

BOARD OF ZONING APPEAL  
FOR THE  
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, FEBRUARY 27, 2020

7:00 p.m.

In

Senior Center

806 Massachusetts Avenue

First Floor

Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Andrea A. Hickey

Jim Monteverde

Laura Wernick

Arch Horst

Sisia Daglian, Assistant Building Commissioner

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2 \* \* \* \* \*

3 (7:01 p.m.)

4 Sitting Members: Constantine Alexander, Andrea A. Hickey,  
5 Jim Monteverde, Laura Wernick, Arch Horst

6 CONSTANTINE ALEXANDER: The Chair will call this  
7 meeting of the Board of Zoning Appeals to order. As is our  
8 custom, we start off by hearing continued cases.

9 These are cases that are started at an earlier  
10 date, but for one reason or another were not resolved, and  
11 were referred until this evening. And after that, we'll go  
12 to our regular agenda.

13 But before I call the first of the continued  
14 cases, I'm going to read a statement.

15 After notifying the Chair, any person may make a  
16 video or audio recording of our open sessions, or may  
17 transmit the meeting through any media, subject to  
18 reasonable requirements that the Chair may impose as to the  
19 number, placement and operation of equipment used, so as not  
20 to interfere with the conduct of the meeting.

21 At the beginning of the meeting, the Chair will  
22 inform other attendees at that meeting that a recording is

1 being made.

2           And I wish to advise that not at least two  
3 recordings are being made. Our stenographer makes a  
4 recording to assist her when she prepares a transcript of  
5 the meeting, and a citizen of the city is also recording  
6 this meeting, and he's left his tape recorder on the front  
7 desk right here.

8           Is there anyone else planning to record, or  
9 whatever -- record or film this meeting? None? Okay. With  
10 that out of the way, let's start, and I'm going to first  
11 call Case Number 017215 -- 544 Massachusetts Avenue. Anyone  
12 here wishing to be heard on this matter?

13           THE REPORTER: Can you spell your name for the  
14 record?

15           CLIFFORD SCHORER: Sure. My name is Clifford  
16 Shore, that's S-c-h-o-r-e-r. That's all you need?

17           THE REPORTER: And your address?

18           CLIFFORD SCHORER: 15 Concord Square, Boston,  
19 Mass. So basically, I'm here to just read a letter into the  
20 record and then submit some materials, and then ask for  
21 another continuance. That's the advice I've been given by  
22 staff of both Board, if that's okay.

1           CONSTANTINE ALEXANDER: We won't consider any of  
2 that. We'll put it in the files.

3           CLIFFORD SCHORER: Okay, that would be --

4           CONSTANTINE ALEXANDER: That's not what we have in  
5 the real hearing.

6           CLIFFORD SCHORER: -- that would be perfect. Let  
7 me first thank the Board for the continuance this evening,  
8 and I look forward to returning when the Planning Board  
9 process is nearing completion.

10           To explain, we received advice from Counsel  
11 confirmed by the staff of Planning -- see attached e-mail  
12 from Wendell Joseph, Swathi Joseph and Jeff Roberts of  
13 February 21, 2020 -- that although Section 10.45 allows the  
14 BZA and Planning Board to combine the processes of special  
15 permit requested from each Board into one process by, "not  
16 requesting a separate application," in this case, because we  
17 are seeking a variance from the BZA and special permits from  
18 the Planning Board, the process must remain two separate  
19 processes that may run in tandem.

20           From a practical standpoint, the Planning Board  
21 application should make its way through the process before  
22 the BZA closes the process in order to avoid duplicate work

1 by the Boards.

2 In this interest, I've been advised to ask for her  
3 a continuance of the variance application hearing, during  
4 which time we will advance the Planning Board process.

5 We'll return to the BZA when the Planning Board  
6 process has ruled on the application, and then only with the  
7 unit count for lot area of variance requested, as it was  
8 initially.

9 I attach for the Board's information the Central  
10 Square Advisory Committee's report from the meeting that was  
11 held February 19. The Advisory Committee stated in the  
12 summary, "The committee members in attendance were not  
13 opposed to the participated project. In addition, there  
14 were a large number of people in attendance who were opposed  
15 to the project on the basis that a tenant on the top floor  
16 of the building, called, 'Studio 550' will be displaced by  
17 the construction and redevelopment.

18 "The message from the dance community was heard  
19 loud and clear. Although we have no space available for  
20 this use in the future project, I am committed over the next  
21 few months to work with Callie Chapman, the Director of the  
22 Studio, to seek alternative spaces and nonprofit support for

1 her mission.

2 "The project has agreed to create a community  
3 meeting space on site for the Marxist (sic) book store and  
4 other organized meetings of community organizations.

5 "This has been located on this site since the  
6 1970s. This will be a small impact on the square footage of  
7 the largest units, and will be revised before the first  
8 Planning Board meeting.

9 "There were a number of comments regarding the  
10 small units and the extra inclusionary units that would be  
11 created by allowing this variance. Some were highly  
12 supportive, and others are committed only to larger units,  
13 which this project does not offer.

14 "It is our belief there must be a mix of unit  
15 sizes, and a permanent pipeline if any progress is to be  
16 made on the housing pressure in Cambridge.

17 "The facts are that the number of inclusionary  
18 units would increase by 3, with this variance granted, to  
19 five total. The total unit count increased by 9, and the  
20 rent of the market-rate studio units would be among the  
21 lowest and least expensive units created in the square in  
22 any of the new developments.

1           "The waiting list for studios and one-bedrooms is  
2 the longest waiting list there is, and there's been a 12  
3 percent drop in the creation of small units since the  
4 zoning, favoring large units, and inclusionary rent  
5 percentages being reduced to 25 percent of the applicant's  
6 income, inclusive of all utilities rather than the previous  
7 30.

8           "There is no doubt that allowing these additional  
9 nine units of smaller housing will provide a dramatic social  
10 good, and have no demonstrable downside from a housing  
11 perspective.

12           "As every study demonstrates, more units relieve  
13 housing pressure, and not every one of them can be \$4,000 to  
14 \$6,000 per month luxury units, as nearly all new  
15 developments are offering.

16           "I look forward to returning when the Planning  
17 Board has had sufficient time to rule on the special permit  
18 application, and we ask that we be put on the agenda at your  
19 convenience, and we'll repost the required notices at that  
20 time.

21           "Please feel free to contact me with any questions  
22 or concerns."

1           CONSTANTINE ALEXANDER: Before we get to the  
2 actual continuance, it's not a time for discussion, okay?  
3 Let me point out something to you, you should be well aware  
4 of it. Our role as a Board is far different from the  
5 Planning Board Central Square Advisory Committee.

6           They can make discretionary decisions to do things  
7 they believe in the best interest of the city. We don't  
8 have that discretion. We have a very tight state law. The  
9 legal standard has to be satisfied.

10           So when you come back and seek the variance,  
11 assuming that you will, you've got to make sure you  
12 understand what you've got for a case to try to present to  
13 us. You've got to demonstrate that unless we grant the  
14 relief, you will suffer a substantial hardship.

15           And it's not a hardship for the people who own the  
16 property now, it's a hardship for anybody who owns the  
17 property.

18           And that this hardship, you've got to make sure  
19 you've got it right -- this hardship is owing to  
20 circumstances and -- reading from the statute -- relating to  
21 the soil conditions, shape or topography of such land or  
22 structures, and especially affecting them. But not

1 generally affecting the zoning district in which it is  
2 located. That's a narrow type standard, the third word  
3 that's more general.

4 That's what you're going to have to deal with,  
5 assuming you get back to us, you get the variance you seek.  
6 There should be no misunderstanding about that.

7 CLIFFORD SCHORER: Yes, no, thank you for the  
8 counsel. And our original application focused on those  
9 questions. This is what we were advised to --

10 CONSTANTINE ALEXANDER: No, no, I meant -- I  
11 wasn't sitting on the case when you came the last time.  
12 That's exactly what you do. I just want to make sure  
13 there's no misunderstanding when you do come back. I wasn't  
14 aware of that. So good.

15 CLIFFORD SCHORER: Okay.

16 CONSTANTINE ALEXANDER: All to the better.

17 CLIFFORD SCHORER: Okay.

18 CONSTANTINE ALEXANDER: So you have a date you  
19 want to suggest to people?

20 CLIFFORD SCHORER: Based on the schedule of the  
21 Planning Board, I would suggest two months, so -- two months  
22 would give us time.

1           CONSTANTINE ALEXANDER:  If there's a citizen who  
2 wishes to speak -- James? Plans?

3           JAMES WILLIAMSON:  So James Williamson, 1000  
4 Jackson Place.  I just want to point out that --

5           THE REPORTER:  I'm sorry, what's your address?

6           JAMES WILLIAMSON:  1000 Jackson Place in  
7 Cambridge.  So I just want to mention I went by Inspectional  
8 Services because the deadline for submitting materials, my  
9 understanding, is 5:00 on Monday.

10          CONSTANTINE ALEXANDER:  Mm-hm.

11          JAMES WILLIAMSON:  I went by at about 7:00,7:30.  
12 Maria Pacheco didn't happen to be there Monday, was there  
13 Tuesday apparently.  But the material in the file, there was  
14 no mention at all of there being a request for a  
15 continuance.

16                 I'm sympathetic to there being a continuance, but  
17 I -- it's troubling to me that maybe more than one person  
18 has shown up here tonight not being aware of the fact that a  
19 continuance would be requested, and also mention made of the  
20 memorandum for the Central Square Advisory Committee is also  
21 not yet in the file.

22                 So I was pretty much in the dark, and there may be

1 some other people.

2 In fact, I told at least one other person in the  
3 room -- two other people maybe -- that it would probably be  
4 a good idea to be here, but there was no...

5 And I just wonder if this communication aspect  
6 couldn't be managed better, so that we would know that the  
7 proponent was asking, was planning to ask for a continuance,  
8 or that it could have happened, and that information could  
9 have been in the file by the deadline of 5:00 Monday.

10 And I'm not saying it's anybody -- you know, Cliff  
11 may have done everything he thought he was honestly supposed  
12 to do, I just wonder if this could be addressed.

13 CONSTANTINE ALEXANDER: Our practice I think,  
14 James, is with regard to the 5:00 p.m. on the Monday before,  
15 that relates to drawings, dimensional forms, factual  
16 matters.

17 And so, that gives to our Board members, and the  
18 citizens of the city the opportunity to read them, study  
19 them, and be prepared for the hearing on Thursday night.  
20 This is a case for a continuance. There's no requirement  
21 that that request for the continuance be in the file.

22 The way it works is he could have just shown up

1 here tonight. We knew in advance, through Maria, that he  
2 was going to seek a continuance. But we didn't have to  
3 know. It wouldn't be out of line if we didn't. To be sure,  
4 it can create inconveniences for citizens of the city,  
5 that's just the way it is.

6           Continuances can be for many reasons, and  
7 sometimes it's not apparent until the hearing starts that  
8 there's a need for a continuance, okay?

9           So do you want to two for now?

10           SISIA DAGLIAN: Well April 30 is the first date we  
11 have available anyway.

12           CONSTANTINE ALEXANDER: April?

13           SISIA DAGLIAN: April 30.

14           CONSTANTINE ALEXANDER: April 30. Is the  
15 thirtieth -- got to give you -- give your name and address  
16 to the stenographer, please.

17           HATCH STUART: My name is Hatch Stuart.

18           CONSTANTINE ALEXANDER: Your name, I'm sorry?

19           HATCH STUART: Hatch Stuart. I live at 12  
20 Portland Street in Area 4. Okay.

21           CONSTANTINE ALEXANDER: Now, you're only going to  
22 speak to the request for a continuance. Don't get into the

1 merits of the case.

2 HATCH STUART: Well, actual, if there's request  
3 for a variance --

4 CONSTANTINE ALEXANDER: Yeah, we're not hearing  
5 that tonight.

6 HATCH STUART: -- a variance has to be -- you did  
7 mention the hardship requests the variance?

8 SISIA DAGLIAN: No.

9 HATCH STUART: But I would -- in the BZA  
10 deliberations look very carefully, whether what he considers  
11 -- a developer considers the hardship has to do with --

12 CONSTANTINE ALEXANDER: Sir --

13 HATCH STUART: -- not the characteristics --

14 CONSTANTINE ALEXANDER: Sir!

15 HATCH STUART: -- of the property.

16 CONSTANTINE ALEXANDER: You give, you're going  
17 beyond what you can talk about right now.

18 HATCH STUART: Okay.

19 CONSTANTINE ALEXANDER: All we're talking about is  
20 should we continue this case.

21 HATCH STUART: It's very fundamental. Thank you.

22 CONSTANTINE ALEXANDER: April 30 it is. Case not

1 heard, so.

2 CLIFFORD SCHORER: Do you need these?

3 COLLECTIVE: No.

4 CLIFFORD SCHORER: And these are the materials  
5 that the Cambridge --

6 CONSTANTINE ALEXANDER: Give it to Sisia.

7 CLIFFORD SCHORER: Yeah, okay.

8 CONSTANTINE ALEXANDER: It will go in the files,  
9 and any member of the city, any person -- citizen -- can  
10 come back and read them.

11 CLIFFORD SCHORER: Okay. Thank you very much.

12 SISIA DAGLIAN: He has to sign a waiver, right?

13 CONSTANTINE ALEXANDER: Well, he's already signed  
14 one.

15 SISIA DAGLIAN: Oh, he has? Okay.

16 CONSTANTINE ALEXANDER: Don't go yet, until we  
17 finish this vote. Okay. The Chair moves that we continue  
18 this case as a case not heard until 7:00 p.m. on April 30,  
19 subject to the following conditions:

20 First is that the petitioner sign a waiver of time  
21 for decision, and he's already done that in connection with  
22 the first continuance.

1           Second, that a new posting sign or a modified  
2 posting sign reflecting the new date, April 30, and the new  
3 time, 7:00 p.m., must be posted and maintained for the 14  
4 days before April 30 date, just as you did when you had your  
5 first application, or first hearing.

6           And lastly, usually if I talk to James, any  
7 modification in the building plans, dimensional forms,  
8 should be in our files no later than 5:00 p.m. on the Monday  
9 before.

10           In this regard, we will expand that, and any  
11 report from the Planning Board, you don't control that, but  
12 I would ask you to request the Planning Board -- what do you  
13 have in your Planning Board hearing, by the way? How much  
14 in advance of April 30?

15           CLIFFORD SCHORER: It is the second, it's the --

16           CONSTANTINE ALEXANDER: Of April?

17           CLIFFORD SCHORER: It's the beginning of April.

18           CONSTANTINE ALEXANDER: So are you planning to --  
19 we would like, and the citizens of the city are entitled to  
20 see -- whatever their report or recommendations are. So  
21 they should be in our files, Inspectional Services files, no  
22 later than 5:00 p.m. on the Monday before April 30.

1 All those in favor of continuing the case, please  
2 say, "Aye."

3 THE BOARD: Aye.

4 [ All vote YES ]

5 CONSTANTINE ALEXANDER: Five in favor, case  
6 continued. We'll see you on April 30 along with a couple  
7 other people.

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2 (7:14 p.m.)

3 Sitting Members: Constantine Alexander, Andrea A. Hickey,  
4 Jim Monteverde, Laura Wernick, Arch Horst

5 CONSTANTINE ALEXANDER: The Chair will now call  
6 Case Number 017225 -- 3 St. Paul Street. Anyone here  
7 wishing to be heard on this matter?

8 CAMILLE PRESTON: Camille Preston, 3 St. Paul  
9 Street.

10 MARK NEWHALL: Mark Newhall, 3 St. Paul.

11 CAMILLE PRESTON: Ours is a little different.

12 CONSTANTINE ALEXANDER: So you're seeking both a  
13 variance and a special permit?

14 CAMILLE PRESTON: I'm not versed in this, but I  
15 believe our application that we ceded the information on  
16 Monday changes it that we're just looking for a special  
17 permit, because we've taken away the variance.

18 CONSTANTINE ALEXANDER: Okay, I must have missed  
19 that. You did it right, I didn't do it right. It's just a  
20 special permit, okay.

21 CAMILLE PRESTON: Yeah. And we came back the  
22 Board -- I'm not sure if you were here that time --

1           CONSTANTINE ALEXANDER: No, I will need --

2           CAMILLE PRESTON: And we were shocked that -- we  
3 were kind of taken aback when we had a lot of opposition.

4           We had a number of conversations with our  
5 neighbors, who were at the front of the kind of the  
6 opposition, and we've come to a resolution for the time of  
7 -- and we submitted two letters of support for the revised  
8 drawings.

9           CONSTANTINE ALEXANDER: I saw that in the files.

10          CAMILLE PRESTON: -- to the special permit, yeah.

11          CONSTANTINE ALEXANDER: Is there still, as far as  
12 you know, neighborhood opposition?

13          MARK NEWHALL: No.

14          CAMILLE PRESTON: Yeah. They've written a letter.

15          MARK NEWHALL: No.

16          CONSTANTINE ALEXANDER: Well, you're not in  
17 opposition. There are other people in the neighborhood.

18          CAMILLE PRESTON: I don't think so.

19          MARK NEWHALL: Nobody's --

20          CAMILLE PRESTON: Voiced any.

21          MARK NEWHALL: -- raised any concerns to us.

22          CONSTANTINE ALEXANDER: And just briefly for the

1 record, what is it you're doing that you need a special  
2 permit for?

3 CAMILLE PRESTON: We're moving -- we're switching  
4 a door and a window, and we're making the new door a sliding  
5 glass door.

6 CONSTANTINE ALEXANDER: Into a what?

7 MARK NEWHALL: Glass.

8 CAMILLE PRESTON: It will be a sliding glass door,  
9 so larger.

10 CONSTANTINE ALEXANDER: And it's in the setback?

11 CAMILLE PRESTON: It's -- our back yard, and it's  
12 14 feet, so.

13 CONSTANTINE ALEXANDER: [Laughter].

14 CAMILLE PRESTON: Nonconforming setback, yes.

15 CONSTANTINE ALEXANDER: I'm looking for the plans.

16 CAMILLE PRESTON: Here. There's two different  
17 letters that we submitted; one was on the --

18 CONSTANTINE ALEXANDER: Yeah, we have our actual  
19 file, that's all. Give me a second.

20 CAMILLE PRESTON: Yeah.

21 ANDREA HICKEY: So you're not doing anything to a  
22 deck or a patio, do I misunderstand?

1 CAMILLE PRESTON: We have to have --

2 MARK NEWHALL: A set of stairs out of it.

3 CAMILLE PRESTON: -- a set of stairs, an egress  
4 from the sliding glass doors, because we need two exits. So  
5 we are relocating the landing to match where the new door  
6 is.

7 ANDREA HICKEY: And you don't need a variance for  
8 that?

9 CAMILLE PRESTON: I believe you -- again, I'm a  
10 psychologist, I don't know this, but my understanding is  
11 every egress has the right for a simple, small exit. Like,  
12 you -- the -- what I understand is --

13 MARK NEWHALL: Certainly have the need for it.  
14 Whether you have the right for it, I don't know. That would  
15 be peculiar.

16 CAMILLE PRESTON: I -- we had a lot of work on  
17 code, and what we understand is that when you exit a  
18 premise, you want to step down six inches, not more than --

19 ANDREA HICKEY: Right, I understand why you'd want  
20 it. I guess my question is, what kind of --

21 THE REPORTER: Can you use the mic, please?

22 ANDREA HICKEY: I understand why it makes sense to

1 have it why you want it, I guess.

2 CAMILLE PRESTON: So let me say it differently.  
3 We're moving, we're proposing moving the existing deck that  
4 we have over to the other side and making it smaller.

5 MARK NEWHALL: It's not a deck, it's a set of  
6 stairs.

7 CAMILLE PRESTON: It's a set of stairs, it's a  
8 landing.

9 CONSTANTINE ALEXANDER: I mean, you said you  
10 talked to the Inspectional Services Department?

11 CAMILLE PRESTON: Every other day. Yeah. Ranjit  
12 and Sean.

13 CONSTANTINE ALEXANDER: And they agree that you  
14 don't need a variance, you just need a special permit?

15 ANDREA HICKEY: That's correct.

16 CONSTANTINE ALEXANDER: But they change their  
17 mind, I guess and they see you need a variance, you're going  
18 to have to go back? I think that's the answer to your  
19 question, maybe. ISD has signed you up, there's no need for  
20 a variance. Okay.

21 Now, why don't you summarize just quickly what  
22 you've done between now and the last time you had appeared?

1 Okay? And it has mollified your abutter -- one story at a  
2 time. We will announce to the Board.

3 CAMILLE PRESTON: We have invited them over to our  
4 house. We've talked through plans. They suggested -- they  
5 proposed some plans, we proposed plans, they proposed plans,  
6 we went back, we did more plans, and we came up with these  
7 drawings, gave them to them on February 13.

8 So they had a significant amount of time to review  
9 them, and they're in support, and they've written -- I  
10 included two letters, a letter and an e-mail support.

11 CONSTANTINE ALEXANDER: Well, I'm going to read  
12 the letter that -- you just gave this to us tonight -- into  
13 the record.

14 CAMILLE PRESTON: Do you want to ask them?

15 THE REPORTER: Could you speak more into the mic,  
16 please?

17 CONSTANTINE ALEXANDER: -- they do not -- no longer  
18 believe it, but --

19 THE REPORTER: I'm sorry, I can't hear it. Could  
20 you just -- thank you.

21 CONSTANTINE ALEXANDER: I think the record should  
22 -- we should have a written record of what is going on. The

1 letter is from Paul Rajcok, R-a-j-c-o-k and Judy Housman, H-  
2 o-u-s-m-a-n.

3 "We are pleased to have reached a compromise and  
4 resolution with our neighbors, Camille and Mark, which seem  
5 to amicably meet everyone's needs, their new plan for a  
6 sliding door with at least a six-inch stepdown to a five by  
7 three-foot landing, no higher than 30 inches. And stairs  
8 down to the existing patio address our concerns with the  
9 previous plan.

10 "We also understand that the present plan will  
11 position is to start the landing three feet from the  
12 existing fence instead of across our yard. Any dimensions  
13 specified above that are not on the plan drawn were  
14 clarified in an e-mail from Camille and Mark on February 13.

15 "We do additionally request, however, that any  
16 automated porch light be positioned and appointed so that  
17 the light from it does not flood the back of our house and  
18 yard, as the present porch light does somewhat.

19 "Even when we exit our own back door at night,  
20 this will be of more concern to us now, since the proposed  
21 sliding door is to be placed much closer to our house and  
22 yard than a former back door was.

1            "We wish Camille and Mark the best of luck with  
2 their new plan and their future use of this new  
3 configuration for their kitchen and yard."

4            Now, what are you going to do about the lighting  
5 issue that they've raised?

6            MARK NEWHALL: Yeah, I didn't -- I was going to  
7 say, I didn't know that that was an issue. I'm happy to get  
8 a screwdriver out and --

9            CONSTANTINE ALEXANDER: No, it's not a big issue.

10           MARK NEWHALL: Well, but I'm happy to --

11           CONSTANTINE ALEXANDER: Well, let me see.

12           MARK NEWHALL: I can tweak it tonight. That's  
13 fine.

14           CONSTANTINE ALEXANDER: Let me suggest that we  
15 make a motion in due course to grant you the special permit  
16 you're seeking, but may you continue to work with your  
17 neighbors --

18           MARK NEWHALL: Sure.

19           CONSTANTINE ALEXANDER: -- as you have now, so --

20           MARK NEWHALL: Yeah. I didn't realize it was  
21 bothering them. It's reasonable. I'm happy to adjust the  
22 light.

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

3           COLLECTIVE: No.

4           CONSTANTINE ALEXANDER: I'll open the matter up to  
5 public testimony. Does anyone want to speak on this matter?

6           AUDIENCE: Well, we have one question.

7           CONSTANTINE ALEXANDER: Address the Board, sir,  
8 and speak into the microphone.

9           PAUL RAJCOKK: My name is Paul Rajcok, R-a-j-c-o-  
10 k, 57 Foss Street. In the earliest discussion, where  
11 Camille just pointed out that talking with Inspectional  
12 Services, I mean, can they just give verbal consent that --

13          CAMILLE PRESTON: Yeah, that's insane.

14          PAUL RAJCOK: -- there's no need to have a  
15 variance, as opposed to a -- is that customary, or --

16          CONSTANTINE ALEXANDER: So --

17          PAUL RAJCOK: -- isn't there supposed to be some  
18 kind of official --

19          CAMILLE PRESTON: Process -- you would think.

20          CONSTANTINE ALEXANDER: The way it would work is  
21 they have to get a building permit ultimately to grant the  
22 release tonight. They go in, and ISD says, "Wait a minute,

1 you needed the variance too." If there were to happen,  
2 they'd have to come back and seek a variance. But --

3 PAUL RAJCOK: I see.

4 CONSTANTINE ALEXANDER: Ultimately, ISD signs off  
5 on whether -- what --

6 PAUL RAJCOK: Oh, okay.

7 CONSTANTINE ALEXANDER: -- if any further release  
8 is necessary.

9 PAUL RAJCOK: Okay.

10 CONSTANTINE ALEXANDER: And the citizens of the  
11 city like yourself, can take an appeal --

12 PAUL RAJCOK: Yeah.

13 CONSTANTINE ALEXANDER: -- of that decision. I'm  
14 not saying you want to --

15 PAUL RAJCOK: No, we don't have any problem.

16 CONSTANTINE ALEXANDER: -- that's how it works.

17 PAUL RAJCOK: Yeah.

18 CONSTANTINE ALEXANDER: We get the cases that the  
19 ISD says we have to get, because they can't do -- they can't  
20 manage permits a person's seeking without getting zone  
21 reviewed.

22 PAUL RAJCOK: All right. Okay. So then it's

1 still to be -- like, determined officially? Normally it all  
2 works?

3 CONSTANTINE ALEXANDER: It's not going to change.

4 CAMILLE PRESTON: God help us.

5 PAUL RAJCOK: Okay.

6 CAMILLE PRESTON: I mean, we love and respect you  
7 all, but, like, we don't want to come back.

8 CONSTANTINE ALEXANDER: If they need the variance,  
9 they will -- ISD will make that determination. Ma'am?

10 JUDY HOUSMAN: Hi, I'm Judy Housman of 5 St. Paul  
11 Street.

12 THE REPORTER: Spell your last name, please?

13 JUDY HOUSMAN: H-o-u-s-m-a-n, and that's Judy with  
14 a "y." My one concern is, you know, whether or not this is  
15 a special permit or a variance, some of the stuff that's  
16 written into their plans, some of the stuff, you know, we  
17 agreed with them informally.

18 So I'm wondering if in any motion or whatever you  
19 make, that you can add that the -- you know, that you can  
20 add the dimensions that were not specifically in the plans,  
21 such for example that there would be at least a six-inch  
22 stepdown, that the landing would be no higher than 30 feet,

1 and that the --

2 MARK NEWHALL: 30 inches.

3 JUDY HOUSMAN: 30 inches. Well, that's what it  
4 looked like when we had the pictures, and that the present  
5 plan the landing will start no closer than three feet to the  
6 existing fences. We don't care if it's a special permit and  
7 a variance, but I'm wondering if those additional dimensions  
8 would be written.

9 CONSTANTINE ALEXANDER: The way it works is that -  
10 - and this is in all cases, this instruction -- we grant  
11 approval, it's on the condition that the work proceeds in  
12 accordance with the plans that you've seen and we've seen  
13 and are in our file.

14 JUDY HOUSMAN: That was not specifically in the  
15 plan.

16 CAMILLE PRESTON: Judy, it's specifically in the  
17 plan.

18 JUDY HOUSMAN: No, it's not. What's specifically  
19 in the plan is it's 5 x 3-foot landing. There's not a  
20 specific that it's a six-inch stepdown, and it's not that  
21 it's specifically 30, that the landing will be no higher  
22 than 30 inches, and when looking up closer than three feet.

1           CONSTANTINE ALEXANDER: I'm sorry, I have to ask  
2 the question, why are you concerned about this?

3           JUDY HOUSMAN: Why are we concerned? Yeah. The  
4 reason I'm concerned about it, is what mitigates the height  
5 of the landing is the fact that it's a stepdown, so that  
6 therefore you're not likely to linger there. That's why I'm  
7 concerned about it. So it's not -- you know, it's not just  
8 a random concern. Does that make sense?

9           CONSTANTINE ALEXANDER: Sort of. At least to me.

10          JUDY HOUSMAN: Yeah, I mean --

11          CONSTANTINE ALEXANDER: Maybe it makes more sense  
12 to my colleagues, no to me.

13          JUDY HOUSMAN: No, it doesn't -- because, you  
14 know, one of the original concerns with the plans was that  
15 it would function as an extension of the kitchen. And by it  
16 being a step-down, no one is going to stand there.

17          CONSTANTINE ALEXANDER: Is the stepdown on the  
18 plan?

19          CAMILLE PRESTON: Yeah, again, I am a  
20 psychologist, not an architect, but as I believe on the  
21 second page of the architectural drawings, it shows that  
22 there is a six-inch stepdown.

1 JUDY HOUSMAN: Is there the motion where it's  
2 stated?

3 CAMILLE PRESTON: Again, I'm not -- this is not my  
4 area of expertise, but I think the idea is that you can --  
5 steps cannot be more than seven inches, seven and a half  
6 inches, and there's a one-two-three-four steps to get from  
7 36 inches down. So, like, by causal logic it would have to  
8 be seven.

9 JUDY HOUSMAN: But I mean, would there be a  
10 probability that it's at least six inches?

11 CAMILLE PRESTON: I think it's in the drawing.

12 JIM MONTEVERDE: Yeah, I think it says.

13 CAMILLE PRESTON: If you look right there. Again,  
14 maybe there's an architect.

15 JIM MONTEVERDE: There are several of us.

16 LAURA WERNICK: It does say that -- but you're  
17 showing stairs.

18 JIM MONTEVERDE: We'll look.

19 LAURA WERNICK: But then it would be at least a  
20 six-inch stepdown. It's showing the four -- the three  
21 treads and the landing, so they're each six inches high.

22 JUDY HOUSMAN: Okay.

1           LAURA WERNICK:  Okay?  You can't do it any other  
2 way.

3           JUDY HOUSMAN:  Okay.  Because we don't know the  
4 height of -- we don't know the height of the --

5           CAMILLE PRESTON:  Well, it's only as high as --

6           CONSTANTINE ALEXANDER:  I'm sorry, you have to --  
7 the color we should get in the record, so --

8           CAMILLE PRESTON:  Yeah.  It's an exact mirror of  
9 your house.  It's 37 inches from that landing out.

10          PAUL RAJCOK:  I'll just say another word, Paul  
11 Rajcok.  You know, we just didn't see those dimensions, you  
12 know, of the height of the stepdown.  But more of concern  
13 was we made a final compromise on the distance from the  
14 existing fence that the platform began at.

15                 And it's not marked on this drawing that it's  
16 actually three feet.  I mean, maybe you could figure out  
17 from the size and ratio, but --

18          CAMILLE PRESTON:  Paul, if you go to the first  
19 page, I believe it is.  Again, I believe that --

20          PAUL RAJCOK:  No, I never -- I don't see it  
21 anywhere, a three-foot dimension shown.  Because, you know,  
22 originally, we asked for five feet, but made a compromise,

1 because they want more use of the yard.

2 CAMILLE PRESTON: I think he was talking about the  
3 dimension.

4 PAUL RAJCOK: Yeah, this dimension. No, no, the  
5 deck itself is three feet by five feet; the distance from  
6 the fence to where you begin the deck. Because originally,  
7 we were talking about, we'd like it five feet further away,  
8 but, you know, it's not marked. So it should be three feet.

9 CAMILLE PRESTON: We can put a dimension on it.

10 JIM MONTEVERDE: That sounds great, three feet.

11 PAUL RAJCOK: Yeah, yeah, that's all we were  
12 asking so --

13 [ Simultaneous speech ]

14 CONSTANTINE ALEXANDER: Please, one at a time so  
15 the stenographer can take down the steps.

16 CAMILLE PRESTON: So first of all I'm feeling  
17 quite sad that we've had so many conversations.

18 PAUL RAJCOK: I would agree.

19 CAMILLE PRESTON: And disappointed that we haven't  
20 had this conversation sooner, because we've had so many  
21 conversations.

22 PAUL RAJCOK: How could we, you were away?

1 CAMILLE PRESTON: We've had open communication by  
2 e-mail, at least.

3 CONSTANTINE ALEXANDER: Please, please.

4 JIM MONTEVERDE: Don't --

5 CAMILLE PRESTON: I think the thing that is  
6 important in the drawings is there's 18 inches from the  
7 existing window that is built into the plan, that is part of  
8 the drawing. So --

9 JIM MONTEVERDE: It's right through here.

10 CAMILLE PRESTON: Fine.

11 JIM MONTEVERDE: Yeah, three feet to the fence,  
12 that's fine. That's the idea, so let's memorialize it.

13 PAUL RAJCOK: I don't see 18 inches from the  
14 existing window.

15 CONSTANTINE ALEXANDER: Those are the plans. If  
16 we approve them, it will be subject to -- they have to go  
17 forward in accordance with the plans. If you don't like  
18 that, you take an appeal.

19 JUDY HOUSMAN: No, no, we're --

20 PAUL RAJCOK: No, no, no.

21 JUDY HOUSMAN: -- we're fine with the drawing of  
22 the plans. What we want to make sure is that everything's

1 explicit. We're fine with the plans.

2 In the e-mails that you sent us, you said there  
3 would be at least six-inch stepdown, and that the height  
4 would be -- we're all fine with that. And we're just asking  
5 that that all -- you know, that that all be --

6 MARK NEWHALL: Sure.

7 JUDY HOUSMAN: -- made explicit --

8 MARK NEWHALL: Okay.

9 JUDY HOUSMAN: Because it's part of the plan.

10 CONSTANTINE ALEXANDER: Not going to make it  
11 explicit. Making that clear. We're going to approve the  
12 plans that are there, you have to rely on the good faith of  
13 your neighbors.

14 MARK NEWHALL: Now it's explicit, it's written on  
15 these things.

16 CONSTANTINE ALEXANDER: What? Everything she wants  
17 in the plan is not there, obviously.

18 CAMILLE PRESTON: We also submitted -- we have all  
19 of the documentation of our communication. So in addition  
20 to the letter, I submitted an e-mail that had three or four  
21 e-mails back and forth communicating that we had clearly --

22 ANDREA HICKEY: Right, but we can't --

1 JUDY HOUSMAN: Right.

2 ANDREA HICKEY: -- incorporate that.

3 CONSTANTINE ALEXANDER: Right.

4 ANDREA HICKEY: What we can do is incorporate what  
5 is on the plan, add it to our file and into our findings.  
6 So we need to move on and make a decision.

7 MARK NEWHALL: It now says three feet, you've got  
8 the six-inch stepdown that you, Laura, just mentioned. So  
9 we're good, I think we're good.

10 JUDY HOUSMAN: If it's in the plan, we're fine. I  
11 mean, we --

12 CONSTANTINE ALEXANDER: Sir, excuse me. I see  
13 your hand raised. Do you want to speak on this matter?  
14 Yes. Come forward, though

15 THE REPORTER: Spell your name and give your  
16 address, please?

17 EPHIAIM HAINE: E-p-h-i-a-i-m H-a-i-n-e, 203  
18 Putnam Avenue.

19 CONSTANTINE ALEXANDER: So what's the address?

20 THE REPORTER: What was it?

21 EPHAIM HAINE: 203 Putnam, P-u-t-n-a-m.

22 MARK NEWHALL: Putnam, okay.

1           EPHIAIM HAINE: Putnam -- "*Pootnam*" or "*Putnam*"?

2           COLLECTIVE: Putnam.

3           EPHIAIM HAINE: Putnam. I have an accent, so

4 Putnam. I'm from Eritrea, and I'm a longstanding member of

5 the Center for Marxist education.

6           ANDREA HICKEY: Wrong case.

7           MARK NEWHALL: That was the previous group.

8           ANDREA HICKEY: What case are you here -- what

9 address, sir? What case are you hear to speak about?

10          EPHIAIM HAINE: About 515 Massachusetts Avenue.

11          MARK NEWHALL: That was --

12          ANDREA HICKEY: Right.

13          CONSTANTINE ALEXANDER: No, we've already had --

14 that case is gone.

15          EPHIAIM HAINE: It's gone?

16          ANDREA HICKEY: That's continued.

17          CONSTANTINE ALEXANDER: Well, it's continued.

18          JIM MONTEVERDE: They rescheduled.

19          MARK NEWHALL: They continued it.

20          EPHIAIM HAINE: Okay.

21          CONSTANTINE ALEXANDER: You can come back on April

22 30 for that.

1           EPHIAIM HAINE: Yeah. I will do it next time.

2           CONSTANTINE ALEXANDER: Okay.

3           EPHIAIM HAINE: April 30.

4           CONSTANTINE ALEXANDER: April 30, put it on your  
5 calendar. Anyone else wish to speak on this matter? No one  
6 wishes to speak. I think we can close public testimony.  
7 Discussion, or are we ready for a vote?

8           COLLECTIVE: Ready.

9           CONSTANTINE ALEXANDER: I think we're ready for a  
10 vote. The Chair moves that we make the following findings  
11 with regard to the special permit that's being sought. That  
12 the requirements of the ordinance cannot be satisfied unless  
13 we grant the special permit.

14           That traffic generated or patterns in access or  
15 egress resulting from what you're proposed to do will not  
16 cause congestion, hazard, or substantial change in  
17 established neighborhood character.

18           And I think the facts speak for themselves. We're  
19 talking about a slight modification to the structure in the  
20 back yard, and it doesn't impact congestion -- excuse me,  
21 hazard or substantial change in established neighborhood  
22 character.

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

4           And again, I would cite -- though people might  
5 disagree -- the nature of what is being proposed, for which  
6 relief is being sought.

7           That no nuisance or hazard will be created to the  
8 detriment of the health, safety and/or welfare of the  
9 occupant of the proposed use, or the citizens of the city.

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

14           So on the basis of all of these findings, the  
15 Chair moves that we grant the special permit being sought on  
16 the condition that the work proceed in accordance with the  
17 plans submitted by the petitioner, the first page of which  
18 has been initialed by the Chair. All those in favor, please  
19 say, "Aye."

20           THE BOARD: Aye.

21           [ All vote YES ]

22           CONSTANTINE ALEXANDER: Five in favor, special

1 permit granted.

2 COLLECTIVE: Thank you.

3 MARK NEWHALL: Do we need to sign anything, or are  
4 we --

5 CONSTANTINE ALEXANDER: Not now. I think you're  
6 all set.

7 COLLECTIVE: Congratulations.

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2 (7:34 p.m.)

3 Sitting Members: Constantine Alexander, Andrea A. Hickey,  
4 Jim Monteverde, Laura Wernick, Arch Horst

5 CONSTANTINE ALEXANDER: The Chair will now call  
6 Case Number 017240 -- 19 Clary Street. Anyone here wishing  
7 to be heard on this matter? Mr. Glassman. You know the  
8 drill.

9 ADAM GLASSMAN: Yeah, Adam Glassman, GCD  
10 Architects, 2 Worthington Street, Cambridge, representing  
11 Michelle Potashman, owner 19 Clary Street. We're here  
12 tonight seeking relief to add a small, one-story rear  
13 addition.

14 CONSTANTINE ALEXANDER: Variance relief?

15 ADAM GLASSMAN: A variance relief, yeah. variance  
16 relief. We're -- we have an existing, nonconforming FAR of  
17 0.76.

18 By the time we remove or reclaim certain pieces of  
19 FAR in the back and add an addition, we'd be adding nets 59  
20 square feet, which would bring our FAR to 0.78. That's why  
21 we're seeking relief.

22 CONSTANTINE ALEXANDER: It's pretty simple.

1           ADAM GLASSMAN:  It's pretty simple.  It's  
2  basically a mudroom, kitchen extension in the back, taking  
3  an existing dysfunctional vestibule and --

4           CONSTANTINE ALEXANDER:  How many feet are you  
5  adding?  I know you gave the percentages.  How many feet is  
6  this?

7           ADAM GLASSMAN:  59 net square feet.

8           ARCH HOST:  That's right.

9           CONSTANTINE ALEXANDER:  questions from members of  
10 the Board?  Arch?

11          ARCH HORST:  Are you not also reducing the open  
12 space?

13          ADAM GLASSMAN:  We're not reducing the useable  
14 open space, because that's defined as a 15 x 15-foot area.

15          ARCH HORST:  Right.  But there -- I believe in  
16 that zone there's also a requirement that only 50% of the  
17 open space has to be 15 x 15.

18          ADAM GLASSMAN:  Right.

19          ARCH HORST:  But the rest can be of any dimension.

20          ADAM GLASSMAN:  Well, I would say that we are  
21 replacing an existing vestibule, so that peak -- the  
22 footprint of the addition is actually an existing structure.

1           ARCH HORST:  Okay.

2           MICHELLE POTASHMAN:  And the steps too.

3           CONSTANTINE ALEXANDER:  Anyone else?  I'll open  
4 the matter up to public testimony.  Is there anyone here  
5 wishing to be heard on this matter?  No one wishes to be  
6 heard?

7           ADAM GLASSMAN:  We have one letter of support that  
8 came in on the later side.

9           CONSTANTINE ALEXANDER:  We have one in the file  
10 already.  We do have letters in the files -- two, I think.  
11 And they are -- well, I'll read them into the file.  One is  
12 from "Marvey Calvman," 21 Clary Street.

13                 "I received your notice of public hearing for the  
14 granting the petition for a zoning variance.  Being away in  
15 the state of Florida at this time, I am unable to attend,  
16 but wish to submit my comments at this time in support of  
17 this request.

18                 "I am the owner-occupant of abutting property at  
19 21 Clary Street, which was acquired by my family in 1942,  
20 and which I have owned since 1984.  My buildings date from  
21 1985 and 19 Clary date from sometime earlier than that.

22                 "I don't know when the floor area ratio under

1 consideration was established, but suspect it is something  
2 significantly more recent.

3 "I do not see where a granting of the requested  
4 variance will result in any negative effect on the  
5 surrounding properties.

6 "Being somewhat familiar with 19 Clary, I believe  
7 the variance will do much to improve the livability of the  
8 property, and thereby contribute to its value, as well as to  
9 the value of the surrounding property. I would therefore  
10 like to go on record as recommending that the requested  
11 variance be approved."

12 And the other letter we have is from Campbell  
13 Ellsworth.

14 "I wish to write to support the BZA application by  
15 Michele and Meyer Potashman, owners of the home at 19 Clary  
16 Street.

17 "I own the five-unit structure at 9-17 Clary  
18 Street, the Potashmans' direct abutter on Clary Street. I  
19 have known the Potashmans since 2011, when I bought and  
20 started working on my property at 9-17 Clary. I also live  
21 not far from Clary Street, and am there quite often.

22 "I know that they are a wonderful family, are

1 committed to their neighborhood, and that their request to  
2 the BZA is modest in nature, and will ensure that families  
3 remain in our communities. I fully support their request."

4 And that's all we have. I will close public  
5 testimony. Discussion? Ready for a vote? Looks like we're  
6 ready for a vote.

7 The Chair moves that we make the following  
8 findings with regard to the variance being sought: That a  
9 literal enforcement of the ordinance would involve a  
10 substantial hardship, the hardship being that the -- this  
11 was a much older structure, that is not well-designed for  
12 the neighborhood in which it is now located, and that  
13 whoever owns the structure, be it the current petitioner or  
14 any successor owners, will have difficulties in using the  
15 structure to the extent that it can be used.

16 The hardship is owing to basically the shape of  
17 the lot and of the structure. The structure is an odd  
18 shape, and has been situated on the lot, and is especially  
19 affecting this structure and not necessarily all of the  
20 other structures in the neighborhood.

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

1 derogating from the intent or purpose of the ordinance.

2           So on the basis of all of these findings, the  
3 Chair moves that we grant the variance requested on the  
4 condition that the work proceeds in accordance with the  
5 plans prepared by GCD Architects, dated October 30, 2019,  
6 the first page of which has been initialed by the Chair.

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

9           THE BOARD: Aye.

10           [ All vote YES ]

11           CONSTANTINE ALEXANDER: Five in favor, variance  
12 granted.

13           ADAM GLASSMAN: Thank you very much.

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2 (7:41 p.m.)

3 Sitting Members: Constantine Alexander, Andrea A. Hickey,  
4 Jim Monteverde, Laura Wernick, Arch Horst

5 CONSTANTINE ALEXANDER: The Chair will now call  
6 Case Number 017241 -- 10 Canal Park. Anyone here wishing to  
7 be heard on this matter?

8 MICHAEL DOLAN: Good evening.

9 CONSTANTINE ALEXANDER: You've been here before?

10 MICHAEL DOLAN: Yes, not too long ago. Michael  
11 Dolan, D-o-l-a-n on behalf of the applicant, new Cingular  
12 Wireless, otherwise known as AT&T.

13 Similar to the last application, and in fact this  
14 one is even less of a visual impact, my client has an  
15 antenna facility on top of the 10 Canal park building there,  
16 it's about 71 feet off the ground is the rooftop level, and  
17 then the antennas are above that.

18 And the -- what we currently have are 12 antennas  
19 and we're looking to swap out three of them to get new  
20 technology up there.

21 We're going to move the one from here OT here just  
22 to give it proper separation, but I think you can see from

1 the photo simulations I think one could make the argument  
2 that this actually improves the look of the facility. But  
3 nevertheless the net total of the antennas will not change.

4 We're also going to swap out some remote radio  
5 heads with the newer technology to remove six and put in 12.  
6 These are very small, can't even be seen from the ground.

7 So as part of this technically it's more of a 6409  
8 application, but in this case, we are also seeking a special  
9 permit. So we will respectfully ask the Board to approve  
10 our special permit application for this facility.

11 CONSTANTINE ALEXANDER: One thing I notice -- I  
12 think I got it right -- if you look at the abutters'  
13 simulations, that right now some of the antennas -- maybe  
14 one -- extends above the roofline. There is one that now  
15 it's going to go down --

16 MICHAEL DOLAN: Yes, there is one that does appear  
17 to have a little bit of overage above the roofline, so  
18 that's -- in that respect it will improve the look.

19 CONSTANTINE ALEXANDER: And that's in accordance  
20 with preference of this committee and the Planning Board.

21 MICHAEL DOLAN: Sure.

22 CONSTANTINE ALEXANDER: They don't like -- we

1 don't like things going above the rooflines.

2 MICHAEL DOLAN: Agreed.

3 CONSTANTINE ALEXANDER: That's all for the good.

4 MICHAEL DOLAN: Yes. Questions from members of  
5 the Board? I'll open the matter up to public testimony.

6 Anyone wishing to be heard on this matter? Doesn't look  
7 that way. Anything new, James? John, John. Williamson,  
8 John.

9 ARCH HORST: I was going to grab one of his  
10 chicken nuggets over there.

11 CONSTANTINE ALEXANDER: I'll close public  
12 testimony. Anyone here wishes to see photo simulation, or  
13 maybe you have?

14 ARCH HORST: I have. I've seen it. It's an  
15 impressive application.

16 CONSTANTINE ALEXANDER: Okay. I'll then close  
17 public commentary, and I think we're ready for discussion.  
18 I think the discussion, let's have a vote.

19 COLLECTIVE: Yes.

20 CONSTANTINE ALEXANDER: Well, we have plenty of  
21 time. We can't continue the next case until 8:00, so we can  
22 stable if we want.

1                   ANDREA HICKEY:  Let Counsel go get his chicken  
2 nuggets.

3                   ARCH HORST:  That's right.  Are you saying because  
4 I get paid by the hour?

5                   CONSTANTINE ALEXANDER:  Not practicing.  I'll be  
6 practicing.  Longer practicing.  Anyway, the Chair moves  
7 that we make the following findings:

8                   First of all, we have to make the general findings  
9 for all special permits, so let me go through those.  This  
10 is very painful, but I got to do it.

11                   That it appears that the requirements of our  
12 ordinance cannot be satisfied, unless we grant you the  
13 special permit you are seeking.

14                   That traffic generated or patterns of access or  
15 egress resulting from what your client is proposing will not  
16 cause congestion, hazard, or substantial change in  
17 established neighborhood character, and I think the facts  
18 speak for themselves with regard to this.

19                   We're talking about really almost conforming  
20 modifications to existing antennas, which we otherwise  
21 previously approved anyway.  And so, this is not a new  
22 thing, a new matter for us in a sense.

1           That the continued operation of or development of  
2 adjacent uses, as permitted in the ordinance, will not be  
3 adversely affected by what the nature of the proposed use,  
4 and by that I assume the shopping center will be able to  
5 continue --

6           MICHAEL DOLAN: Yes.

7           CONSTANTINE ALEXANDER: -- the way it was before?  
8 That no nuisance or hazard will be created to the detriment  
9 of the health, safety and/or welfare of the occupant of the  
10 proposed use, or the citizens of the city.

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

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

22           So based on these findings, the Chair moves that

1 the petitioner be granted the special permit it is seeking,  
2 subject to the following conditions:

3           One, that the work proceed in accordance with the  
4 plans submitted by the petitioner and initialed by the  
5 Chair. Those are in the package you submitted initially.

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

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

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

20           And five, that the petitioner is in compliance  
21 with, and will continue to comply within all respect the  
22 conditions imposed by this Board with regard to previous

1 special permits granted to the petitioner, with regard to  
2 the site in question.

3           And then we go on with this long -- you've heard  
4 it before -- thing about The Spectrum Act. And with your  
5 permission, since you've seen it before, rather than taking  
6 the time to read it, I'll just incorporate the language --

7           MICHAEL DOLAN: That's fine. I agree to that.

8           CONSTANTINE ALEXANDER: Get out earlier too. For  
9 your interest. Okay. On the basis of all of this, the  
10 Chair moves that we grant the special permit. Please say,  
11 "Aye."

12           COLLECTIVE: Aye.

13           [ All vote YES ]

14           CONSTANTINE ALEXANDER: Five in favor, special  
15 permit granted.

16           COLLECTIVE: Thank you all very much.

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2 (7:58 p.m.)

3 Sitting Members: Constantine Alexander, Andrea A. Hickey,  
4 Jim Monteverde, Laura Wernick, Arch Horst

5 CONSTANTINE ALEXANDER: Call Case Number 017243 --  
6 391 Concord Avenue, #2. Anyone here wishing to be heard on  
7 this matter?

8 KEVIN KIELER: Good evening.

9 CONSTANTINE ALEXANDER: Good evening.

10 KEVIN KIELER: My name is Kevin Kieler, I'm Chief  
11 Designer for Brady-Built Sunrooms. I'm here --

12 THE REPORTER: Can you spell your last name,  
13 please?

14 KEVIN KIELER: I'm K-i-e-l-e-r. I'm here  
15 representing Patty Goodman at her request, who is the owner  
16 of the house. We were hired by Patty to enclose her back  
17 second-floor rooftop deck. This is a two-level multifamily  
18 ownership home. She lives on the second floor.

19 So this house was constructed back in the '20s,  
20 and the rooms were very, very small, especially the kitchen,  
21 which she can barely put a stool in -- let alone a table.

22 And so, the area is to be a dining room area off the

1 kitchen. It's going to be open as a kitchen.

2           And during the permitting process, and the design  
3 process, we mistakenly interpreted the zoning regulations to  
4 think that rooftop -- and it's my fault -- that rooftop  
5 decks were included in the FAR.

6           In discussions with the zoning enforcement person  
7 in town, Sean, we were corrected on that, that it does not  
8 count unless it has a roof on top of it. Hence, the reason  
9 why we're here.

10           And this same situation was corrected by a  
11 variance that was issued by the town to the previous owners  
12 for the first floor, to enclose that deck area down there.  
13 Unfortunately, what they did was the ceiling of the dining  
14 room on the first floor became a rooftop deck for the  
15 second-floor unit, which is kind of virtually useless  
16 because of cold and mosquitos and wind.

17           And so, it's my understanding, and I'll let Patty  
18 elaborate a little bit more on that, that the neighbors have  
19 no problem with it at all. It only adds 196 square feet to  
20 the house. It's on the back side of the house and cannot be  
21 seen from the street at all.

22           It's been designed very tastefully, done to be in

1 the same look of the house.

2 And so, we respectfully request, and we feel that  
3 it can be done without nullifying or substantially  
4 derogating from the spirit and intent of the bylaw. So we  
5 --

6 CONSTANTINE ALEXANDER: What's the material of  
7 this room?

8 KEVIN KIELER: Solid wood structure. The exterior  
9 is going to be sided to match the house, and it's going to  
10 be trimmed in white.

11 CONSTANTINE ALEXANDER: Questions from members of  
12 the Board?

13 JIM MONTEVERDE: But it's a -- it is a sunroof?

14 KEVIN KIELER: It is a sunroom. So the sides --

15 JIM MONTEVERDE: tall ceiling, glass --

16 KEVIN KIELER: The ceiling is glass, the front  
17 wall is glass, the sides are solid construction like a  
18 regular house, and then sided and insulated like a normal  
19 house so that when you're looking at it from the neighbor's  
20 side, it looks like a regular part of the house.

21 Now, where you can tell it is a sunroom is if you  
22 were in the very back yard looking up. And I think Patty

1 has something she'd like to say.

2           PATTY GOODMAN: Yeah. So I'd love to share. So I  
3 have purchased -- so my daughter and I purchased the home  
4 about nine years ago, and at the time, we were excited to  
5 have a -- just the space of the windows in the front,  
6 because we lived in the Porter Square area where you  
7 couldn't have any windows in the front.

8           And I enjoy having people coming over. We have  
9 extended family, so we do a lot of dinners and gatherings.  
10 And so, over the last nine years, I've really been working  
11 on getting kind of a financial position, so that I can add  
12 on the sunroom.

13           Because what we found is with the deck, we really  
14 could only use it three months out of the year, because of  
15 rain and, you know, as mentioned where there's trees that  
16 are there, so we always end up with lots of leaves and  
17 issues.

18           Anyway, so I was very excited when we were able to  
19 kind of find something that would fit, and I had seen very  
20 similar sunrooms like this in the neighborhood, which was  
21 one of the reasons that gave me the idea.

22           And so, then I guess when we found out we needed

1 to do a variance, I spoke with the neighbors and invited  
2 them over to go over the plans and we talked about it, and  
3 then I asked them if they were okay, if they didn't mind  
4 signing.

5 So I have this document from --

6 JIM MONTEVERDE: Thank you.

7 PATTY GOODMAN: Sure, all the neighbors that are  
8 connected, that were able to stop by. And everyone was okay  
9 with what we were looking at. They actually thought it  
10 looked beautiful and they couldn't wait to come back when  
11 it's done. I said, "I'll do an open house, I promise."

12 So if there's any questions, I'm happy to answer.  
13 But I just -- in going downstairs and seeing how they were  
14 able to make use of that space; it just makes a huge  
15 difference. Because right now, literally one person can be  
16 in the kitchen, and you really can't do anything else in  
17 that area at all.

18 And then the washing machine and everything is  
19 right there. So it's kind of --

20 CONSTANTINE ALEXANDER: Questions?

21 LAURA WERNICK: So I'm just curious, is the -- can  
22 you use the -- will you be able to use the room year-round?

1           PATTY GOODMAN: Yes.

2           LAURA WERNICK: Is it heated?

3           KEVIN KIELER: All we do is year-round rooms.

4           LAURA WERNICK: Yeah. It's heated?

5           PATTY GOODMAN: Mm-hm.

6           KEVIN KIELER: Yep, yep. It's going to be the  
7 dining room.

8           PATTY GOODMAN: Yeah.

9           CONSTANTINE ALEXANDER: And the reason you're here  
10 before us tonight is it's a nonconforming structure in terms  
11 of FAR, and you can just slightly increase the  
12 nonconformance?

13          KEVIN KIELER: By 196 square feet.

14          CONSTANTINE ALEXANDER: 0.74 to 0.791.

15          KEVIN KIELER: Yeah.

16          CONSTANTINE ALEXANDER: And it's not -- by the  
17 ordinance, you're not supposed to be more than 0.5.

18          KEVIN KIELER: Yes, correct.

19          CONSTANTINE ALEXANDER: It's a modest, very modest  
20 increase, in my opinion. Any other questions from members  
21 of the Board? None? I'll open the matter up to public  
22 testimony. Anyone here wishing to be heard on this matter?

1 Sir? Dave, if you speak into the microphone.

2 JIM MONTEVERDE: You can take that off the stand.

3 CONSTANTINE ALEXANDER: You can take it off the  
4 stand, please.

5 DAVID CHILINSKI: David Chilinski. I live at 391  
6 Concord Ave.

7 THE REPORTER: Can you spell your last name for  
8 each, please?

9 DAVID CHILINSKI: C-h-i-l-i-n-s-k-i. I'm actually  
10 her downstairs neighbor. So I'm a real abutter to the --

11 COLLECTIVE: [Laughter]

12 DAVID CHILINSKI: Just here to say that, you know,  
13 I'm in favor of granting the variance.

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

16 DAVID CHILINSKI: And actually I came to a couple  
17 of the Sunday invitations with the neighbors, and kind of  
18 heard it firsthand that people are fine with it, so.

19 CONSTANTINE ALEXANDER: I see you're one of the  
20 five persons who signed the petition?

21 DAVID CHILINSKI: I might be on that list.

22 CONSTANTINE ALEXANDER: Anyone wishes to speak on

1 this matter? No one does? We are in receipt of a petition  
2 signed by five people in the neighborhood, and it says:

3 "I have been "informed" -- I have been informed  
4 about Patty Goodman's 2019-2012 and 20 homeowners zoning  
5 variance plan at 391 Concord Avenue #2, Cambridge, Mass.

6 "The plan is to enclose her back porch, which  
7 increases her living space. I am a neighbor associated to  
8 the 391 Concord property. My signature below is voluntary.  
9 I do not hold a claim against this variance."

10 JIM MONTEVERDE: Oh. Well, that's good.

11 CONSTANTINE ALEXANDER: That's good to know.

12 DAVID CHILINSKI: That's one box we don't have to  
13 check off.

14 CONSTANTINE ALEXANDER: I will close public  
15 testimony. Anyone here wishes -- well, we've gone through  
16 it all. Discussion, or are we ready for a vote?

17 COLLECTIVE: Ready.

18 CONSTANTINE ALEXANDER: Ready for a vote, okay.  
19 The Chair moves that we make the following findings with  
20 regard to the variance being sought: That a literal  
21 enforcement of the provisions of the ordinance will involve  
22 a substantial hardship to the petitioner, and the hardship

1 being with the structure itself, given the way -- given its  
2 size, configuration within the unit.

3           There is a need for something with outdoor space  
4 associated with the structure itself, such as a second-floor  
5 sunroom or deck.

6           That the hardship is owing to the -- basically the  
7 shape of the structure itself, and the fact that it's really  
8 a nonconforming structure, which means that any further  
9 modification requires zoning relief, and that relief may be  
10 granted without substantial detriment to the public good, or  
11 nullifying or substantially derogating from the intent or  
12 purpose of this ordinance.

13           So on the basis of all of these findings, the  
14 Chair moves that we grant the variance requested on the  
15 condition that the work proceeds in accordance with plans  
16 prepared by Brady-Built, there's a hyphen related to the  
17 word -- dated May 19, 2019, each page of which has been  
18 initialed by the Chair.

19           All those in favor, please say, "Aye."

20           THE BOARD: Aye.

21           [ All vote YES ]

22           CONSTANTINE ALEXANDER: Five in favor, variance

1 granted. Good luck.

2 COLLECTIVE: Thank you so much.

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2 (8:13 p.m.)

3 Sitting Members: Constantine Alexander, Andrea A. Hickey,  
4 Jim Monteverde, Laura Wernick, Arch Horst

5 CONSTANTINE ALEXANDER: The Chair will now call  
6 Case Number 017242 -- 20 Craigie Street. Anyone here  
7 wishing to be heard on this matter? No?

8 ARCH HORST: I want to just say that I'm familiar  
9 with the owners of this property, but I don't think it will  
10 prejudice my --

11 CONSTANTINE ALEXANDER: As long as you don't have  
12 any financial arrangement?

13 ARCH HORST: No, none whatever.

14 CONSTANTINE ALEXANDER: That's fine, yeah. It's  
15 good that you called it to the attention of the Board.  
16 Anyway.

17 GREGORY LEGAULT: Hello? My name is Greg Legault.  
18 I'm the architect representing the owners, Peter and Helen  
19 Haim of 20 Craigie Street.

20 We are proposing to build a residential elevator  
21 on the back side of the existing house that would encroach  
22 on the rear yard setback by about six inches. The owners

1 are both in their '80s, and Helen unfortunately had an  
2 accident fairly recently and is unable to make her way up  
3 and down the stairs easily. And they're --

4           CONSTANTINE ALEXANDER: It's a tall building,  
5 there are a lot of stairs to climb up.

6           GREGORY LEGAULT: Yes, yeah. And tough floor to  
7 floors, lots of steps. And they apologized they couldn't be  
8 here tonight, but they're living out of state, because they  
9 can't really live in the house.

10           And it's a beautiful, historic house. And we  
11 looked at options for inserting the elevator within the  
12 structure, and it really would take away from the character  
13 of the existing house to sort of drive that elevator shaft  
14 through the inside of the house. And so, we figured we  
15 would add on to the outside.

16           CONSTANTINE ALEXANDER: And this is the rear of  
17 the house?

18           GREGORY LEGAULT: To the rear of the house, yeah.

19           CONSTANTINE ALEXANDER: And it's not noticeable to  
20 the --

21           GREGORY LEGAULT: Correct.

22           CONSTANTINE ALEXANDER: -- people on the street?

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GREGORY LEGAULT: Yep. And we've already been through a historic preview and gotten their approval as well.

CONSTANTINE ALEXANDER: And your only zoning issue is you're intruding into the rear yard setback and side yard too?

GREGORY LEGAULT: Just the rear.

CONSTANTINE ALEXANDER: Just the rear?

GREGORY LEGAULT: Yeah.

CONSTANTINE ALEXANDER: Okay.

GREGORY LEGAULT: Yeah. Just by about six inches. I mean, when we got the actuals, we were doing it from the paper survey originally, and thought we were just skirting it. But when we got the real survey, it was just over the line.

CONSTANTINE ALEXANDER: Questions from members of the Board?

ARCH HORST: Are you not increasing the floor area ratio above the limit?

GREGORY LEGAULT: No, it's currently below the limit.

1 ARCH HORST: Okay.

2 GREGORY LEGAULT: And then we're not going over.

3 CONSTANTINE ALEXANDER: I'll open the matter up to  
4 public testimony. Is there anyone here wishing to be heard  
5 on this matter? Apparently not. Let me see if there are  
6 any letters in the file. I don't think there are. No. I  
7 will close public testimony. Ready for a vote, or do you  
8 want some discussion?

9 COLLECTIVE: Ready for a vote.

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

13 That a literal enforcement of the provisions of  
14 the ordinance would involve a hardship, a substantial  
15 hardship -- this hardship being this is an older structure,  
16 quite vertical in nature, and that any occupant of the  
17 structure won't -- might need -- and in this case will need  
18 -- the assistance of an elevator.

19 The hardship is owing -- again -- to the location  
20 of the structure on the lot, which results -- the elevator  
21 shaft will be placed in a most unobtrusive part of the  
22 structure, resulting in the need for a variance.

1           And that relief may be granted without substantial  
2 detriment to the public good, or nullifying or substantially  
3 derogating from the intent or purpose of the ordinance.

4           So on the basis of all of these findings, the  
5 Chair moves that we grant the variance requested on the  
6 condition that the work proceeds in accordance with plans  
7 prepared by Legault, L-e-g-a-u-l-t Design, LLC, dated  
8 December 19,2019, each page of which has been initialed by  
9 the Chair.

10           All those in favor, please say, "Aye."

11           THE BOARD: Aye.

12           [ All vote YES ]

13           CONSTANTINE ALEXANDER: Five in favor.

14           GREGORY LEGAULT: Great. Thank you very much.

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(8:28 p.m.)

Sitting Members: Constantine Alexander, Andrea A. Hickey,  
Jim Monteverde, Laura Wernick, Arch Horst

CONSTANTINE ALEXANDER: The Chair will now call  
Case Number 017246 -- 17 Cushing Street. Anyone here  
wishing to be heard on this matter?

RICK VON TURKOVICH: That's me.

CONSTANTINE ALEXANDER: I would hope so.

RICK VON TURKOVICH: Thank you for seeing me  
tonight. I was going to say this is almost my bedtime, so  
--

LAURA WERNICK: Mine too.

RICK VON TURKOVICH: All right. Well, I  
appreciate it. Just to --

JIM MONTEVERDE: You've got to give us your name  
and address --

RICK VON TURKOVICH: Okay.

JIM MONTEVERDE: -- for the stenographer.

RICK VON TURKOVICH: So my name is Rick Von  
Turkovich. That's spelled V-o-n T-u-r-k-o-v-i-c-h, and I  
live at 31 Shepard Street, Cambridge. Thank you. All

1 right.

2           Folks, just a little bit of background. So I've  
3 been a Cambridge resident since 1980, when I came here to go  
4 to school. In 1992, I bought a three-decker on Putnam  
5 Avenue, I was married, had a child. We moved out to the  
6 house that we live in on Shepard Street.

7           And then the property in question, 17 Cushing  
8 Street, I bought in 1998, and I've operated it as a rental  
9 property since then.

10           CONSTANTINE ALEXANDER: Four family?

11           RICK VON TURKOVICH: It's a four-family. And, you  
12 know, it has very tall ceilings in the basement. I always  
13 thought that it might make sense to do something with it.

14           And then you may know on the Strawberry Hill  
15 neighborhood, over the past few years, there's been an  
16 increase in the number of dwelling units per property, so I  
17 thought it might be an opportune time to try and add a  
18 dwelling unit to my property as well.

19           As you can tell from the variance application,  
20 there's two extenuating circumstances, right? As the lot  
21 size per dwelling unit would obviously increase, and then I  
22 would need some parking -- relief from parking.

1           CONSTANTINE ALEXANDER:  Actually, there's one  
2  more.

3           RICK VON TURKOVICH:  Oh, okay.

4           CONSTANTINE ALEXANDER:  To convert, upconvert --

5           RICK VON TURKOVICH:  Yeah.

6           CONSTANTINE ALEXANDER:  -- ISD, you have to deal  
7  with Section 5.26.  They set forth, and that section sets  
8  forth four standards --

9           RICK VON TURKOVICH:  Okay.

10          CONSTANTINE ALEXANDER:  -- you have to meet, if  
11  you want to go from increasing the number of dwelling units.

12          RICK VON TURKOVICH:  Oh, okay.

13          CONSTANTINE ALEXANDER:  You flunked three of them.

14          RICK VON TURKOVICH:  Oh, well that's not good.

15          CONSTANTINE ALEXANDER:  That's not good.

16          RICK VON TURKOVICH:  Okay.

17          CONSTANTINE ALEXANDER:  And you flunked them  
18  substantially.

19          RICK VON TURKOVICH:  Okay.

20          CONSTANTINE ALEXANDER:  For example, the FAR is  
21  not supposed to be more than 0.5.  You're now at 1.01, twice  
22  for this remittance, which is --

1           RICK VON TURKOVICH: Right. And I understood we  
2 are not conforming, right?

3           CONSTANTINE ALEXANDER: Yeah, but you're -- and  
4 you're not going to increase that.

5           RICK VON TURKOVICH: Right, right.

6           CONSTANTINE ALEXANDER: You're still a lot open.

7           RICK VON TURKOVICH: Right, understood.

8           CONSTANTINE ALEXANDER: That lot area, the  
9 dwelling unit, you're supposed to have at least 2500 feet.

10          RICK VON TURKOVICH: Right.

11          CONSTANTINE ALEXANDER: Right now you have 14,15,  
12 and if we grant you the relief you're seeking then go down  
13 to 1132, which is 50% of what the ordinance says you need to  
14 have.

15          RICK VON TURKOVICH: Okay.

16          CONSTANTINE ALEXANDER: And you need to have five  
17 parking spaces, and you only have two.

18          RICK VON TURKOVICH: Right.

19          CONSTANTINE ALEXANDER: And with regard to  
20 parking, at least we have a letter in our files from someone  
21 in the neighborhood who opposes the relief you're seeking.

22          RICK VON TURKOVICH: Okay.

1           CONSTANTINE ALEXANDER: Because of the parking  
2 issues.

3           RICK VON TURKOVICH: Okay.

4           CONSTANTINE ALEXANDER: Parking and traffic  
5 issues.

6           RICK VON TURKOVICH: Okay.

7           CONSTANTINE ALEXANDER: So then you have to meet  
8 -- those -- so you really have a big hurdle.

9           RICK VON TURKOVICH: Right.

10          CONSTANTINE ALEXANDER: And then you've got to  
11 meet the legal standard for a variance. And the first one  
12 is that a literal enforcement of the provisions of the  
13 ordinance would involve a substantial hardship.

14          RICK VON TURKOVICH: Yeah.

15          CONSTANTINE ALEXANDER: The only hardship I can  
16 see is you can't make as much money with four units as you  
17 can do with five. There's no hardship here that runs with  
18 the structure. I mean, it's a perfectly viable, four-unit  
19 building.

20          RICK VON TURKOVICH: Right.

21          CONSTANTINE ALEXANDER: And as I said, there's no  
22 hardship that requires you or needs -- other than financial

1 -- to have five units.

2           Also, the hardship must be owing to circumstances  
3 relating to the soil conditions, shape or topography of such  
4 structure, and especially affecting it but not generally  
5 affecting the zoning district in which your building is  
6 located. I don't see how you can come close to that one.

7           And then the last one is more general. So sir,  
8 what I'm suggesting -- you can see where I'm coming from --

9           COLLECTIVE: Right.

10           CONSTANTINE ALEXANDER: -- you made only one of  
11 five. Because you're not coming close to meeting the  
12 requirements for a variance.

13           RICK VON TURKOVICH: Right.

14           CONSTANTINE ALEXANDER: I don't see how we can  
15 grant you the relief you're seeking.

16           RICK VON TURKOVICH: Okay. Okay, well, I  
17 appreciate your educating me on those issues. And I  
18 understand the aspect of the property being nonconforming.

19           And with regard to the lot size per dwelling unit,  
20 I meant to call -- I called attention in the application to  
21 the fact that the property itself, right, is sort of half in  
22 the A1 zone, as well as in the B zone, right? So that in

1 the A1 zone, the lot size per dwelling unit would be only  
2 within six percent of the requirement.

3           So when I looked at the -- I understand, I tried  
4 to study the circumstance as much as possible, so that what  
5 I was hoping was that the hardship, financial or otherwise,  
6 would be that this property is largely or -- you know, more  
7 than half -- in a business zone, in which case, the lot size  
8 per dwelling unit would be almost within the zoning  
9 requirement.

10           But, also understanding that the rules are that  
11 the most restrictive zoning --

12           CONSTANTINE ALEXANDER: Right.

13           RICK VON TURKOVICH: -- aspect takes place. And  
14 then with respect to parking, you know, listening to some of  
15 the other petitioners, I realize I had spoken to my  
16 neighbors, and generally there was a consensus.

17           In retrospect, I could have gotten some of those -  
18 - some of that testimony in writing. And if there were an  
19 opportunity to do that, I could do that.

20           As far as the relief from parking, I did want to  
21 point out -- and I don't know if it's shown in the record  
22 that my property is actually -- my tenants use public

1 transportation. It's with the -- it's right around the  
2 corner from the bus stop. I mean, literally at the corner  
3 of Cushing.

4           So knowing that I needed some relief from parking,  
5 I felt that the hardship was that except for the ordinance,  
6 there's ample on-street parking and there's a lot of  
7 transportation --

8           CONSTANTINE ALEXANDER: Let me one by one, I hear  
9 you and I --

10          RICK VON TURKOVICH: Right.

11          CONSTANTINE ALEXANDER: -- hear what you're saying  
12 on the parking. It's a cumulative effect.

13          RICK VON TURKOVICH: Right.

14          CONSTANTINE ALEXANDER: You're not close to  
15 meeting the requirements of our ordinance. And, the reasons  
16 -- basis for granting a variance is not there. What's the  
17 hardship that you would make? You have a four-unit  
18 building.

19          RICK VON TURKOVICH: Right.

20          CONSTANTINE ALEXANDER: It's occupied, it's rented  
21 --

22          RICK VON TURKOVICH: Sure, sure.

1           CONSTANTINE ALEXANDER: You want to have a -- you  
2 want to increase the rental income. That's not a hardship  
3 that entitles you to a variance.

4           RICK VON TURKOVICH: Well, it -- I guess the  
5 hardship -- I'm not trying to argue --

6           CONSTANTINE ALEXANDER: No, no, no --

7           RICK VON TURKOVICH: -- hopefully see if we can't  
8 come to some common understanding is that there's a hardship  
9 to me financial or otherwise, right?

10          CONSTANTINE ALEXANDER: Say it again, I'm sorry?

11          RICK VON TURKOVICH: Financial or otherwise, as it  
12 states in the application.

13          CONSTANTINE ALEXANDER: Yeah, with the otherwise,  
14 okay.

15          RICK VON TURKOVICH: So the "otherwise" is that in  
16 general -- I mean, I -- one of the reasons why I operate the  
17 rental property is I actually take satisfaction in having  
18 them provided housing for many people over these years. I  
19 always thought that there could be an additional dwelling  
20 unit.

21                 And while my property -- understanding the  
22 nonconforming issues, other properties in the area have

1 added dwelling units increasing density. And in my case,  
2 there's no increase in density.

3 CONSTANTINE ALEXANDER: I have to assume, since I  
4 don't remember any cases on your street requiring zoning  
5 relief.

6 RICK VON TURKOVICH: On hold relief.

7 CONSTANTINE ALEXANDER: I'm sorry?

8 RICK VON TURKOVICH: On hold relief.

9 CONSTANTINE ALEXANDER: I mean, they can do their  
10 increase and comply with the zoning ordinance.

11 RICK VON TURKOVICH: Right.

12 CONSTANTINE ALEXANDER: You want to do an increase  
13 and you are departing from the zoning ordinance.

14 ANDREA HICKEY: In more than one respect.

15 CONSTANTINE ALEXANDER: Yes.

16 RICK VON TURKOVICH: Right. Right. So are you  
17 saying that it's --

18 CONSTANTINE ALEXANDER: What I'm saying is that  
19 I'm going to vote against granting you relief.

20 RICK VON TURKOVICH: Okay.

21 CONSTANTINE ALEXANDER: You need to get four  
22 votes. So you can -- the other four members want to grant

1 you relief, that's fine, that's the majority. That's their  
2 decision.

3 RICK VON TURKOVICH: Okay.

4 CONSTANTINE ALEXANDER: That's how it works.

5 RICK VON TURKOVICH: Okay.

6 CONSTANTINE ALEXANDER: You need to get four  
7 votes.

8 RICK VON TURKOVICH: Okay. I understand. I guess  
9 so you're saying that it's not just parking, and it's not  
10 just the lot size per dwelling?

11 CONSTANTINE ALEXANDER: You don't meet the  
12 requirements for a variance. The reason, you don't have a  
13 substantial hardship within the meaning of the zoning  
14 ordinance, or the zoning laws. And you start, as I say, far  
15 departing from the ordinance.

16 If you were close, you'd have three of the four,  
17 and maybe the parking was the one you don't meet. I think  
18 our Board tends to be -- you know, we understand that and we  
19 attempt to be liberal in terms of applying the ordinance.

20 RICK VON TURKOVICH: Right, no, I guess --

21 CONSTANTINE ALEXANDER: And you're far away.

22 RICK VON TURKOVICH: Yeah. I guess my only appeal

1 would be that if we could address the parking issue, right?

2           CONSTANTINE ALEXANDER:  Parking's not the only  
3 issue, sir

4           RICK VON TURKOVICH:  Okay.

5           CONSTANTINE ALEXANDER:  It's the rest of it.  I  
6 mean, look what the lot area per dwelling unit.  You're  
7 going to be half of what our ordinance says the minimum is  
8 required by our ordinance, if we grant you the relief.  
9 You'll be all -- you're below it now, and you're going to  
10 make it more below.

11           RICK VON TURKOVICH:  Right.  Well, for one of the  
12 -- I mean, the property is half in the B zone, right?  
13 That's -- you know, those numbers are far different.

14           CONSTANTINE ALEXANDER:  Right.  Well, I don't want  
15 to repeat myself --

16           RICK VON TURKOVICH:  Okay.

17           CONSTANTINE ALEXANDER:  -- or be argumentative.  I  
18 just expressed my views.  I don't know if other members --

19           RICK VON TURKOVICH:  Understood.

20           CONSTANTINE ALEXANDER:  -- want to express their  
21 views or not.  We'll get to a vote at some point.

22           RICK VON TURKOVICH:  Okay.

1           CONSTANTINE ALEXANDER: But anyway, questions or  
2 comments from other members of the Board?

3           JIM MONTEVERDE: Well, just in fairness, I would  
4 tend to agree with the Chair. So, again, you need four.

5           RICK VON TURKOVICH: Right, right. Yeah. I mean,  
6 my -- you know, my fundamental thought was that an extra  
7 dwelling unit in a property where there's no visible  
8 increase in the size of the structure, right?

9           Understanding the issue with regard to parking,  
10 that it -- you know, it's an opportunity to add another unit  
11 of housing in an area that needs more housing.

12          ANDREA HICKEY: Right. But we're constrained by  
13 the ordinance. That sort of sets the stage for what we need  
14 to consider, and what we're able to do. And I don't think  
15 the need for housing helps us fit your request within these  
16 requirements.

17          JIM MONTEVERDE: So I assume the opportunity would  
18 be to -- if there's a vote and we turn down; you can't come  
19 back for --

20          COLLECTIVE: Two years.

21          CONSTANTINE ALEXANDER: Unless it's substantially  
22 different.

1           JIM MONTEVERDE:  -- unless it's substantially  
2 different.

3           CONSTANTINE ALEXANDER:  It's the same as --  
4 withdraw is the same as being turned down.

5           JIM MONTEVERDE:  Same thing.

6           CONSTANTINE ALEXANDER:  Same thing.

7           RICK VON TURKOVICH:  Yeah.  Yeah.

8           CONSTANTINE ALEXANDER:  Let me read a letter in  
9 the file.  We only have one letter from the neighbor, or  
10 someone.  It's from Steven, or Steve, Polimou -- P-o-l-i-m-  
11 o-u, 18 Cushing Street.

12           "I'm writing in opposition to the proposed  
13 variance of 17 Cushing Street.  The parking situation at  
14 this end of Cushing Street is increasingly problematic for  
15 the residents, with an overflow of vehicles.

16           "In addition to a large number of transient  
17 vehicles on a daily basis for yoga, coffee and lunch, there  
18 are currently five cars registered to 17 Cushing Street.  It  
19 could be much worse, but the tenant on the first floor  
20 doesn't have a car.

21           "All of these vehicles park on the street, while a  
22 good-sized parking area behind the house sits empty.  This

1 is to the best of my knowledge the only empty parking area  
2 in the neighborhood, aside from a vacant condo on Spruce  
3 Avenue.

4 "It doesn't seem fair that the other residents in  
5 the area use their driveways to minimize the congestion,  
6 while 17-19 Cushing Street continually dumps their cars on  
7 the street because the landlord wants to make a couple of  
8 extra dollars. Already, one of the tenants frequently parks  
9 overnight in the two-hour section of Cushing Street."

10 "Certainly, we shouldn't reward this kind of  
11 behavior. Granting this variance would be terrible for the  
12 neighborhood. The landlord should be required to remedy the  
13 current problem without making things worse."

14 Sir, are you --

15 AUDIENCE: No, I'm not here for this case. I  
16 assume --

17 CONSTANTINE ALEXANDER: You can express a view, if  
18 you like.

19 AUDIENCE: I am here for the 8:45.

20 JIM MONTEVERDE: You're next.

21 CONSTANTINE ALEXANDER: I know.

22 CONSTANTINE ALEXANDER: So you don't want to be

1 involved in this case? Any comments or questions from  
2 members of the Board? Okay. Ready for a vote.

3           ANDREA HICKEY: Assuming that the petitioner wants  
4 a vote, versus a withdrawal?

5           CONSTANTINE ALEXANDER: Not the same way.

6           ANDREA HICKEY: Right, but he may have a  
7 preference.

8           CONSTANTINE ALEXANDER: It's up to you. That's  
9 right. Good point, good point. Do you want to withdraw  
10 your case, or you want to have a vote?

11           RICK VON TURKOVICH: Well, all right. Let me ask  
12 you then, there is an old kind of garage that -- on the  
13 property, right? And there is -- I see there is a potential  
14 that I could increase parking, right?

15           And I had thought about applying for a permit to  
16 do that. Is there any benefit for a subsequent application  
17 for a different variance to --

18           CONSTANTINE ALEXANDER: It improves the strength  
19 of your case, in my opinion at least.

20           RICK VON TURKOVICH: Yes.

21           CONSTANTINE ALEXANDER: But in my opinion, at  
22 least, it still doesn't necessarily get you over the top.

1 RICK VON TURKOVICH: Right.

2 CONSTANTINE ALEXANDER: In other words, it's not  
3 just parking, it's just one of the issues.

4 RICK VON TURKOVICH: Right.

5 CONSTANTINE ALEXANDER: That you have a -- you  
6 don't meet the requirements of our ordinance. I think more  
7 of the fact that a lack of substantial hardship within the  
8 meaning of our ordinance --

9 RICK VON TURKOVICH: Okay.

10 CONSTANTINE ALEXANDER: -- is the end of it.

11 RICK VON TURKOVICH: Okay.

12 CONSTANTINE ALEXANDER: Do you want -- the  
13 question is still there; do you want to vote or not? Want  
14 us to vote on it?

15 ARCH HORST: I was just going to say the advantage  
16 of continuing a case, if you want to --

17 RICK VON TURKOVICH: Right.

18 ARCH HORST: Is that you may be able to figure out  
19 some way to address the Chair's concerns.

20 RICK VON TURKOVICH: Right.

21 ARCH HORST: Because if it votes, then it's over  
22 for two years.

1           CONSTANTINE ALEXANDER: Two years, yeah.

2           RICK VON TURKOVICH: So it could -- a continuance  
3 doesn't trigger this two-year, don't come back for two  
4 years?

5           CONSTANTINE ALEXANDER: No, I will just continue  
6 the case.

7           RICK VON TURKOVICH: Okay.

8           ANDREA HICKEY: No, because a decision hasn't been  
9 made.

10          CONSTANTINE ALEXANDER: Yeah.

11          ANDREA HICKEY: And it may give you an opportunity  
12 to sort of rethink the hardship sort of requirement that --

13          RICK VON TURKOVICH: Right.

14          ANDREA HICKEY: -- is strongly acting in my  
15 opinion.

16          RICK VON TURKOVICH: Right, right. Okay.

17          CONSTANTINE ALEXANDER: It's your call.

18          RICK VON TURKOVICH: I think I will ask for a  
19 continuance, then, and --

20          CONSTANTINE ALEXANDER: What's the date we have?

21          SISIA DAGLIAN: April 30.

22          CONSTANTINE ALEXANDER: So it's still the

1 thirtieth?

2 RICK VON TURKOVICH: Okay. Can I agree to defer a  
3 little bit beyond that?

4 CONSTANTINE ALEXANDER: We can pick a later date  
5 if you wanted to?

6 RICK VON TURKOVICH: Yeah, a much later date. I  
7 just need time to understand --

8 CONSTANTINE ALEXANDER: No, no, no, what would you  
9 like?

10 SISIA DAGLIAN: May or June?

11 RICK VON TURKOVICH: Well, let's say June.

12 SISIA DAGLIAN: June we have the eleventh or the  
13 twenty-fifth, it has to be the same Board?

14 CONSTANTINE ALEXANDER: Yes, because it's a case  
15 heard.

16 RICK VON TURKOVICH: So the twenty-fifth, would  
17 that be okay?

18 LAURA WERNICK: I'm away. I am here on the  
19 eleventh, however.

20 RICK VON TURKOVICH: Okay. I could do the -- I  
21 could make the eleventh work.

22 CONSTANTINE ALEXANDER: Wait a minute, make sure

1 the other members can.

2 LAURA WERNICK: I'm going with the eleventh.

3 RICK VON TURKOVICH: Oh, okay. And we could --  
4 July would be okay, too.

5 SISIA DAGLIAN: Okay, so July there's the ninth  
6 and the twenty-third.

7 RICK VON TURKOVICH: Does that --

8 ARCH HORST: Twenty-third's better for me.

9 LAURA WERNICK: Either is fine with me.

10 ANDREA HICKEY: Yeah, I'm fine.

11 CONSTANTINE ALEXANDER: Twenty-third works for  
12 everybody?

13 JIM MONTEVERDE: I think so, yeah.

14 CONSTANTINE ALEXANDER: Okay. The Chair moves  
15 that we continue this case as a case heard until 7:00 p.m.  
16 on July twen -- July 23?

17 SISIA DAGLIAN: Yes.

18 CONSTANTINE ALEXANDER: -- July 23, subject to the  
19 following conditions: These are standard, and I'll just read  
20 them.

21 One, you have to sign a time for decision, a  
22 waiver of time for a decision.

1 RICK VON TURKOVICH: Okay.

2 CONSTANTINE ALEXANDER: Otherwise, we will be  
3 forced to take a vote sooner than you the day we take it.

4 RICK VON TURKOVICH: Okay.

5 CONSTANTINE ALEXANDER: Sisia has the form, you  
6 can sign before you leave.

7 RICK VON TURKOVICH: Okay.

8 CONSTANTINE ALEXANDER: Second, the posting sign  
9 that you have up there now you either have to get a new one  
10 or just modify what's there by just with a magic marker  
11 change the date.

12 RICK VON TURKOVICH: Okay.

13 CONSTANTINE ALEXANDER: -- to July 23 --

14 RICK VON TURKOVICH: Okay.

15 CONSTANTINE ALEXANDER: -- the time, 7:00 p.m. so  
16 that new sign, or modified sign --

17 RICK VON TURKOVICH: Okay.

18 CONSTANTINE ALEXANDER: -- must be maintained for  
19 the 14 days before the July 20, just as you did tonight.

20 RICK VON TURKOVICH: All right.

21 CONSTANTINE ALEXANDER: And lastly, this is --  
22 well, it could be relevant -- to the extent you're going to

1 want to submit plans, drawings --

2 RICK VON TURKOVICH: Right.

3 CONSTANTINE ALEXANDER: -- dimensional changes --

4 RICK VON TURKOVICH: Yeah.

5 CONSTANTINE ALEXANDER: -- those must be in our  
6 files no later than 5:00 p.m. on the Monday before July 24.  
7 That is to give us --

8 RICK VON TURKOVICH: Right.

9 CONSTANTINE ALEXANDER: -- and other citizens of  
10 the city time to review them --

11 RICK VON TURKOVICH: Okay.

12 CONSTANTINE ALEXANDER: -- so we can have an  
13 informed hearing.

14 RICK VON TURKOVICH: Okay. Understood. I'm not  
15 looking for any kind of -- you know, formal advice or  
16 anything like that, but in your, you know, opinion, if I  
17 were to address a design that would allow for more parking,  
18 do I have any chance of overcoming your --

19 CONSTANTINE ALEXANDER: I can't tell you that.

20 RICK VON TURKOVICH: Yeah, okay.

21 CONSTANTINE ALEXANDER: I mean, it would improve  
22 your chances.

1 RICK VON TURKOVICH: Right.

2 CONSTANTINE ALEXANDER: Whether it's over the top

3 --

4 RICK VON TURKOVICH: Right, right, right, right,  
5 right. I understand. I appreciate that. Okay.

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

8 THE BOARD: Aye.

9 [ All vote YES ]

10 CONSTANTINE ALEXANDER: Five in favor, sign that  
11 form on the way out --

12 RICK VON TURKOVICH: All right.

13 CONSTANTINE ALEXANDER: -- and we'll see you in  
14 July.

15 RICK VON TURKOVICH: Okay. Thank you for your  
16 time.

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2 (8:47 p.m.)

3 Sitting Members: Constantine Alexander, Andrea A. Hickey,  
4 Jim Monteverde, Laura Wernick, Arch Horst

5 CONSTANTINE ALEXANDER: The Chair will now call  
6 Case Number 017249 -- 42 Maple Avenue. Anyone here wishing  
7 to be heard on this matter?

8 DOUGLAS OKUN: Hi, my name is Douglas Okun. I'm  
9 an architect for the client. And the proposal -- you have  
10 it in front of you -- is, they have some nasty windows. I  
11 would like to put in windows that match the house, and put a  
12 door going out to the back yard and a little step down to  
13 the yard.

14 CONSTANTINE ALEXANDER: So you need both a --  
15 you're seeking both a variance and a special permit tonight.

16 DOUGLAS OKUN: Okay.

17 CONSTANTINE ALEXANDER: Okay. So talk about the  
18 variance first, which you have to establish, as you've  
19 heard, for a substantial hardship that runs with the land.  
20 And the hardship is owing to soil conditions, shape or  
21 topography of the land or structure.

22 DOUGLAS OKUN: [Laughter].

1           CONSTANTINE ALEXANDER: Well, the floor is yours.

2           DOUGLAS OKUN: Well, I think the land is a little  
3 too soft to use it, so I think we need to step down, I don't  
4 know.

5           CONSTANTINE ALEXANDER: You can do better.

6           DOUGLAS OKUN: It's a hardship not to be able to  
7 get out of your house.

8           CONSTANTINE ALEXANDER: Okay, well it's a hardship  
9 that runs -- it's not just peculiar to your clients.

10          DOUGLAS OKUN: Yeah.

11          CONSTANTINE ALEXANDER: It's whoever occupies the  
12 property, given the topography of the land you need to  
13 modify the ability to exit the house.

14          DOUGLAS OKUN: Yes.

15          CONSTANTINE ALEXANDER: I think that's what you're  
16 saying?

17          DOUGLAS OKUN: Yes.

18          CONSTANTINE ALEXANDER: Okay. And the  
19 circumstances relating to the topography of such land?  
20 Again, it's the --

21          DOUGLAS OKUN: Yes.

22          CONSTANTINE ALEXANDER: Step down.

1 DOUGLAS OKUN: Yes.

2 CONSTANTINE ALEXANDER: And desirable relief may  
3 be granted without substantial detriment to the public good,  
4 or nullifying or substantially derogating from the intent  
5 and purpose of the ordinance.

6 I think those are soft criteria. And I think they  
7 speak for themselves. Do you have any letters of support or  
8 anything? There's nothing in our files.

9 DOUGLAS OKUN: Yeah.

10 CONSTANTINE ALEXANDER: Why don't we finish up  
11 with the variance. Any comments from members of the Board?

12 BOARD MEMBER: Well, nobody's here to get them.

13 LAURA WERNICK: I'm just curious. The first -- or  
14 I guess the second continued case this evening, where the  
15 couple indicated that the Inspectional Services told them  
16 they didn't require a special permit for the steps for a --

17 CONSTANTINE ALEXANDER: Right, right.

18 LAURA WERNICK: -- required second means of  
19 egress. But here we're saying a special permit is required  
20 for what appears to be the same situation. Am I --

21 CONSTANTINE ALEXANDER: It does. I can't  
22 understand why Inspectional Services Department says yay,

1 and one a nay and the other, but --

2 ARCH HORST: Maybe there's another means of egress  
3 already. Is there -- are there three means of egress, or  
4 are there two means of egress now? Excuse me --

5 DOUGLAS OKUN: Yeah. That's -

6 CONSTANTINE ALEXANDER: That's the answer?

7 ARCH HORST: Yeah.

8 ANDREA HICKEY: It is, okay. And neither of those  
9 are going away, right?

10 DOUGLAS OKUN: No.

11 CONSTANTINE ALEXANDER: Okay. As indicated, there  
12 are no letters either way in our files, so let's see to a  
13 vote on the variance, unless people want further discussion.

14 ANDREA HICKEY: No.

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

18 That a literal enforcement of the provisions of  
19 the ordinance would involve a substantial hardship, such  
20 hardship being as the ability to egress from the house at  
21 this side of the house is difficult, if not precipitous  
22 because of the topography of the land, and this is a

1 hardship that would run to whoever owns the structure, not  
2 just your current clients.

3           And the hardship is owing to the topography of the  
4 land, and especially affects the land, and not generally the  
5 district in which it's located, and that relief may be  
6 granted without substantial detriment to the public good, or  
7 nullifying or substantially derogating from the intent or  
8 purpose of the ordinance.

9           So on the basis of all of these findings, the  
10 Chair moves that we grant the variance sought on the  
11 condition that the work proceeds in accordance with plans  
12 prepared by Douglas Okun and Associates -- we can just say  
13 we can't find it -- dated January 30, 2020, and the first  
14 page of which has been initialed by the Chair.

15           All those in favor, please say, "Aye."

16           THE BOARD: Aye.

17           [ All vote YES ]

18           CONSTANTINE ALEXANDER: Five in favor, your  
19 variance has been granted. Let's turn to the special  
20 permit, which relates to the fact you want to install a  
21 sliding door to the landing in the rear of the house and  
22 install windows on the side of the house, and --

1 DOUGLAS OKUN: You can see the windows that are  
2 there.

3 CONSTANTINE ALEXANDER: Yeah. There's a lot more  
4 windows, really.

5 DOUGLAS OKUN: The what?

6 CONSTANTINE ALEXANDER: To what was there before,  
7 as I recall.

8 DOUGLAS OKUN: These are here.

9 CONSTANTINE ALEXANDER: Oh, okay. You're right.  
10 I'm sorry. I'm --

11 DOUGLAS OKUN: We want to replace them with  
12 windows that match the house.

13 CONSTANTINE ALEXANDER: Okay.

14 DOUGLAS OKUN: I think it will look better.

15 CONSTANTINE ALEXANDER: Questions from members of  
16 the Board? Nobody's here to give public testimony. There  
17 are no letters in our file.

18 The Chair moves that we -- I think we're ready for  
19 a vote for a special permit. The Chair moves that we make  
20 the following findings with regard to the special permit  
21 that's being sought:

22 That the requirements of the ordinance cannot be

1 met unless we grant the special permit.

2 That traffic generated or patterns in access or  
3 egress resulting from what is proposed will not cause  
4 congestion, hazard, or substantial change in established  
5 neighborhood character -- in fact, the relief being sought  
6 is rather modest and does not impact the neighborhood  
7 generally.

8 That no nuisance or hazard will -- the continued  
9 operation of or the development of adjacent uses, as  
10 permitted in the ordinance, will not be adversely affected  
11 by what is being proposed, and I think it speaks for itself.

12 No nuisance or hazard will be created to the  
13 detriment of the health, safety and/or welfare of the  
14 occupant of the proposed use, or the citizens of the city.

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

19 So on the basis of all of these findings, the  
20 Chair moves that we grant the special permit requested,  
21 again on the condition that the work proceed in accordance  
22 with the plans referred to with regard to the variance. All

1 those in favor, please say, "Aye."

2 THE BOARD: Aye.

3 [ All vote YES ]

4 CONSTANTINE ALEXANDER: Five in favor, relief  
5 granted.

6 COLLECTIVE: Thank you. And we're all done.

7 [ 8:52 p.m. End of Proceedings.]

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CERTIFICATE

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Commonwealth of Massachusetts  
Middlesex, ss.

I, Catherine Burns, Notary Public in and for the  
Commonwealth of Massachusetts, do hereby certify that the  
above transcript is a true record, to the best of my  
ability, of the proceedings.

I further certify that I am neither related to nor  
employed by any of the parties in or counsel to this action,  
nor am I financially interested in the outcome of this  
action.

In witness whereof, I have hereunto set my hand this  
\_\_\_\_\_ day of \_\_\_\_\_, 2019.

Notary Public

My commission expires:

August 6, 2021