a significant upgrade to the neighborhood. It is, it's clear that the issues faced by the builder are daunting and that the relief he's seeking will help bring the building up to modern standards in terms of structural soundness, ceiling height,

and the ability to build compliance staircases. The proposed improvement of the property would make your lives more pleasant and would be a major enhancement to the prominent corner of Bay and Franklin Street. And the relief sought by Scott Zink seem to be very minor.

And there's one last, it's an e-mail from Estelle, E-s-t-e-l-l-e Disch, D-i-s-c-h. A neighbor -- who resides at 528 Franklin Street. (Reading) A neighbor passed along the proposal for renovation at 21-23 Bay Street and it looks fine to me. I am happy to see that old building renovated and appreciate the plan to have three units instead of four. I live almost directly across the street from that property.

And that's it in terms of

correspondence. I'm going to close public testimony.

Any other comments you have,
Mr. Hope.

ATTORNEY SEAN HOPE: I'd like to hear feedback from the Board.

CONSTANTINE ALEXANDER: You will. But it's your turn to talk.

ATTORNEY SEAN HOPE: I do think the Board has a discretion in cases where you have a unique structure on a unique lot to be able to grant a Variance for the reasons that we stated. I think to me it's significant that this is not an attic space or not what I feel is a traditional case where coming before the Board and you're seeking to now maximize space that's attic or usable space. I think it's important to that single-family

structure to have a quality bedroom on that upper floor. I think that without relief we still could have a bedroom, but we would figure out how to do that and it wouldn't be within the confines. The stairs doesn't meet code and you have to likely do an additional dormer or something else. I think this is a solution for that, for that problem. I think it's something that works for the neighborhood, and I would hope that the Board would look at this differently from other situations where someone's coming forward what they feel is a small amount of relief to enhance value. There is a clear safety and functionality aspect of this, and I think this would alleviate a substantial hardship to the petitioner.

CONSTANTINE ALEXANDER: Thank you.

That's it. Discussion? I expressed my views.

TIMOTHY HUGHES: Sure.

CONSTANTINE ALEXANDER: Go ahead.

TIMOTHY HUGHES: I think it's well within the intent of the Ordinance to improve the housing stock in Cambridge. And a situation like this with a building that's delapidated and rundown and is going to need some engineering improvements with a pitched floor and the leaning walls, it's, you know, how can you not increase the value if you're gonna improve the stock? If you're going to improve the housing stock, there's going to be a concurrent increase in the value. That goes with the territory. You know, I don't think that, you know, that should be the thing that keeps us from doing this.

I think you can easily establish a legal, the legal standard for hardship. That second half of the hardship about soil and placement of the structures on the lot, everything's there for this. This building is in a weird place on a weird lot, you know. And it's undersized and I think that the petitioners make a good case for the fact that the additional FAR is for health and safety and functionality reasons rather than, you know, just trying to add, you know, a gourmet kitchen or something to that effect. And in that regard I think that, I can vote in favor of this petition.

JANET GREEN: I just add a little bit to that. I was struck by all the positive neighborhood feedback. There's not one negative letter, and that the

letters aren't what we so often see mimeographed by...sign here, and it's the same letter all the time. I mean these are really thoughtful letters from people.

And when I first looked at this case, when I came in and I started trying to sort through the plans and as I was going through them for about the fourth time, the, I thought, no way. You know, I just can't see this at all. But I've actually become more convinced in favor of it. I think it's a very, very difficult problem, this house is. It's unique. This isn't a, you know, an attic to make a master bedroom or a master suite or something like that. This is to give some functional space. I really took that point seriously. I like the fact that it was reducing from four to three in a

neighborhood that's got so much, you know, that's so densely populated. And I think they're adding a very small amount of space to accomplish a lot of very difficult existing structural problems.

CONSTANTINE ALEXANDER: Well, I haven't changed my -- I'm impressed by the presentation, but I haven't changed my view. I think there's a lot of misdirection going on here. There is -- this building had an attic over the years as most people do try to use it for living space and it wasn't designed to be living space. The staircase that went up there wasn't designed to get to living space, and now you want to legitimize the living space by increasing the size of the structure internally and again the result will be to -- for a structure that I think

doesn't meet the requirements of a substantial hardship. The hardship -- there are bedrooms in the structure. There will continue to be bedrooms afterwards. You may not be able to use the third floor as a bedroom, that's probably where it all should be end up if no relief is granted. That's what it is. That's the house you bought and I don't, it's not the kind of case where we do grant relief where you have a couple or a young -- Wood Street is a case you're very familiar with where you have people have a house or need more bedrooms. Or the case we're going to hear next where someone the house has been in the family for 50 years, the third generation needs more living space. Those are people in the house, they're citizens of the city,

and I like to work with them. I don't like to work with situations where developers come in and what I see is an upgrading and a more expensive housing for the city with the result that the, I think the city doesn't benefit. I think if we don't grant relief, you'll come up with the solutions to meet the problems inside of the house. I think at the end of the day the structure, the confined structure, will not be as worth as it would be if we grant relief, but I think that's just the way it is. So I cannot vote in favor of it.

DOUGLAS MYERS: I'm having a hard time and I've listened and I'm also impressed with the presentation and I'm impressed with your desire to improve the property. Improvements are definitely

desirable on this property. I think the neighbors like that. I think the neighbors -- we don't at all rough shot over the neighbor's opinion. We always consider it. But I mean it would be very natural for a neighbor to look favorably on the property and enhance possibly likely the value of their property. So I didn't read anything in the neighbors' letters that was particularly compelling on what I think are the important issues of the case. And I'm still, I do think the FAR increase is not de minimus. I do think that we can apply all of the discretion that we have under the Zoning Ordinance. And even if you take it individually, elements of the proposal are compliant -- zoning compliant. Nonetheless, I think we have discretion to

go all the way to a denial based on what we've heard tonight. I have to say my basic attitude is that I'm just, I'm not so much opposed as I'm having trouble getting to a yes vote. That's just the way I feel about it. And I've learned over the years to kind of respect that feeling. So I'll listen to what my colleague has to say and I'm not, I'll make a decision, I'll decide the case and I'll pull the trigger. As of now I'm not prepared to vote for it. I'm on the fence. I'm not ruling it out, I'd like to hear my colleagues.

BRENDAN SULLIVAN: I can't get to a yes on it. Before I think on a streetscape that were two distinct buildings even though they're connected, okay, but they have this appearance of two

distinct. And now we are really conjoining them, and the massing on it is troubling to me. And I think that if something can be done within the existing structure, so I can't get to a yes.

DOUGLAS MYERS: Then I will vote against it because I really do share the -- I think that you will go back to the drawing boards and I think you will work hard on this and you will continue to try to improve it and find a way to improve it. And if it involves coming back to us again, you'll start on a clear -- a clean slate. And as far as I'm concerned in a tangible sense, this hearing will count in your favor because you're obviously trying. I just can't get there on this record. This --

CONSTANTINE ALEXANDER: Ready for

a vote?

BRENDAN SULLIVAN: Yes.

CONSTANTINE ALEXANDER: Okay, the Chair moves that this Board make the following findings with regard to the relief being sought.

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship, financial or otherwise to the petitioner. That the hardship is owing to the shape of the structures, and especially affecting such structures, but not general -- not affecting generally the zoning district in which it is located.

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

this Ordinance.

On the basis of these findings, the Chair moves that we grant the Variance being sought on the condition that the work proceed in accordance with the plans prepared by EVB Design. They're many pages in length. They're dated October 7, 2015, and the cover page has been initialled by the Chair.

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

(Aye.)

CONSTANTINE ALEXANDER: Two in favor?

(Hughes, Green.)

CONSTANTINE ALEXANDER: Those opposed?

(Show of hands.)

CONSTANTINE ALEXANDER: Three

opposed.

(Alexander, Sullivan, Myers.)

CONSTANTINE ALEXANDER: We need one more vote by the people opposed.

The basis for denying the relief being sought is that petitioner has not demonstrated a substantial hardship.

That the -- there is adequate bedroom space in the structure now without the third floor which is being -- the justification for seeking the Variance.

That the proposal is contrary to the building policies of the City of Cambridge in that it will take away, it -- although it will improve the appearance of the structure, it will also increase the massing of the structure and its impact on neighboring properties. And it also will affect the affordable housing that's

available to the citizens of the city, because should this project go forward as proposed, what we're looking at here is three condominium units which presumably will have a substantial value as compared to the four rental units that are there now. The fact of the matter is that these units can be upgraded without -- internally or through other devices as Mr. Myers suggested, but to do what you want to do, strikes me and -- well, our motion is that it doesn't justify the granting of a Variance.

Anything else you want to add to what I've just said?

(No Response.)

CONSTANTINE ALEXANDER: All those in favor?

(Show of hands.)

CONSTANTINE ALEXANDER: Three in
favor of the reasons why.

(Alexander, Sullivan, Myers.)

* * * * *

(10:00 p.m.)

(Sitting Members BZA-008443-2015:

Constatine Alexander, Timothy Hughes,
Brendan Sullivan, Janet Green, Douglas
Myers.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 008443, 52 Union
Street.

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

You want to be heard?

CAMPBELL ELLSWORTH: Yes, sir.
Yes, sir. Good evening. My name is
Campbell Ellsworth, architect for the
client. I'm here with Jonathan Medeiros
and Judith Medeiros, his mother who are
co-owners of the house at 52 Union Street.
We're here before you to request a
Variance for several things and also a

modest Special Permit modification of openings within a setback. But let me tell you sort of the basics of this.

This, as you read, and I'm going to let the clients address the personal and the family and the history of the house and I would like to just address the technical issues before us.

CONSTANTINE ALEXANDER: As you wish.

CAMPBELL ELLSWORTH: Yeah, so the house is sitting on a very small lot, 2,267 square feet in the C-1 Zone. C-1 minimum lot is 5,000, so this is even half the size of that. The house is -- currently has an existing footprint, and essentially what we are, the reason we're here before you is to correct compromised head height that is in both

the main section of the house and the tail of the house. And to be able to lift the ridge approximately three and a half feet from 24 feet currently to about 27 feet, six inches. That's at the core of it. And then that lifting of the ridge triggers several things that are going on in the house. Number 1, because the house is non-conforming with respect to the greatest non-conformity in the left side setback at 1.9 feet. By lifting that ridge and extending that wall, we are increasing that setback non-conformity.

It's also non-conforming with respect to the front yard setback and the rear yard setback as well.

The --

CONSTANTINE ALEXANDER: There are no FAR issues, am I correct?

CAMPBELL ELLSWORTH: There are no FAR. We're increasing FAR because in that compromise head height we have areas that are below five feet that don't count in GFA and by lifting it it all becomes GFA but by lifting it we are still within the allowable GFA of the 0.75 slightly under. 0.73 as opposed to 0.75.

The lifting -- or the lifting of the roof creates -- existing GFA, you can see it on the dimensional form, is 1,293. By lifting the roof it increases it to 1,660. That happens to be a 28 percent increase which of course that triggers a Variance. It's above 25 percent GFA increase of a non-conforming building. So we're in here for that Variance as well. And I'm not sure exactly how to sort of bundle them.

BRENDAN SULLIVAN: Can I see the

dimensional form? Sorry.

CONSTANTINE ALEXANDER: Sure. I didn't see any FAR relief required under the dimensional form.

CAMPBELL ELLSWORTH: Okay.

CONSTANTINE ALEXANDER: I just wanted to mention that. By the way, are you aware -- sorry to interrupt, are you aware of a letter from one of your neighbors?

CAMPBELL ELLSWORTH: Yes, I am and I want to address that and throw myself at the mercy of the Board for that.

CONSTANTINE ALEXANDER: Keep going.

CAMPBELL ELLSWORTH: And so those are the basics. We think that it's a -- excuse me. The Special Permit is triggered because the back of the house in

the C-1 Zone requires a minimum 20-foot setback. No modification to that like there is for side yard setbacks on a narrow lot. So the 20-foot -- the existing build is 13.4 feet from the rear yard setback and we proposed to modify the openings on that rear yard setback, so that would trigger a Special Permit of modifying the openings within a setback.

CONSTANTINE ALEXANDER: Your neighbors most affected by the Special Permit you're seeking, have you spoken to them? Are they in favor, opposed, or they don't care?

JONATHAN MEDEIROS: We have some here.

CONSTANTINE ALEXANDER: You have some here.

JONATHAN MEDEIROS: And we have a

letter from the neighbor directly behind that we know --

CONSTANTINE ALEXANDER: So the people whose privacy is most affected by what you want to do with the windows --

CAMPBELL ELLSWORTH: Exactly that one. That's right. This one you can see on the GIS map, this is 52 Union, here's Union. And almost all of their backyard property line is abutted by this four-family which is addressed in that support letter.

CONSTANTINE ALEXANDER: Okay, I'll read it into the record at an appropriate time.

CAMPBELL ELLSWORTH: Terrific.

TIMOTHY HUGHES: Campbell, can I see that?

CAMPBELL ELLSWORTH: We are not

proposing to increase the footprint. And, again, I'll surely let the families speak to the personal issues, but we think that the, you know, obviously in C-1 Zone is a 35-foot height. We're only going to 27 and a half feet. We think that these are all relatively modest requests and we'll correct and allow for a, you know, improvement of the housing stock and for future use by the family. The back tail by the way, has a head height up there that's really kind of shockingly tight. That's -- so let me hand it over to Jonathan and Judith and I'm sure they have -- I'd like them to just sort of describe the history of the house and the family and who owned it.

JUDITH MEDEIROS: Well, my mother grew up in Cambridge. She lived across

the street from the house in Livermore Place since she was three-years-old. She recently passed in February. We lived -- when they, my parents met and got married, we lived at 45 Union Street. My mother knew the family that lived in 52 Union Street and the woman passed away and, you know, my mother and father, that house was condemned and they bought it in 1970 and rehabbed it and made it, you know, she had seven children, 30 to 45 foster children in and out of that house, infants mostly. And she adopted a little girl from Wednesday's Child severely handicapped and put a lift on the house. That house has been in our family all these years. The neighborhood, and it's, you know, when she passed, she asked that my son Jonathan -- you know, before that,

she said that house needs to go to you.
You need to keep it in the family. So
that's where we are.

CONSTANTINE ALEXANDER: And here
you are.

JONATHAN MEDEIROS: Yeah.

CONSTANTINE ALEXANDER: Jonathan.

JONATHAN MEDEIROS: It's a
bittersweet thing.

CONSTANTINE ALEXANDER: Say that
again.

JONATHAN MEDEIROS: It's a
bittersweet situation that's in front of
us. You know, my grandmother was very
important to me. This house is a place
that I went to everyday after school. My
mom, you know, we had a single mother, had
no other opportunity to put me anywhere
else so it was there. You know, I went to

the Harrington School and I walked to her house after school and I grew up on that street, you know, and it's almost surreal when I moved back there to be back in that neighborhood and seeing some of the few spaces I saw when I was younger. And, you know, reflecting on why is hard, you know, the conversations we'd have before she passed. This is going to be your house some day. You know, grandma, you're too tough. But here we are, you know. And she was -- her wish was for me to make it my own and make it nice, and you're going to raise your own family here some day and that's what she wanted and that's essentially what I want. I grew up in Cambridge. It's my neighborhood. I love East Cambridge. I'm back in my mom's basement now across the park. Don't get

me wrong, mom, I love you, but it's not the ideal situation. I'm a grown man and I'm here with my girlfriend today and she's with me as well and trying to build a life.

CONSTANTINE ALEXANDER: One of the reasons, one of the requirements to get the Variance is that you've got to show a substantial hardship. I think you demonstrated a substantial hardship by having to live in your mother's basement.

JUDITH MEDEIROS: Yes. What about my hardship? Just kidding. Kidding. I'm glad to have him back.

BRENDAN SULLIVAN: So the house is a single.

JONATHAN MEDEIROS: Single-family.

BRENDAN SULLIVAN: And typical layout, living room, dining room, kitchen,

half bath on the first floor.

CAMPBELL ELLSWORTH: Yeah.

BRENDAN SULLIVAN: Go up the stairs and bedroom, bathroom, bedroom?

JONATHAN MEDEIROS: No bathroom.

CAMPBELL ELLSWORTH: Currently.

BRENDAN SULLIVAN: So the whole idea is to raise the roof to give you bathroom, full bathroom, bedroom, bedroom? And then what happens to the back part of the house?

CAMPBELL ELLSWORTH: That becomes, the plans that we've been talking about is creating sort of a master suite that has its own dedicated bathroom.

BRENDAN SULLIVAN: In the back.

CAMPBELL ELLSWORTH: In the back, correct.

BRENDAN SULLIVAN: Okay. And then

another bathroom and two bedrooms on the front?

CAMPBELL ELLSWORTH: Yes.

BRENDAN SULLIVAN: When it's all said and done, it really then can support a family?

CAMPBELL ELLSWORTH: Oh, absolutely.

BRENDAN SULLIVAN: With two or three children or something like that?

CAMPBELL ELLSWORTH: Sure.

JONATHAN MEDEIROS: That's the pressure I'm getting.

BRENDAN SULLIVAN: Then your hardship really begins. That's another issue for another day. It will be -- anyhow....

JUDITH MEDEIROS: Grandma would be close right across the park. Me.

JONATHAN MEDEIROS: Yeah, it's a place where I grew up.

CONSTANTINE ALEXANDER: Any questions?

JANET GREEN: I actually had a bathroom question. What exists now and what are you going to? Is it -- is there a full bathroom on the first floor now, right?

JONATHAN MEDEIROS: And that was it.

JANET GREEN: You're going to add something to the basement as well.

JONATHAN MEDEIROS: That was a thought.

JANET GREEN: And that's a full basement, a tub?

JONATHAN MEDEIROS: A half bath and when I do a lot of work, hobbies when

it comes to motorcycles and Harleys and I wouldn't want to track that through the house, and other stuff. Useful for, you know.

JANET GREEN: So you're going to put two on the third floor and then like a little powder room on the first floor?

JONATHAN MEDEIROS: So the reason behind the bathroom on the first level for entertainment purposes. I don't keep a very neat room and my girlfriend would be embarrassed to have to go upstairs into a room or anywhere around to see personal items or what have you. So say dinner party or something, it would be e purposeful to have a half bath there just as a restroom.

JANET GREEN: And then really you don't intend to put a full bath in the

basement?

JONATHAN MEDEIROS: I don't think that would make any sense. I don't know if that would be purposeful. Maybe a shower. But maybe a three-quarter bath I suppose. But I guess that would be something we need to address, and if we need to, now we can.

CAMPBELL ELLSWORTH: That's all non-GFA space down there.

JANET GREEN: No, I was just trying to find out what the usage was.

JONATHAN MEDEIROS: Yeah, the design. I met with Campbell and it was great. It blew my mind. I thought it was an excellent design, and I said sounds good, let's do it. Let's go for it, you know. But I figured that would be something we have to address down the road

if we needed to.

CAMPBELL ELLSWORTH: The basement space, this all we've been working on, this a relatively short time and I want to discuss that in a second, but I had sort of come into this late, the builder who is here had started, I think had gotten a demo permit to start pulling it apart and then realized of course that they needed zoning relief so that pushed us in a different direction. So we wanted to get before you. We're fairly -- we're quite confident that the layout on the first and second floor is good and sort of keepable, and the basement is -- well, technically, of course, it's non-GFA so the building -- thank you -- the Building Permit calls out storage. But even in an under seven-foot space bathrooms are

allowed by the Building Code. So we put one down there.

DOUGLAS MYERS: Question. This concerns the front setback?

CAMPBELL ELLSWORTH: Right.

DOUGLAS MYERS: You've indicated a reduction of four feet from the front yard setback. Is that entirely due to a four-foot extension forward of the vestibule over the front door?

CAMPBELL ELLSWORTH: Just the canopy.

CONSTANTINE ALEXANDER: Canopy?

DOUGLAS MYERS: Canopy?

CAMPBELL ELLSWORTH: Yes, that's correct. There's no movement of the structure itself.

CONSTANTINE ALEXANDER: Other questions?

(No Response.)

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

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

DAVID HARRISON: Basically we've been long time friends --

CONSTANTINE ALEXANDER: You can give me your name. If you want to come forward, fine, but give your name.

DAVID HARRISON: David Harrison and I've been a long time lifetime resident of Cambridge, also, and we've -- you know, we grew up as family, you know, and they're planning on doing -- I see what they're doing to their house. You know, we approve it because it -- basically it's a one-family and they want to make it into their family. So we

really feel that, you know, there should be no reason why, you know, just that small modification should prevent them to make their living space a lot easier, you know.

CONSTANTINE ALEXANDER: Thank you for taking the time and sticking around at this late hour. It's not late for us but it may be late for others.

Anyone else wishing to be heard?

GLORIA HARRISON: I'm his wife.
I'm Gloria and I like everything he said.

CONSTANTINE ALEXANDER: You're a good wife.

DAVID HARRISON: Can I say that's the first time?

GLORIA HARRISON: We live at 383 Windsor.

TIMOTHY HUGHES: It may be the

last time, too, if you keep it up over there.

CONSTANTINE ALEXANDER: We have two letters. One you just gave us so I'll just read it into the record. And then we've got to talk about the letter from the resident at 395 Windsor Street.

The first letter is from Theresa Limo, L-i-m-o.

JUDITH MEDEIROS: A. Lima. L-i-m-a.

CONSTANTINE ALEXANDER: L-i-m-a.

(Reading) This letter is to advise you -- it's addressed to us, intended to be addressed to us. (Reading) This letter is to advise you that I have no objection to the work being proposed at 52 Union Street. I am co-owner of 389-391 Windsor Street. Our house sits directly behind 52

Union Street.

And then we have a letter from Stephen, S-t-e-p-h-e-n and Rachelle, R-a-c-h-e-l-l-e. LaMaster, L-a-M-a-s-t-e-r who reside at 395 Windsor Street. (Reading) We, Stephen and Rachelle LaMaster, owners of the abutting property and 395 Windsor Street, Cambridge, are submitting this written statement of concern regarding the petition for a Variance requested by Judith Medeiros-Adam and Jonathan Medeiros at 52 Union Street, Cambridge, Mass. The specific concern relates to the Variance that states, "To create a full second story to the existing structure where only a compromised head height second floor now exists." We've received the written notice of public hearing, however, have

received no direct communication from the owners regarding how the proposed changes will impact abutters. As neighbors in this dense residential area, we are concerned about the effect the new height will have on the sun exposure of our home. We would like to further understand this impact on our property. Further, we are concerned about the purpose of raising the height of this building. Namely, the prospect that the new height will allow the home to be divided into multiple units rather than remain a single-family dwelling. We support the overall improvement of our neighborhood and good communication among neighbors when impactful changes are proposed. We look forward to the owners communicating with us to address these concerns before Board

of Zoning Appeal approval.

CAMPBELL ELLSWORTH: Let me address that.

CONSTANTINE ALEXANDER: Please.

CAMPBELL ELLSWORTH: So this was a failure on -- and I'll take the responsibility for it. As I mentioned, the project and my involvement came up very quickly. The house was pulled apart. We wanted to get to the Board, get a good design, get the application in. As soon as that was in, we actually did sit down and discuss some community outreach and that ball dropped. I woke up this morning even before I knew about this letter and realized that had happened. I was in touch with the builder. I was in touch with Jonathan. We put a letter together, albeit very late in the game, that we

copied and distributed to all the abutters and the abutters to the abutters so that their house would have been included. I'll just provide that.

CONSTANTINE ALEXANDER: When was this letter distributed?

CAMPBELL ELLSWORTH: This morning. At about 11:30 or noon or something like that. There was a cover letter that I wrote that Jonathan approved, and I included the reduction of the existing plans and the proposed -- not plans, existing elevations and proposed elevations with what I hope is a reasonable summary there.

CONSTANTINE ALEXANDER: Well, one of the comments that they -- the concerns expressed by the LaMasters by raising the height of the building, it's going to

allow the home to be divided into multiple units rather than remain a single-family dwelling.

CAMPBELL ELLSWORTH: And that can't happen. C-1 Zone has 1500 square feet per dwelling unit, this is a lot of 2200.

CONSTANTINE ALEXANDER: I know that as well. That concern though well intentioned, I don't think is necessarily a matter of legitimate concern.

CAMPBELL ELLSWORTH: Sure.

And their other concern about sun exposure --

CONSTANTINE ALEXANDER: Right.

CAMPBELL ELLSWORTH: -- if you look, these GIS maps of, course, are due north here. The folks who wrote that letter are in, in this house here. So

that is -- where is it? East is here. So as the sun is going, there would be no -- and I mean and, again, we're really talking about raising this ridge by three-and-a-half feet. The back ridge stays not as low as it is obviously, but it comes up and it's under that front ridge. So, you know, sun -- there might be some shadow or additional shadow minimal in the summer, possible summer months as the sun is sort of curling around this way, but, you know, and I'm just being honest. I haven't done sun is studies on this. We thought that the addition was minimal and, again, but I do feel like it was my failure that we didn't reach out earlier to address that.

Now we did, we did try to knock on their door several times, actually, and

they do have that letter and I hope that the Board will see the --

JONATHAN MEDEIROS: Can I just say that I feel bad about this because that gentleman and myself had a great conversation over the summer about grilling swordfish because I was in the backyard, the smoke back there, and I was cooking up and he looked over the fence and I told him the recipe and I gave it to him and I feel bad that he thought I was trying to do something without reaching out to him. I wasn't aware of it. That's something I should have done and I should have been more aware of that.

CONSTANTINE ALEXANDER: I forget. Will these neighbors be affected by the window relocation?

JONATHAN MEDEIROS: No.

CONSTANTINE ALEXANDER: They're not.

JUDITH MEDEIROS: They're this way. They're a few houses down.

CONSTANTINE ALEXANDER: Okay. So they shouldn't have an issue about that.

CAMPBELL ELLSWORTH: Right.

BRENDAN SULLIVAN: Just as you get further down the road, if you were to get approval tonight and six weeks from now you're told that it's already gone through and the 20-day appeal period has started and these people are still not convinced that it's not going to affect them, that, you know, they could appeal it.

CAMPBELL ELLSWORTH: Right.

BRENDAN SULLIVAN: So you run that risk. And it probably doesn't take very much effort to appeal it which then stops

everything.

JONATHAN MEDEIROS: I intend to reach out to him.

JUDITH MEDEIROS: And he should have received that letter with the plans on it.

BRENDAN SULLIVAN: It would make me more comfortable if they were more comfortable I guess. And even if we were to approve it, you know, again, it's not knowing them and not -- the shadow study, I think, probably could be a little bit more detailed and I think it's probably going to have to be more convincing to them that it's not because I think it may very well impact their property.

JONATHAN MEDEIROS: Can I say one thing? It's confusing that that's a concern. Two of them, they have a tree in

their backyard that covers most of their porch and everything. So I -- and it's coming from an angle that will -- my house is directed towards their backyard and so --

CONSTANTINE ALEXANDER: Where Mr. Sullivan is coming from is the following: If we -- and this happens, a neighbor shows up or at the last minute, if you will, and with some objections, we often encourage, we generally encourage the petitioner to continue the case, work it out with a neighbor, because if you don't and the neighbor, as Brendan has pointed out, continues to not agree, you're running a risk of a lawsuit in which case you're going to be tied up in court a year, two years and nothing is going to go forward. Where, you know,

you've worked it out with the neighbor and you don't have to worry about that.

The downside of doing that is we'd have to continue the case tonight. We'd have to pick a date where all five of us, because it's a case heard, we've spent a lot of time on this case, would have to be available, and that may put the project back a month or two probably. In terms of -- because we won't be able to see you again probably in a month or two. Now it's your call. You go forward tonight, assuming we grant you relief, you run some risks you may regret it. Because at that point the neighbor has got, frankly, a lot more leverage than they do today. We might disregard, if we go forward, disregard the neighbor's concerns and maybe the neighbor won't pursue it. But,

you know, if you can talk to them, maybe they've got leverage. It's your call.

I --

BRENDAN SULLIVAN: And they may got their back up, too, if all of a sudden oh, it's already been approved, and I mean we've seen it go both ways.

JUDITH MEDEIROS: Well, if he had such a -- if the objection was that serious, wouldn't he come to the hearing tonight?

CONSTANTINE ALEXANDER: You don't know.

BRENDAN SULLIVAN: They may not have gotten home until ten o'clock tonight.

When is our next meeting?

CONSTANTINE ALEXANDER: The 19th is next?

MARIA PACHECO: We have the 19th which we have four cases.

BRENDAN SULLIVAN: I mean, I'm very amenable to the proposal before us. I would be far more amenable and sympathetic if I knew that the these people had no objection.

CONSTANTINE ALEXANDER: I'm amenable as well. And I don't care what -- my sense, I've heard their objection and I'm not too concerned about it. The question is from our point of view, not ours. Your point of view you're taking some risk on if you go forward tonight without at least trying to work something out with the neighbor. I mean, you could try to work something -- we continue, you try to work something out, you can't succeed, you come back and we

vote.

JONATHAN MEDEIROS: I intend to reach out to them. Like I said, we had the conversation without even knowing each other. He probably never seen me before.

CONSTANTINE ALEXANDER: The difference is reaching out to him and getting his approval. There's a difference.

BRENDAN SULLIVAN: You're going to have to walk them through the whole thing.

DOUGLAS MYERS: This will be a different conversation.

JONATHAN MEDEIROS: I intend to bring him in the house.

TIMOTHY HUGHES: You might make swordfish, too, while you're doing that.

JONATHAN MEDEIROS: I'm going to ask for the recipe back. Imagine that?

CONSTANTINE ALEXANDER: That's where we are. You can push it to a vote tonight or you can continue for, maybe only to the 19th if you think that gives you enough time. We can continue it further if you wanted to.

I assume everybody can make the 19th by the way.

TIMOTHY HUGHES: I'm already here.

JUDITH MEDEIROS: Not me. That's my meeting. I'm there all night. I work.

CAMPBELL ELLSWORTH: Is it possible to meet again with this group on the 19th? Is this --

CONSTANTINE ALEXANDER: Yes, that's what we're saying. She'll not be able to attend.

CAMPBELL ELLSWORTH: Right. And then do we -- what's the mechanics of the

re-presentation of the case? I mean, if we --

BRENDAN SULLIVAN: Basically we would ask if the person who wrote this letter is in agreement or -- and if, yes, we have a letter saying that they are in agreement or if they show up, and we can dispose of this thing in ten minutes.

CONSTANTINE ALEXANDER: Yes, ideally you would get a letter from the neighbors saying yeah, we've talked and we now understand it and we withdraw our objection. And as Brendan said, bring that letter in and we'll be done in five to ten minutes. If they don't, then we got, then we'll just talk about the case a little bit more.

JANET GREEN: Also if it's a continued case, it's scheduled to start at

seven. It doesn't mean that you'd be the first one at seven but it does mean it's less likely you'll be here at 10:30 at night. So it's not the same kind of situation.

JUDITH MEDEIROS: I mean, you can call me. I could come -- I'm just at MIT. I could take the T right here, you know, and then go back to work after.

JONATHAN MEDEIROS: I own a studio in Somerville 14 or 15 hour days.

CONSTANTINE ALEXANDER: We can do it later in the night. You don't have to do it at seven. Janet was trying to point out it won't be as inconvenient to you.

JANET GREEN: That's right.

CAMPBELL ELLSWORTH: It's not unreasonable to assume that if we have a letter of approval from that neighbor that

I could come and represent the client.

CONSTANTINE ALEXANDER: You could come under any circumstance.

BRENDAN SULLIVAN: That's all we need.

TIMOTHY HUGHES: I think you having a letter it's a slam dunk.

CONSTANTINE ALEXANDER: I think that's exactly right.

TIMOTHY HUGHES: If in fact you don't get a letter from them --

BRENDAN SULLIVAN: We want an answer to the question.

TIMOTHY HUGHES: -- we have to kick this thing around and decide what to do.

DOUGLAS MYERS: And if you don't get a letter and he wants a sun study, then the continuance becomes a little more

involved, we have to decide what to do to continue the hearing.

JUDITH MEDEIROS: Does that happen that people want a sun study? We live in a city. I have no sun.

TIMOTHY HUGHES: Yes, you do. He's sitting right next to you.

JUDITH MEDEIROS: I mean don't have a lot of sun.

CONSTANTINE ALEXANDER: Not every case, but there are people who want to see sun studies. Who want -- who are worried about the shadow that's going to be put on their property.

There's a hundred different reasons why people have problems with work.

TIMOTHY HUGHES: And we've seen them all.

BRENDAN SULLIVAN: And I think we

would be doing your duty and due diligence to respect any feedback from that neighbor.

CAMPBELL ELLSWORTH: Right, yeah.

CONSTANTINE ALEXANDER: We would urge you -- I mean, we're trying to say in a nice way, we urge you to continue this case.

DOUGLAS MYERS: I would feel more comfortable going forward. We don't like to run rough shot over neighbors and abutters. And this man -- he has written, he has expressed a concern. It doesn't seem to be too weighty, but we should -- you should talk to him. You should delve into it.

JUDITH MEDEIROS: So he can say to us you need to do a sun study to prove that your --

CONSTANTINE ALEXANDER: You can come back to us and say he wants a sun study. We don't think it's necessary, it's expensive, it's going to delay the project, and you can give a little bit more detail than what you've given us right now as to why you don't need it and we may decide fine.

BRENDAN SULLIVAN: Today's the 5th. You're going to reach out to them over the weekend, so you'll have plenty of time to do it for the 19th.

JONATHAN MEDEIROS: I feel like that's reasonable. It's better to have him feel comfortable.

CONSTANTINE ALEXANDER: You've got to live with the neighbor afterwards.

JONATHAN MEDEIROS: For a long time.

CONSTANTINE ALEXANDER: Hopefully.

CAMPBELL ELLSWORTH: So then --

CONSTANTINE ALEXANDER: The 19th?

CAMPBELL ELLSWORTH: Absolutely.

CONSTANTINE ALEXANDER: Do you want us to schedule the case -- is it better -- we usually do it at seven and as Janet pointed out --

JONATHAN MEDEIROS: I can get away.

JUDITH MEDEIROS: I can -- I have a huge agenda.

JONATHAN MEDEIROS: That's all right.

CONSTANTINE ALEXANDER: We can do it at nine. You tell us when.

JONATHAN MEDEIROS: The earlier the better.

CAMPBELL ELLSWORTH: Are there

other continued cases?

CONSTANTINE ALEXANDER: It's the order. And particularly if you get the -- this letter withdrawn, it will be the first case and it will be done in about, as Brendan said, five to ten minutes if that long. If not, it will take longer.

CAMPBELL ELLSWORTH: I would say we request the first slot if possible.

CONSTANTINE ALEXANDER: I can't -- your request has been heard, but I can't guarantee it. It will be at seven p.m.

CAMPBELL ELLSWORTH: Okay.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that we continue this case as a case heard. That means -- the significance of that is the

five -- the same five of us have to be here and we will be on the 19th, God willing, subject to the following conditions:

That you have to sign a waiver of time for a decision. Which everybody does. Campbell's familiar with that.

Two, the sign, the posting sign you have up, you have to modify it. Take a magic marker, cross it out and put the new date, November 19th, new time, seven p.m., and you keep it up for the next 14 days. The 14 days --

TIMOTHY HUGHES: Which means it's 14 days from tomorrow so you have to do it tomorrow.

CONSTANTINE ALEXANDER: Yes, do it tomorrow, exactly.

MARIA PACHECO: Yes.

CONSTANTINE ALEXANDER: And
lastly, to the extent the plans that you
submitted are modified, those new plans
and any dimensional form that -- related
to them, has to be in our files by five
p.m. on the -- no later than five p.m. on
the Monday before November 19th. That's
to allow us and the members of the public
to come in and look new plans and see if
we have any new objections or old
objections or whatever. I suspect you're
not going to modify the plans and this is
irrelevant, but if you do, again, Campbell
knows, you'll bring in new plans by, no
later than five p.m. on the Monday before
November 19th. So that behooves you to
talk to your neighbor sooner rather than
later because if you have to modify the
plans as a result of those discussions,

then you have to get them done by five p.m. -- by five p.m. on November 19th.

JONATHAN MEDEIROS: Certainly I'll talk to him over the weekend.

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

(Aye.)

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

CONSTANTINE ALEXANDER: See you on the 19th.

(Whereupon, at 10:30 p.m., the
Zoning Board of Appeals
Adjourned.)

* * * * *

ERRATA SHEET AND SIGNATURE INSTRUCTIONS

The original transcript and
Errata Sheet has been delivered to
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After reading this volume of the
Zoning Board of Appeals transcript, note
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therefor on this sheet. Sign and date
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I have read the foregoing transcript of the Zoning Board of Appeals, and except for any corrections or changes noted above, I hereby subscribe to the transcript as an accurate record of the statement(s) made by me.

C E R T I F I C A T E

**COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.**

I, Catherine Lawson Zelinski, a Certified Shorthand Reporter, the undersigned Notary Public, certify:

That the hearing herein before set forth is a true and accurate record of the proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of November, 2015.

Catherine L. Zelinski
Notary Public
Certified Shorthand Reporter
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