

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, MARCH 10 2022

6:00 p.m.

Remote Meeting

via

831 Massachusetts Avenue
Cambridge, Massachusetts 02139

Brendan Sullivan, Chair
Jim Monteverde, Vice Chair
Constantine Alexander
Laura Wernick
Matina Williams
Jason Marshall

City Employees
Olivia Ratay, Zoning and Building Associate



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transcripts@ctran.com

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(6:00 p.m.)

Sitting Members: Brendan Sullivan, Constantine Alexander,
Jim Monteverde, Laura Wernick, Matina
Williams, and Jason Marshall

BRENDAN SULLIVAN: Good evening and welcome to the
March 10, 2022 meeting of the Cambridge Board of Zoning
Appeals. My name is Brendan Sullivan and I am the Chair for
this meeting.

This meeting is being held remotely, due to
statewide emergency orders limiting the size of public
gatherings in response to COVID-19, and in accordance with
Governor Charles D. Baker's Executive Order of March 12,
2020, temporarily amending certain requirements of the Open
Meeting Law; as well as the City of Cambridge temporary
emergency restrictions on city public meetings, city events,
and city permitted events, due to COVID-19, dated May 27,
2020.

This meeting is being video and audio recorded,
and is broadcast on cable television Channel 22 within
Cambridge. There will also be a transcript of the

1 proceedings.

2 All Board members, applicants, and members of the
3 public will please state their name before speaking. All
4 votes will be taken by roll call.

5 Members of the public will be kept on mute until
6 it is time for public comment. I will give instructions for
7 public comment at that time, and you will also find
8 instructions on the City's webpage for remote BZA meetings.

9 Generally, you will have up to three minutes to
10 speak, but that may change based on the number of speakers.
11 I'll start by asking Staff to take Board Members attendance
12 and verify that all Members are audible.

13 OLIVIA RATAY: Jim Monteverde?

14 JIM MONTEVERDE: Jim Monteverde is present.

15 OLIVIA RATAY: Jason Marshall?

16 JASON MARSHALL: Jason Marshall present.

17 OLIVIA RATAY: Matina Williams?

18 [Pause]

19 OLIVIA RATAY: Laura Wernick?

20 LAURA WERNICK: Laura Wernick is present.

21 JIM MONTEVERDE: Yeah, Matina, you're muted.

22 LAURA WERNICK: I don't think she's needed for the

1 first -- from the continuing case.

2 JIM MONTEVERDE: Yea? Oh, that's right.

3 MATINA WILLIAMS: I'm here, though.

4 MATINA WILLIAMS: Okay.

5 BRENDAN SULLIVAN: Welcome.

6 OLIVIA RATAY: Laura Wernick?

7 LAURA WERNICK: Yeah. Laura Wernick's here.

8 OLIVIA RATAY: Gus Alexander?

9 CONSTANTINE ALEXANDER: Present.

10 OLIVIA RATAY: Brendan Sullivan present and
11 audible.

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6:02 p.m.)

Sitting Members: Brendan Sullivan, Constantine Alexander,
Jim Monteverde, Laura Wernick, and Jason
Marshall

BRENDAN SULLIVAN: First case I'm going to call
tonight is BZA No. 154682 -- 30 Cameron Avenue. Anybody
representing the petitioner on the line?

[Pause]

There is none. We are in receipt of
correspondence from Attorney David Glick to Ms. Maria
Pacheco.

"I have spoken with the Building Inspector and
have been informed that the revised set of proposed building
plans that have been submitted to the Building Department
for review...

"Given these revised plans that were only
recently submitted, coupled with the lack of notice of
tonight's hearings, I will be requesting a continuance of
this application to the next hearing date. If you have any
questions, please let me know.

"Thank you,

1 Attorney David Glick."

2 The next available date will be May 5, 2022. Mr.
3 Alexander, will you be available on May 5 as a case heard?

4 CONSTANTINE ALEXANDER: I will.

5 BRENDAN SULLIVAN: Jason, will you be available
6 on May 5?

7 JASON MARSHALL: I will not, Mr. Chair.

8 BRENDAN SULLIVAN: Will not? Okay. It is a case
9 heard. So the next available date after that will be May
10 19? Will you be available on the nineteenth?

11 JASON MARSHALL: Yes, I will.

12 BRENDAN SULLIVAN: Okay. Laura, will you be
13 available on nineteenth?

14 JASON MARSHALL: Yes, I expect to be. Yes.

15 BRENDAN SULLIVAN: Okay. And Gus, back to you
16 again on the nineteenth?

17 CONSTANTINE ALEXANDER: I'll be available.

18 BRENDAN SULLIVAN: And Jim, you're available on
19 the nineteenth?

20 JIM MONTEVERDE: I am, thank you.

21 BRENDAN SULLIVAN: And I am available on the
22 nineteenth.

1 Let me make a motion, then, to continue this
2 matter to May 19, 2022, on the condition that the petitioner
3 change the posting sign to reflect the new date of May 19,
4 2022 and the time of 6:00 p.m. The date, May 19, 2022 and
5 the time of 6:00 p.m. (sic)

6 Also, that should any submissions not in the file
7 tonight be submitted, they must be in the file by the 5:00
8 p.m. on the Monday prior to the May 19 hearing -- a revised
9 set of drawings and also dimensional forms reflecting those
10 new submittals. Anything else to add?

11 CONSTANTINE ALEXANDER: So -- did you mention the
12 posting sign?

13 BRENDAN SULLIVAN: The posting sign and time and
14 the date. On the motion then, to continue this matter until
15 May 19, 2022 at 6:00 p.m. Mr. Alexander?

16 CONSTANTINE ALEXANDER: I vote in favor.

17 BRENDAN SULLIVAN: Jim Monteverde?

18 JIM MONTEVERDE: I vote in favor.

19 BRENDAN SULLIVAN: Jason Marshall?

20 JASON MARSHALL: Jason Marshall in favor.

21 BRENDAN SULLIVAN: Laura Wernick?

22 LAURA WERNICK: I vote in favor.

1 BRENDAN SULLIVAN: Brendan Sullivan yes, voting in
2 favor.

3 [All vote YES]

4 The matter is continued until May 19, 2022 at
5 6:00.

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(6:06 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Jim Monteverde, Matina Williams, and Jason
Marshall

BRENDAN SULLIVAN: The next case I will hear is
Case #154 221 -- 213 Harvard Street. Anybody for the
petitioner on the line for that matter?

COLLECTIVE: You skipped one.

BRENDAN SULLIVAN: We are in receipt of
correspondence from Mr. Evan Smith, who is the present
Director of Development at the 213 Harvard Street
Condominium and the subject of this case.

"I am requesting a continuation of the zoning
related to 213 Harvard Street. We are on the docket for
March 10, and would like to put a request to be put on a
date in late May. Please let me know if you have any other
questions or concerns. Thanks.

Mr. Evan Smith."

Date of May 19? Let me make a motion, then, to
continue this matter until May 19, 2022 at 6:00 p.m. on the
condition that the petitioner change the posting sign to

1 reflect the new date of May 19, 2022 and the new time of
2 6:00 p.m.

3 Further, that any new submittals that are not --
4 CONSTANTINE ALEXANDER: The new sign must be the
5 14 days --

6 BRENDAN SULLIVAN: As Mr. Alexander says, the sign
7 must be maintained for a period of 14 days prior to the May
8 19 hearing.

9 Further, if there are any new submittals that are
10 not in the file now, that those new submittals be in the
11 file by the 5:00 p.m. on the Monday prior to May 19, and
12 that new dimensional forms to reflect any new submittals
13 should also be attached and up to date on that time.

14 On the motion then, to continue this matter until
15 May 19, Mr. Alexander?

16 CONSTANTINE ALEXANDER: I vote in favor.

17 BRENDAN SULLIVAN: Jim Monteverde?

18 JIM MONTEVERDE: In favor.

19 BRENDAN SULLIVAN: Jason Marshall?

20 JASON MARSHALL: Yes, in favor.

21 BRENDAN SULLIVAN: Matina Williams?

22 [Pause]

1 In favor of continuing the matter?

2 MATINA WILLIAMS: Yes.

3 BRENDAN SULLIVAN: Yes, and Brendan Sullivan yes.

4 [All vote YES]

5 BRENDAN SULLIVAN: This matter is continued until
6 May 29, 2022.

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(6:09 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Monteverde, Matina Williams, and Jason
Marshall

BRENDAN SULLIVAN: The next case we're going to
hear is Case #153095 -- 472 Cambridge Street, Unit #1. Mr.
Noorouzi?

JIM MONTEVERDE: He's on, he's muted. There we
go.

MOHAMMAD NOOROUZI: Hello?

BRENDAN SULLIVAN: Yes.

MOHAMMAD NOOROUZI: Hi. Hi, everybody.

BRENDAN SULLIVAN: Please introduce yourself for
the record for the record?

MOHAMMAD NOOROURI: Yes, this is Mohammad Noorouzi
from 472 Cambridge Street in Cambridge.

BRENDAN SULLIVAN: Okay. Can you tell us what you
would like to do?

MOHAMMAD NOOROUZI: We would like to split the
first-floor apartment into two studios, and keep the current
condition up there, one of the units everything stays the

1 same, and then add a new bathroom and kitchen to another
2 unit. We're closing off the door between the two units.
3 Currently there are three units in the building.

4 BRENDAN SULLIVAN: All right. So you're not
5 adding onto the building, and you're basically staying
6 within the existing envelope, and doing some interior
7 realignment of petitions, and basically adding two doors --
8 one basically to serve as either an entrance or an exit out
9 of Unit #1, and out of the proposed Unit #2, is that
10 correct?

11 MOHAMMAD NOOROUZI: Correct, yes sir.

12 BRENDAN SULLIVAN: Okay. Okay. Mr. Alexander,
13 any questions at all?

14 CONSTANTINE ALEXANDER: Not really, but I just
15 want to go over some elements in the record. You want to do
16 this so that your mother and either a caretaker or a niece
17 can move in next door?

18 MOHAMMAD NOOROUZI: Yes, my sister hopefully, yes.

19 CONSTANTINE ALEXANDER: Okay. This is a strange
20 question, I suppose, but at some point, your mother will not
21 be around. What will happen to the unit at that point?

22 MOHAMMAD NOOROUZI: It will be turned into either

1 a rental or the family might have to move in -- my wife and
2 I.

3 CONSTANTINE ALEXANDER: I'm sorry, the connection
4 is not very good. Your wife and you will move back into the
5 whole first floor? Is that what you said?

6 MOHAMMAD NOOROUZI: No, no, no, no, no. I'm just
7 saying it could be turned into the rental unit, or my wife
8 and I planning to move to one of the smaller units,
9 downzoning eventually.

10 CONSTANTINE ALEXANDER: Right. But then there
11 will still be a second unit there. What will happen to the
12 other unit on the first floor?

13 MOHAMMAD NOOROUZI: Well, right now currently I
14 have made an arrangement that my sister could stay there,
15 you know, as long as they like. So that's in order to
16 return to take care of my mother for the time being, as long
17 as she's alive.

18 CONSTANTINE ALEXANDER: Do you have any intention
19 of converting this into an Airbnb after?

20 MOHAMMAD NOOROUZI: No, sir. No, no, sir. As --
21 no, no, no, sir, never.

22 CONSTANTINE ALEXANDER: I have nothing else.

1 MOHAMMAD NOOROUZI: Thank you, Mr. Chairman.

2 BRENDAN SULLIVAN: Jim Monteverde, any questions
3 at this time?

4 JIM MONTEVERDE: No questions, thank you.

5 BRENDAN SULLIVAN: Jason, any questions?

6 JASON MARSHALL: No questions at this time, Mr.
7 Chair.

8 BRENDAN SULLIVAN: Matina, any questions at this
9 time?

10 MATINA WILLIAMS: No questions.

11 BRENDAN SULLIVAN: Thank you. I'll open it to
12 public comment. Any member of the public who wishes to
13 speak should now click the button that says, "Participants,"
14 and then click the button that says, "Raise hand."

15 If you are calling in by phone, you can raise your
16 hand by pressing *9 and unmute or mute by pressing *6, and
17 you will have up to three minutes to comment.

18 [Pause]

19 There appears to be nobody calling in.

20 CONSTANTINE ALEXANDER: Yes, yes there is.

21 BRENDAN SULLIVAN: There is one person calling in.

22 OLIVIA RATAY: Matthew McDonough?

1 MATTHEW MCDONOUGH: Sorry, that was a mistake, I'm
2 sorry.

3 CONSTANTINE ALEXANDER: Okay. I --

4 BRENDAN SULLIVAN: Thank you. Nobody else seems
5 to be calling in. We are not -- we are in receipt of no
6 other correspondence. I will close public comment at this
7 time. Anything else to add, Mahomood (sic) at all?
8 Mohammad, I'm sorry.

9 MOHAMMAD NOOROUZI: No. I'm sorry, no sir.

10 BRENDAN SULLIVAN: No? Okay.

11 MOHAMMAD NOOROUZI: Thanks for the consideration,
12 I appreciate it. Thanks for your time, everyone.

13 BRENDAN SULLIVAN: Then the Board will discuss it
14 among themselves. I guess my feeling on this -- and I
15 somewhat echo Mr. Alexander's thought -- is this will be a
16 short-term, possibly even a longer-term help for the family
17 to accommodate an elderly parent. And I fully understand
18 their need for this.

19 And we're creating basically two studio apartments
20 that eventually longer-term way down the road it could be
21 two affordable studio apartment rentals.

22 I would also for the record state that we are

1 taking the purpose of this creating of a studio apartment to
2 basin (sic) as per the presentation, and that the Board
3 would not look kindly if it were to be turned into a short-
4 term rental unit down the road.

5 But I would be in favor of it now because I think
6 it helps a family in a real situation. Mr. Alexander, any
7 comments at all?

8 CONSTANTINE ALEXANDER: Yes. I raised the point,
9 but I would point out that we have an Airbnb ordinance, and
10 so Airbnb usage is not prohibited in the city, it's just got
11 to comply with the ordinance -- not our zoning ordinance,
12 but that ordinance.

13 So, you know, that issue will come up, if it ever
14 comes up, at such time when someone wants to make -- convert
15 these units, one or both, to Airbnb.

16 And I believe that if that person -- if the owner,
17 as Mr., the current owner or future owner is going to comply
18 with the requirements of the ordinance, that's fine. I
19 mean, that's permitted. Not prohibited.

20 So I'm not -- I just was curious. And I don't
21 mean to suggest that a possible use for Airbnb is something
22 that's not permissible. At one point it wasn't, maybe, but

1 today it is.

2 So I'm fine, and I'm in favor of granting the
3 relief. I think this is a good -- it's a necessary
4 resolution of a family issue, and it's very -- I think very
5 noble of you, sir, the petitioner, to cut back on your
6 living space to provide a living space for your ailing
7 mother.

8 So I will vote in favor.

9 MOHAMMAD NOOROUZI: Thank you, sir.

10 BRENDAN SULLIVAN: Jim Monteverde, any comments?

11 JIM MONTEVERDE: No comments, thank you.

12 BRENDAN SULLIVAN: Jason, any comments at this
13 time?

14 JASON MARSHALL: Yeah, Mr. -- just briefly, and I
15 appreciate my colleague Gus raising issues around Airbnb.
16 And this Board has in the past in some cases imposed a
17 condition in approving a variance, with respect to short-
18 term rentals.

19 In those situations, it was based on specific
20 circumstances of the neighborhood and issues that neighbors
21 had raised and concerns that they had raised. We haven't
22 heard that in that case, so I agree with my colleagues here

1 that it doesn't seem necessary in this case, and in the
2 future the Board can consider those conditions if it's
3 warranted.

4 And then just finally, the discussion has been
5 helpful because I just -- and I look forward to the motion
6 and how it describes the hardship.

7 I struggled a little bit with the application and
8 how it was written out, but I think I have a better
9 understanding now after the discussion.

10 That's all I have, Mr. Chair.

11 BRENDAN SULLIVAN: Thank you. Matina, any
12 comments?

13 MATINA WILLIAMS: No comments at this time.

14 BRENDAN SULLIVAN: Let me make a motion, then, to
15 grant the relief requested, which would be to create a
16 second unit out of the first-floor unit, creating a fourth
17 unit in the building.

18 Let me make a motion, then, to grant the relief
19 requested. The Board finds that a literal enforcement of
20 the provisions of the ordinance would involve a substantial
21 hardship to the petitioner, because it would preclude the
22 petitioner from providing a studio apartment for, and which

1 would be a benefit to the city having its personal benefit
2 to the applicant, but also a benefit to the city to have a
3 studio apartment -- two studio apartments available.

4 The Board finds that the hardship is owing to the
5 fact that the existing structure, built prior to the current
6 zoning ordinance, is encumbered by the ordinance, and as
7 such, greatly restricts the ability of the homeowner of the
8 structure to increase the number of units to address this
9 particular issue.

10 The Board finds that desirable relief may be
11 granted without substantial detriment to the public good,
12 and it would not nullify or substantially derogate from the
13 intent and purpose of this ordinance, to provide living
14 quarters of all ages and socioeconomic groups in the city.

15 This variance is granted on the condition that the
16 work comply with the drawings as submitted to the Board,
17 initialed by the Chair, with the dimensional form also
18 attached.

19 On the motion then, to grant the relief, Mr.
20 Alexander?

21 CONSTANTINE ALEXANDER: I vote in favor.

22 BRENDAN SULLIVAN: Jim Monteverde?

1 JIM MONTEVERDE: I vote in favor.

2 BRENDAN SULLIVAN: Jason?

3 JASON MARSHALL: In favor.

4 BRENDAN SULLIVAN: Matina?

5 MATINA WILLIAMS: I vote in favor.

6 BRENDAN SULLIVAN: And Brendan Sullivan yes.

7 [All vote YES]

8 BRENDAN SULLIVAN: Five affirmative votes, the
9 variance is granted. Good luck, Mr. Noorouzi.

10 MOHAMMAD NOOROUZI: Thank you very much. Thank
11 you, everyone. I really appreciate it, very much so. Have
12 a wonderful evening. Thanks for taking your time.

13 BRENDAN SULLIVAN: Well, we just want to make sure
14 we got it all right. And so the due diligence was well
15 worth it.

16 MOHAMMAD NOOROUZI: I appreciate it very much.

17 BRENDAN SULLIVAN: Okay. Goodnight, all.

18 MOHAMMAD NOOROUZI: God bless. Thank you.

19 BRENDAN SULLIVAN: Running a little bit ahead of
20 time. The next case will be at 6:30.

21 JIM MONTEVERDE: Mr. Alexander?

22 CONSTANTINE ALEXANDER: Yes.

1 JIM MONTEVERDE: I had -- over the summer, I had -
2 - I was attending a wedding in Maine -- Boothbay Harbor.
3 Driving around, you know, pretty, pretty scenery, but
4 driving around I noticed the street signs were that same
5 economical Yankee Street signage -- it looked like homemade
6 -- that you see around Rhode Island, Little Compton -- you
7 know a piece of wood lathe, painted white [laughter] with
8 tiny script on it that if you have, you know, the eyesight
9 of a fighter pilot you're in good shape.

10 But for the rest of us, you drive right by them.
11 So it must be those skinflint Yankees just like that type of
12 signage. I was surprised.

13 CONSTANTINE ALEXANDER: [Laughter].

14 JIM MONTEVERDE: I happened to be down there a
15 weekend ago?

16 CONSTANTINE ALEXANDER: Yes.

17 JIM MONTEVERDE: Down in Rhode Island. It was --
18 and it must have been a front came through overnight. And
19 around here, the sky has been cloudy just about every night.
20 Down there, it was just spectacularly clear. There was
21 every star in the firmament was out there. It was --

22 CONSTANTINE ALEXANDER: There can be some very

1 lovely nights down there.

2 JIM MONTEVERDE: Oh, really. It was spectacular.

3 CONSTANTINE ALEXANDER: Next case?

4 JIM MONTEVERDE: Brendan, they have a baseball
5 schedule for the city?

6 BRENDAN SULLIVAN: No, we don't as of yet. We're
7 working on it. The powers to be came out with a schedule,
8 gave it to the coaches, and of course a great amount of
9 conflicts arose.

10 JIM MONTEVERDE: Yeah, I can imagine --

11 BRENDAN SULLIVAN: Not the least of which is I was
12 scheduled for Thursday nights.

13 JIM MONTEVERDE: [Laughter] Yeah.

14 BRENDAN SULLIVAN: I try my best, but I can only
15 be in one place at a time.

16 CONSTANTINE ALEXANDER: [Laughter]

17 BRENDAN SULLIVAN: I'm trying to change that, but
18 it doesn't -- so far it hasn't worked out. So --

19 JIM MONTEVERDE: I happened to drive by the back
20 of the Tobin School the other day. I hadn't been down there
21 in, like, a year. I noticed all those fields are gone. Did
22 they replace those elsewhere?

1 BRENDAN SULLIVAN: They're up in Glacken
2 (phonetic), which is up by the Golf Course.

3 JIM MONTEVERDE: Oh, yeah, yeah, yeah. I know
4 where it is. Yeah.

5 BRENDAN SULLIVAN: So you move one coach's request
6 one of the nights, and then that bumps up against another
7 coach's conflict. So I am not on the Scheduling Committee
8 for various reasons, not the least of which is it's a
9 headache.

10 JIM MONTEVERDE: Yeah, but they'll get it
11 together. That's nice. It'll be nice.

12 BRENDAN SULLIVAN: But -- the first pitch, the
13 games will go on, and the kids will have a good time, and so
14 it'll happen.

15 JIM MONTEVERDE: Yep. That's great.

16 CONSTANTINE ALEXANDER: It sounds like that Jim
17 might have to be the Chair of some of the hearings.

18 JIM MONTEVERDE: [Laughter] We'll see what happens.

19 BRENDAN SULLIVAN: It's a [list of] priorities and
20 this comes first over baseball. We have options with
21 baseball.

22 JIM MONTEVERDE: Brendan and Gus, I noted you're

1 out in the City Hall chambers. Is there much activity on
2 the street outside of City Hall these days?

3 CONSTANTINE ALEXANDER: Well, we certainly --
4 we're in the back of the building, so we can't see --

5 JIM MONTEVERDE: Oh, okay.

6 CONSTANTINE ALEXANDER: -- what's going on in the
7 street.

8 BRENDAN SULLIVAN: Sometimes we can hear it, but
9 we can't see it.

10 CONSTANTINE ALEXANDER: Right.

11 JIM MONTEVERDE: Yeah. I know in my neighborhood
12 here over in Inman Square, they let the restaurants go back
13 outside, and then it gets warm enough for people to be
14 outside, it just feels a little bit emptier than it had
15 been. Not quite as much activity.

16 CONSTANTINE ALEXANDER: Inman Square has a lot of
17 restaurants and club activities.

18 JIM MONTEVERDE: Yep.

19 CONSTANTINE ALEXANDER: When the weather permits.

20 JIM MONTEVERDE: Yep. Yeah, it was really -- last
21 summer was really nice. We're -- some folks have been
22 advocating with the City, because they still -- I think they

1 still have to figure out the alignment of, or finalize the
2 alignment of Cambridge Street, when it gets repaved and
3 curbs get reset.

4 And folks are advocating to basically let --
5 arrange it so restaurants have more of that outside space so
6 they continue to do that, once all the COVID stuff is over
7 with or whatever other issue.

8 It was great, it was lively.

9 CONSTANTINE ALEXANDER: I think it would be a good
10 idea.

11 JIM MONTEVERDE: Yeah.

12 CONSTANTINE ALEXANDER: By the way, do they have a
13 date when -- an estimated date when they're going to finish
14 the work in Inman Square?

15 JIM MONTEVERDE: No. Nope. Not that I have a --
16 not that I have heard. I thought it was supposed to be, in
17 other words delayed a year due to COVID, but it doesn't
18 sound like they're going to be wrapped up by this, although
19 we could be surprised if they do a big push this spring and
20 summer. I'm waiting for them to open up the intersection
21 between Beacon and Cambridge Street.

22 CONSTANTINE ALEXANDER: Right.

1 JIM MONTEVERDE: I just think that's going to be
2 mayhem when they put that little kink in there. But I don't
3 know if that's going to happen. I always heard that that
4 would happen this springtime. And that's the one I really -
5 - that would be the major transformation.

6 CONSTANTINE ALEXANDER: Yes, yes.

7 JIM MONTEVERDE: That and the park that's going to
8 be across the street, where the retail stuff is now, where
9 the old fish store used to be, Legal Seafood.

10 CONSTANTINE ALEXANDER: Right.

11 JIM MONTEVERDE: So when they realign those
12 streets, it will be the -- everyone will get to see what the
13 big impact is going to feel like. Ready to go? I think
14 we're at 6:30? Yep.

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(6:30 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Jim Monteverde, Matina Williams, and
Jason Marshall

BRENDAN SULLIVAN: The Board will now hear Case
No. 157821 -- 799 Concord Avenue.

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

BRENDAN SULLIVAN: 799 Concord Avenue?

JIM MONTEVERDE: Yeah. Mike is here. There's a
Mike here, but he's on mute.

BRENDAN SULLIVAN: Michael, you're on mute.

[Pause]

BRENDAN SULLIVAN: Nope. We'll get someone else.
Tim, are you representing?

TIMOTHY TWARDOWSKI: Yes. I apologize. Can you
hear me?

BRENDAN SULLIVAN: Yeah, we can. Yeah.

TIMOTHY TWARDOWSKI: Thank you, Mr. Chairman and
Members of the Board. Tim Twardowski from Robinson+Cole
representing the applicant, Verizon Wireless.

1 This is an application to modify an existing
2 wireless facility that has been in operation since 2015.
3 The facility consists of 12 panel antennas arranged in three
4 arrays of four antennas each.

5 The proposal before the Board this evening is to
6 replace three total antennas, one for -- one from each
7 array. I understand from Staff that we should have photo
8 simulations queued up for the Board to review as we go
9 through the presentation.

10 I see we first have the site plans; if we can skip
11 two pages ahead to the roof plan?

12 To orient the Board, at the bottom of the page
13 would be Concord Avenue, and this is showing the roof, with
14 three rooftop penthouses.

15 On the one towards the lower left corner of the
16 screen is one penthouse that currently houses two arrays for
17 a total of eight antennas. The remaining array is located
18 in the far right-hand rooftop penthouse.

19 If we could skip ahead to the next slide?

20 This slide shows both existing penthouses in their
21 existing condition, and as proposed. You can see on the
22 left the proposed what was referred to as the Alpha Sector

1 Plan. Shows three of the four existing antennas remaining,
2 and the one to the far right being proposed.

3 You'll notice that all of the existing antennas
4 are mounted to the façade of the existing rooftop
5 penthouses, are fully enclosed behind a fiberglass enclosure
6 that is finished to match the existing brick façade of the
7 penthouse, as well as the building itself. And this will be
8 apparent when you see the photo simulations to come.

9 The other two arrays, as well as the antennas that
10 are being replaced, are shown in the bottom right-hand
11 corner right-hand corner of the roof plan on the beta and
12 the gamma sector plans.

13 You know, perhaps we could skip ahead to the photo
14 simulations, and then I can show you exactly what we're
15 looking at here.

16 So this is the cover sheet. If you can skip ahead
17 one, next slide?

18 And this depicts -- in green is the location of
19 the site, and the three red dots show the three perspectives
20 from which the photo simulations were created.

21 Next slide?

22 This view is showing the front of the Santa Maria

1 Hospital building. The perspective is shown from the
2 entrance at Concord Avenue. You can see on the roof of the
3 building just to the left of that tall -- I believe it's a
4 maple, perhaps an oak tree, there's a rooftop penthouse,
5 with the side is the south side facing Concord, and then the
6 shaded side faces west.

7 What appears to be the brick façade is actually
8 the existing fiberglass enclosure.

9 Next slide?

10 And you can see in this -- at this proposed view
11 is showing where there is a bump out in the fiberglass
12 enclosure, and that bump out area is where the one antenna
13 that's being replaced is located. And you can see again on
14 the left-hand side in the shaded areas the second of the
15 three antennas that are proposed to be replaced.

16 The reason for the enclosure is that this specific
17 antenna has a larger clearance requirement through the
18 manufacturer's specifications. So it would not fit behind
19 the existing false enclosure. So we're required to move the
20 façade of that enclosure outward.

21 I do want to add that we had some discussions with
22 the landlord in looking at two alternatives for this

1 proposal. The one that you see here, which is a limited
2 extension of the enclosure -- and that extension measures
3 approximately four feet wide and 14 inches deep -- the
4 alternative was to extend the entire façade of that
5 enclosure out by the full distance of 14 inches all the way
6 across the façade. The landlord did not want us to use that
7 approach.

8 I understand their reasoning was that they did not
9 want us to add any new penetrations to the roof. So this
10 was the landlord's preferred alternative, and allowed us to
11 add this addition without having any new roof penetrations.

12 Next slide?

13 This is the existing view from the southeast of
14 the site. And you can see the -- this is actually the other
15 rooftop enclosure and the existing -- the right-hand side is
16 where the fiberglass enclosure is located.

17 Next slide?

18 And you'll see here that there's a slight bump out
19 that reflects the additional area that would be added to the
20 modified enclosure.

21 Next slide?

22 Again showing existing conditions.

1 And then the next one will show the corner that I
2 think is the northwest corner of that enclosure. You can
3 see where there's a slight bump out for that additional
4 space to allow for the antenna.

5 That's all I have. I think that kind of
6 encapsulates the proposal in a nutshell. I'm happy to
7 answer any questions the Board might have.

8 BRENDAN SULLIVAN: No. Thank you for your
9 presentation. Mr. Alexander, any questions at this time?

10 CONSTANTINE ALEXANDER: No questions and no
11 comments.

12 BRENDAN SULLIVAN: Jim Monteverde, any questions?

13 JIM MONTEVERDE: No questions.

14 BRENDAN SULLIVAN: Jason, any questions?

15 JASON MARSHALL: No questions.

16 BRENDAN SULLIVAN: Matina?

17 MATINA WILLIAMS: No questions.

18 BRENDAN SULLIVAN: And I have no questions. Let
19 me open it to public comment. Any members of the public who
20 wish to speak should now click the button that says,
21 "Participants," and then click the button that says, "Raise
22 hand."

1 If you are calling in by phone, you can raise your
2 hand by pressing *9 and unmute or mute by pressing *6, and
3 you will have up to three minutes to comment.

4 There's nobody calling in and we are -- we have no
5 -- we are not in receipt of any communications from any
6 concerned member of the public. So I will close public
7 comment part.

8 Tim, any final words?

9 TIMOTHY TWARDOWSKI: No. As I said, I think that
10 summarizes the proposal. The only thing I might add is that
11 I did have communications with Swaathi Joseph at CDD.

12 And she confirmed by e-mail last week that this
13 particular application was not selected for review by the
14 Planning Board, Planning and that CDD was not intending to
15 submit any comments to the Board.

16 BRENDAN SULLIVAN: Great. Thank you. We have
17 none.

18 TIMOTHY TWARDOWSKI:

19 Okay.

20 BRENDAN SULLIVAN: All right. I will close the
21 presentation part, and the Board will discuss among
22 themselves. Mr. Alexander, any comments?

1 CONSTANTINE ALEXANDER: No comments. I'm in favor
2 of granting the relief.

3 BRENDAN SULLIVAN: Jim? Comments?

4 JIM MONTEVERDE: No comments.

5 BRENDAN SULLIVAN: Jason, comments at all, or?

6 JASON MARSHALL: No comments, ready for a vote.

7 BRENDAN SULLIVAN: Matina, ready for a vote at
8 all, any comments?

9 MATINA WILLIAMS: No comments, ready for a vote.

10 BRENDAN SULLIVAN: Let me make a motion, then, to
11 grant the special permit as per the application that
12 pursuant to Section 4.32.3.1 of the ordinance, the --
13 reviewing the special permit application for a mobile
14 telecommunications facility, the BXA applies Standards as
15 set forth in 10.49.

16 The Board must consider the following: The scope
17 or limitation imposed by any license secured from any state
18 or federal agency having jurisdiction over such matters.
19 The Board is in receipt of documents Exhibit E stating that
20 Verizon Wireless is licensed by the Federal Communications
21 Commission to provide cellular, mobile, radio and telephone
22 service within the market area that includes the city of

1 Cambridge.

2 The Board also has to consider the extent to which
3 the visual impact of the various elements of the proposed
4 facility is minimized for the use of existing mechanical
5 elements on the building roof, or other features of the
6 building as support and background through the use of
7 materials that in texture blend with the materials to which
8 the facilities are attached.

9 And other effective means to reduce the visual
10 impact of the facility from the site, as shown in the plans
11 in the photo simulations submitted with this application.

12 The antenna array as modified will continue to be
13 mounted on the existing building and will continue to be
14 enclosed by a brick-faced fiberglass enclosure that
15 completely conceals the antenna from view.

16 The Board also notes that the assigned
17 communication and power equipment is located ground level in
18 the garage space. No changes are proposed to these conditions.

19 We also have to consider where it is being -- the
20 facility is being erected in the residential zone, and this
21 is not applicable to this particular case. It is not in a
22 residential zone.

1 Further, we have to make the following findings in
2 Section 10.43, that relief will normally be granted when
3 specific provisions of the ordinance are met, or analysis of
4 Section 10.43 special permit demonstrates that the existing
5 facility is not more detrimental to the public interest.

6 It appears that the requirements of the ordinance
7 can be met for the existing reasons: The existing facility
8 is authorized by a 2015 special permit, modified in 2017,
9 and that the -- has operated continuously since then.

10 The proposed changes, as per the application
11 before us, represents an insignificant change to the
12 existing facility, and will not result in any negative
13 impacts, and in fact will be beneficial to the public
14 interest by resulting in improved mobile communications.

15 The Board finds that there would not be any
16 traffic generated or patterns of access or egress that would
17 cause congestion, hazard, or substantial change in the
18 established neighborhood character.

19 The existing facility creates virtually no traffic
20 demand, and only requires approximately one or two vehicle
21 trips per month for routine maintenance.

22 The Board finds that continued operations of or

1 development of adjacent uses, as permitted in the zoning
2 ordinance, would not be adversely affected by the nature of
3 the proposed use, in fact the proposed changes will enhance
4 the telecommunication ability of the public and the general
5 area.

6 The Board finds that there would not be any
7 nuisance or hazard created to the detriment of the health,
8 safety and/or welfare of the occupants of the proposed use,
9 or to the citizens of the city.

10 The Board finds that the proposed changes will
11 strengthen the ability of reliable wireless communication,
12 therefore enhancing the health, safety and welfare of the
13 community.

14 The proposed use would not impair the integrity of
15 the district or adjoining district, or otherwise derogate
16 from the intent and purpose of the ordinance. The Board
17 notes again, that a telecommunication facility has been in
18 existence here since 2015.

19 The Board also notes that the Community
20 Development Planning Board was aware of this particular
21 application, and has submitted no comments; hence no adverse
22 reaction to the proposal.

1 Also, there is regarding the telecommunication a
2 requirement to state -- you got it? Do we have the time?
3 Based on the findings, the Board moves that the petitioner
4 be granted the special permit it is seeking subject to the
5 following conditions:

6 That the work proceed in accordance with the plans
7 submitted by the petitioner and initialed by the Chair.

8 That upon completion of the work, the physical
9 appearance and visual impact of the proposed work will be
10 consistent with the photo simulations submitted by the
11 petitioner and initialed by the Chair.

12 That the petitioner shall at all times maintain
13 the proposed work, so that its physical appearance and
14 visual impact will remain consistent with the photo
15 simulations previously referred to.

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

22 That the petitioner is in compliance with, and

1 will continue to be in compliance with in all respects, the
2 conditions imposed by this Board with regard to previous
3 special permits granted to the petitioner with regard to
4 previous special permits granted to the petitioner with
5 regard to the site in question.

6 The Board also finds that in as much as the health
7 effects of the transmission of electromagnetic energy waves
8 is a matter of ongoing societal concern and scientific
9 study, the special permit is also subject to the following
10 conditions:

11 That the petitioner shall file with the
12 Inspectional Services Department each report it filed with
13 the federal authorities regarding electromagnetic energy
14 waves emissions emitting from all of the petitioner's
15 equipment on the site.

16 Each such report shall be filed with the
17 Inspectional Services Department no later than 10 business
18 days after the report has been filed with the federal
19 authorities.

20 Failure to timely file any such report with the
21 Inspectional Services Department shall ipso facto terminate
22 the special permit granted tonight.

1 b) That in the event that at any time federal
2 authorities notify the petitioner that its equipment on the
3 site, including but not limited to the special permit
4 granted tonight, fails to comply with the requirements of
5 law or governmental regulations -- whether with regard to
6 the emission of electromagnetic energy waves or otherwise --
7 the petitioner, within 10 business days of receipt of such
8 notification of such failure, shall file with the
9 Inspectional Services Department a report disclosing in
10 reasonable detail that such failure has occurred, and the
11 basis for such claimed failure.

12 The special permit granted tonight shall ipso
13 facto terminate if any of the petitioner's federal licenses
14 is or are suspended, revoked or terminated.

15 c) That to the extent that that the special permit
16 has terminated, pursuant to the foregoing paragraphs a) and
17 b), the petitioner may apply to this Board for a new special
18 permit, provided that the public notice concerning such
19 application discloses in reasonable detail that the
20 application has been filed because of a termination of the
21 special permit, pursuant to paragraphs a) or b) above.

22 Any such new application shall not be deemed a

1 repetitive petition, and therefore will not be subject to
2 the two-year period during which repetitive petitions may
3 not be filed.

4 d) That within 10 business days after receipt of a
5 building permit for the installation of the equipment
6 subject to this petition, the petitioner shall file with the
7 Inspectional Services Department a sworn affidavit of the
8 person in charge of the installation of the equipment by the
9 petitioner of the geographical area that includes Cambridge
10 stating that:

11 a) he or she has such responsibility, and

12 b) that the equipment being installed pursuant to
13 the special permit we are granting tonight will comply with
14 all federal safety rules, and will be situated and
15 maintained in locations with appropriate barricades and
16 other protections, such that individuals, including nearby
17 residents and occupants of nearby structures, will be
18 sufficiently protected from excessive radiofrequency
19 radiation under federal law.

20 On that motion and conditions to grant the special
21 permit, as per the application, Mr. Alexander?

22 CONSTANTINE ALEXANDER: I vote in favor.

1 BRENDAN SULLIVAN: Mr. Monteverde?

2 JIM MONTEVERDE: I vote in favor.

3 BRENDAN SULLIVAN: Jason Marshall?

4 JASON MARSHALL: In favor.

5 BRENDAN SULLIVAN: And Matina Williams?

6 MATINA WILLIAMS: I vote in favor.

7 BRENDAN SULLIVAN: And Brendan Sullivan yes to
8 granting the special permit.

9 [All vote YES]

10 BRENDAN SULLIVAN: Five affirmative votes, the
11 special permit is granted. Thank you, Tim.

12 TIMOTHY TWARDOWSKI: Thank you. Goodnight.

13 BRENDAN SULLIVAN: Yep.

14 CONSTANTINE ALEXANDER: You've got time. It's
15 6:45. So we're all right.

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(6:49 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Monteverde, Matina Williams, and Jason
Marshall

BRENDAN SULLIVAN: The Board will hear Case No.
160158 -- 1168 Massachusetts Avenue. Anybody here on that
matter?

The Board is in receipt of correspondence from
Michael Barone to Ms. Pacheco dated March 9, 2022.

"My office represents Ashley DeCarney, copied
here. The applicant under the above referenced variance
application, scheduled for an appearance before the Board
of Zoning Appeals this evening.

"It was brought to Ms. DeCarney's attention last
week that the requested relief is no longer required, and
that her related fortune-telling license application will
be processed in the usual course.

"Inspectional Services informed Ms. DeCarney that
the Board of Zoning Appeal was made aware of these
developments, and that she should withdraw her application
before the Board.

1 "Attached we find a letter requesting withdrawal
2 of the aforementioned application without prejudice.
3 Although Ms. DeCarney is withdrawing the application, she
4 and I will still appear at tomorrow's hearing to answer any
5 questions the Board may have."

6 Mr. Alexander, do you have any questions?

7 CONSTANTINE ALEXANDER: No questions.

8 BRENDAN SULLIVAN: Jim Monteverde, any questions?

9 JIM MONTEVERDE: No questions, thank you.

10 BRENDAN SULLIVAN: Jason, any questions at all?

11 JASON MARSHALL: No questions.

12 BRENDAN SULLIVAN: Matina any questions at all?

13 MATINA WILLIAMS: No questions.

14 BRENDAN SULLIVAN: And [Brendan Sullivan] I have
15 none at all. So Mr. Barone, I think we're all set.

16 MICHAEL BARONE: Mr. Chair, if I may just ask a
17 quick question of you?

18 BRENDAN SULLIVAN: Yes.

19 MICHAEL BARONE: Thank you very much. Michael
20 Barone of RIW, that's Ruberto, Israel and Weiner of 255
21 State Street in Boston, again representing Ms. Ashley
22 DeCarney relative to the application for 1168 Massachusetts

1 Avenue.

2 As my letter indicated, the client had -- the
3 applicant had submitted a fortune teller's license for tarot
4 card reading at the subject premises, located in the
5 Residence C-2B zone.

6 There apparently was a disagreement between
7 Members of the Zoning Department and the Inspectional
8 Services as to whether the use was permitted or not
9 permitted.

10 So upon an initial determination that it was an
11 undefined retail and consumer service, as opposed to a
12 personal services establishment, which is permitted as-of-
13 right within the Harvard Square Overlay, the applicant did
14 submit this subject application.

15 We would respectfully request to the extent the
16 Board has the power to do so that the Board recommend that
17 the variance application fee of \$300 be refunded to the
18 applicant on the basis that the applicant was following the
19 directions provided by Inspectional Services..

20 And that it is not an insignificant amount of
21 money, and that given that the use is indeed as of right and
22 was only determined after the submission of the application,

1 we believe and would respectfully request that it be
2 equitable for that \$300 to be refunded.

3 BRENDAN SULLIVAN: Thank you, but the Board really
4 has no authority to do that. It's really an administrative
5 issue as far as the application fee and any rebate thereof.
6 So I don't -- in all my years of sitting here, that is not a
7 purview of the Board.

8 Mr. Alexander, what do you say?

9 CONSTANTINE ALEXANDER: No, I don't think it's
10 within our jurisdiction.

11 BRENDAN SULLIVAN: Yeah.

12 CONSTANTINE ALEXANDER: So I don't think --

13 BRENDAN SULLIVAN: Any Member of the Board wish to
14 chime in differently than --

15 No?

16 JIM MONTEVERDE: No.

17 BRENDAN SULLIVAN: So I think it's an
18 administrative thing, Michael. So that should be taken up
19 with the Commissioner.

20 MICHAEL BARONE: Understood. I appreciate it.
21 Thank you, Mr. Chair.

22 BRENDAN SULLIVAN: All right. So on the motion

1 then to withdraw the Application No. 160158 -- 1168

2 Massachusetts Avenue, as per the petitioner's request. Mr.
3 Alexander?

4 CONSTANTINE ALEXANDER: I vote to accept a request
5 to withdraw the petition that was filed by the petitioner.

6 BRENDAN SULLIVAN: Jim Monteverde?

7 JIM MONTEVERDE: I vote to accept the withdrawal.

8 BRENDAN SULLIVAN: Jason Marshall on the motion to
9 withdraw?

10 JASON MARSHALL: Yes, I agree with the motion to
11 withdraw.

12 BRENDAN SULLIVAN: Okay. Matina Williams on the
13 motion to withdraw?

14 MATINA WILLIAMS: Yes, I agree with the motion to
15 withdraw.

16 BRENDAN SULLIVAN: And Brendan Sullivan also
17 accepting the motion to withdraw the five affirmative
18 votes.

19 [All vote YES]

20 BRENDAN SULLIVAN: The petition is withdrawn.
21 Thank you.

22 COLLECTIVE: Thank you.

1 CONSTANTINE ALEXANDER: We can't start the case
2 until 7:00.

3 BRENDAN SULLIVAN: Yep. We're running a little
4 bit ahead of time here. So we have five minutes.

5 JASON MARSHALL: It's always a good problem, Mr.
6 Chair?

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(7:00 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Monteverde, Matina Williams, and Jason
Marshall

BRENDAN SULLIVAN: It being 7:00, the Board will
now hear Case No. 160839 -- 10-12 Fairmont Street Unit #10.
Mr. Glick, are you representing Fairmont?

DAVID GLICK: Good evening, and welcome Mr. Chair.
I actually represent 30-32 Cameron Ave, LLC, with regards to
30 Cameron Ave.

BRENDAN SULLIVAN: Oh, all right. Well, that was
heard at 6:30.

DAVID GLICK: Oh, I apologize.

BRENDAN SULLIVAN: I'm sorry, at 6:00. It was
heard at 6:00.

DAVID GLICK: I apologize.

BRENDAN SULLIVAN: Yep.

DAVID GLICK: I thought it was 7:00. I had sent a
message to Ms. Pacheco just putting her on notice that we
had only just submitted plans -- my understanding was the
Inspectional Services but not to the Zoning Department.

1 We were therefore asking a -- for a continuance of
2 our hearing date, given the revisions to the plans, which --

3 BRENDAN SULLIVAN: Next available date is May 19.
4 So we read your letter, and the -- and a motion to continue
5 the matter on the first available date for the five Members
6 to get together would be May 19.

7 DAVID GLICK: Okay. Okay. I would just be
8 requesting that continuance be granted. I'm not sure if you
9 had voted on it or on the.

10 BRENDAN SULLIVAN: Yes, we did. Yep.

11 DAVID GLICK: Oh, okay. Okay. Thank you. My
12 apologies.

13 BRENDAN SULLIVAN: Okay. Thank you.

14 DAVID GLICK: All right. Thank you very much.

15 BRENDAN SULLIVAN: All right. Goodnight.

16 DAVID GLICK: Goodnight.

17 BRENDAN SULLIVAN: 10-12 Fairmont Street?

18 CONSTANTINE ALEXANDER: They're not on the call.

19 BRENDAN SULLIVAN: Hm?

20 CONSTANTINE ALEXANDER: Going once?

21 BRENDAN SULLIVAN: Well, we have 15 minutes. #10
22 Fairmont Street, are you on the call at all?

1 KEVIN RICHARD: Hi. This is Kevin Richard,
2 Cambridge Craftsman. I'm so sorry I'm late.

3 BRENDAN SULLIVAN: It's okay. All right. The
4 floor is yours.

5 KEVIN RICHARD: So #10-12 Fairmont Street is
6 requesting a small 3 x 3 extension of the porch that I am
7 rebuilding, which is a three-story porch roofed, a complete
8 teardown replacement.

9 But on the second floor, their neighbor -- or the
10 other I guess it's an attached townhouse, three stories for
11 each unit, they share those porches on each of the three
12 levels, on the second floor the neighbor -- has an egress.

13 So they have a door out onto their porch. And
14 they have a little triangular bump out to accommodate the
15 outswing of the door, of the screen door.

16 And the proposal is to do the same little 3 x 3
17 bump out at a diagonal on the #10 side, #10 unit, and cut an
18 exterior door into their bedroom for a safety egress. And
19 that's it.

20 BRENDAN SULLIVAN: Okay. There are no other
21 nonconforming, not extending any nonconformities at all, or
22 -- I'm sorry, you're not creating any new nonconformities,

1 is that correct?

2 KEVIN RICHARD: Correct.

3 BRENDAN SULLIVAN: Okay.

4 KEVIN RICHARD: The footprint of the first-floor
5 deck is below the lower left-hand corner here. That's a 36"
6 -- a 36' wide first-floor porch, whereas the second and
7 third floor porches are 20' wide.

8 BRENDAN SULLIVAN: Okay. Mr. Alexander, any
9 questions?

10 CONSTANTINE ALEXANDER: I just wanted -- I don't
11 have all the plans in front of me, but are you planning to
12 put a spiral staircase on the property, or is that another
13 case we're hearing tonight?

14 KEVIN RICHARD: I am. It's not part of this
15 variance request, though. That was --

16 CONSTANTINE ALEXANDER: I know, but it's part of
17 the -- well, it reflects on the approvals you want?

18 KEVIN RICHARD: Yes.

19 CONSTANTINE ALEXANDER: I must say I'm less than
20 thrilled with spiral staircases in Cambridge. But, as you
21 point out, it's not technically part of the approval you're
22 seeking, and otherwise I think there's a good case for

1 granting you the relief you want. So I have no questions,
2 and I'm in favor.

3 KEVIN RICHARD: Okay. May I ask what the
4 resistance to spiral staircases are in general?

5 CONSTANTINE ALEXANDER: I just don't think it's
6 appropriate. I don't think it's appropriate for Cambridge.
7 Cambridge has all -- many three-story houses, all -- many of
8 which have a staircase, and they're more conventional. It's
9 just inconsistent to my mind with the prevailing
10 architecture in Cambridge.

11 KEVIN RICHARD: I see. Fair enough. Agreed.

12 BRENDAN SULLIVAN: Any comments, questions at this
13 time? Jim Monteverde?

14 JIM MONTEVERDE: No comments. Thank you.

15 BRENDAN SULLIVAN: Jason, any comments or
16 questions at this time?

17 JASON MARSHALL: No questions at this time?

18 BRENDAN SULLIVAN: Matina, any questions or
19 comments at this time?

20 MATINA WILLIAMS: No questions or comments at this
21 time.

22 BRENDAN SULLIVAN: Thank you. Let me open it to

1 public comment. Any member of the public who wishes to
2 speak should now click the button that says, "Participants,"
3 and then click the button that says, "Raise hand."

4 If you are calling in by phone, you can raise your
5 hand by pressing *9 and unmute or mute by pressing *6, and
6 you will have up to three minutes to comment.

7 OLIVIA RATAY: James Rafferty?

8 BRENDAN SULLIVAN: I don't think he's on this
9 case.

10 CONSTANTINE ALEXANDER: He's on the next case.

11 JAMES RAFFERTY: I'm sorry, I may have prematurely
12 raised my hand. Thank you.

13 BRENDAN SULLIVAN: There's nobody calling in. The
14 Board is in receipt of correspondence dated January 6.

15 "I am writing in support of Dan Coleman's
16 application for a zoning ordinance -- " well, it says,
17 "variance" but -- "a special permit allowing him to
18 construct a small 3 x 3 triangular extension of our shared
19 second-floor porch, as well as for the opening of a new
20 exterior door, which would mirror the existing exterior door
21 on our end of the porch.

22 "This egress provides us with an additional

1 emergency exit in case of a fire, and I would certainly want
2 Dan and his family to enjoy that same measure of safety.

3 "In addition to the functional safety benefits,
4 symmetry will help balance the rear elevation of 10-12
5 Fairmont Street for any neighbors who are able to see our
6 shared home from that vantage point.

7 Sincerely,

8 Jonathan Kriner (phonetic)"

9 The Board is in receipt of correspondence dated
10 September 28.

11 "The Trustees of the 10-12 Fairmont Street
12 Condominium Trust agree to the construction by Cambridge
13 Craftsman, LLC involving the removal and replacement of
14 a three-story back porch at 10-12 Fairmont."

15 And that is the sum and substance of the
16 correspondence. I will close public comment. And Kevin,
17 any other comments to add?

18 KEVIN RICHARD: No. I just want to thank the
19 Board --

20 BRENDAN SULLIVAN: Okay.

21 KEVIN RICHARD: -- and the Chairperson.

22 BRENDAN SULLIVAN: Yep. Are we ready for a

1 motion, then, Board?

2 COLLECTIVE: Ready, yep.

3 BRENDAN SULLIVAN: Let me make a motion, then, to
4 grant the relief being requested, which is a special permit,
5 to replace a three-story rear porch and increase the second-
6 floor porch by 4.5 square feet, as per the plans submitted,
7 initialed by the Chair and the supporting conventional form.

8 The Board finds that it appears that the
9 requirements of the ordinance can be met.

10 Traffic generated or patterns of access or egress
11 would not cause congestion, hazard, or substantial change in
12 the established neighborhood character.

13 The continued operations of or development of
14 adjacent uses, as permitted in the zoning ordinance, would
15 not be adversely affected by the nature of the proposed use.

16 There would not be any nuisance or hazard created
17 to the detriment of the health, safety and/or welfare of the
18 occupant of the proposed use, or to the citizens of the
19 city. And in fact, as correspondence has demonstrated, it
20 would be a good -- quite a plus to the safety of anybody in
21 those units to exit in an emergency.

22 The proposed use would not impair the integrity of

1 the district or adjoining district, or otherwise derogate
2 from the intent and purpose of the ordinance.

3 The Board also finds that under Section 8.222d,
4 that the Board may grant a special permit for the alteration
5 or enlargement of a preexisting dimensionally nonconforming,
6 detached single-family or two-family dwelling, not otherwise
7 permitted in Section 8.22.1, provided that there is no
8 change in use, and that any enlargement or alteration of
9 such preexisting, nonconforming detached single-family or
10 two-family dwelling may only increase a preexisting
11 dimensional nonconformity, but does not create any new
12 dimensional nonconformity.

13 In order to grant such special permit, the Board
14 is required to find that the alteration or enlargement shall
15 not be substantially more detrimental than the existing
16 nonconforming house, but not the alteration or enlargement
17 of a preexisting, nonconforming use.

18 The Board finds that in order to grant the special
19 permit, the Board is required to find that the alteration
20 shall not be substantially more detrimental than the
21 existing nonconforming structure to the neighborhood. This
22 is -- actually, I'm not even sure, does this one apply?

1 You're applying under 8.222d, special permit. That's a
2 three-story, it's a -- I don't know if that applies.

3 CONSTANTINE ALEXANDER: I'm sorry?

4 BRENDAN SULLIVAN: I'm not sure if this one here
5 actually applies to this.

6 CONSTANTINE ALEXANDER: I don't think you have to
7 get into that, frankly.

8 BRENDAN SULLIVAN: No?

9 CONSTANTINE ALEXANDER: I don't think you -- I'm
10 not sure it does, either. I don't think you have to --

11 BRENDAN SULLIVAN: Yeah.

12 CONSTANTINE ALEXANDER: -- get into that. It's so
13 specific.

14 BRENDAN SULLIVAN: But there are no new
15 dimensional violations. So on the motion, then, to grant
16 the special permit as per the application submitted? Mr.
17 Alexander?

18 CONSTANTINE ALEXANDER: I vote in favor.

19 BRENDAN SULLIVAN: Jim Monteverde?

20 JIM MONTEVERDE: I vote in favor.

21 MATINA WILLIAMS: [Matina Williams] I vote in
22 favor.

1 BRENDAN SULLIVAN: And Jason?

2 JASON MARSHALL: Yes, in favor of the special
3 permit.

4 BRENDAN SULLIVAN: Brendan Sullivan yes.

5 [All vote YES]

6 On the affirmative vote of five affirmative votes,
7 the special permit is granted. Okay. Thank you.

8 KEVIN RICHARD: Thank you, everyone.

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(7:20 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Monteverde, Matina Williams, and Jason
Marshall

BRENDAN SULLIVAN: The Board will hear Case No.
No. 161338 -- 56 Norris Street. Mr. Rafferty?

JAMES RAFFERTY: Thank you. Good evening, Mr.
Chair and Members of the Board. For the record, my name is
James Rafferty. I'm an attorney with law offices at 907
Massachusetts Avenue in Cambridge.

I'm appearing this evening on behalf of the
petitioners, Ana and Philip Bard. Both Mr. and Mrs. Bard
are present on the call.

The Project Architect, Christopher Chan of Chan
Mock Architects, is also present. Well, although he's
asked me to make the presentation. Apparently, he finds
this Board somewhat intimidating, he confessed to me.

CONSTANTINE ALEXANDER: [Laughter]

JAMES RAFFERTY: But the application involves a
special permit pursuant to Section #8.22.2d. It is Mr. and
Mrs. Bard own a two-family house at this address. They live

1 around the corner from this address, and they intend to move
2 here because it's -- they're proposing a one-story, a
3 single-story addition to the rear of the building that will
4 allow them to have single-floor living as they proceed and
5 advance in years.

6 So the application fits nicely within that
7 criteria for 8.22d, because the existing structure currently
8 is nonconforming in terms of both FAR and setbacks. \

9 The proposal will involve an increase in the FAR
10 by approximately -- an increase of GFA by approximately 400
11 square feet, and similarly the setbacks on the addition,
12 while not compliant, are more compliant than the current
13 structure.

14 If Ms. Ratay was able to call up the plan A0.1, I
15 think that best illustrates the site plan if we could keep
16 going to A0.1. There we go. Thank you.

17 So what you see here is the to the left of the
18 drawing is the footprint of the original house, the two-
19 story, two-family dwelling. And in the rear portion of the
20 image is the addition.

21 And you can see the addition is step back, and
22 does meet the minimum 7.5-foot setback, but does not satisfy

1 the combined setback of 20 feet in the Res B District.

2 But as I noted, 8.22.2 permits this setback as
3 we're proposing it, because the existing structure does not
4 comply with setbacks as well.

5 There is a rear deck here. The rear of the house
6 does meet the rear setback requirement. The deck is less
7 than four feet in height and does not project more than 10
8 feet off the foundation.

9 So for these reasons, we would submit that the
10 applicant is a worthy candidate for the granting of the
11 special permit under 8.22.2b.

12 The Board is well aware that such an issuance
13 requires a finding that the proposed work is not
14 substantially more detrimental to the neighborhood than the
15 existing nonconforming structure.

16 I think in this case the evidence would suggest
17 that that's a relatively easy conclusion to reach. I will
18 say that Mr. and Mrs. Bard canvassed their neighborhood over
19 the weekend. They met with all of the abutters -- 13
20 abutters -- providing them with packages of their drawings,
21 and were pleased to receive support from all of those
22 abutters. Some they met directly that day, others phoned

1 and indicated their support and expressed their appreciation
2 for the amount of outreach that they did.

3 So for the reasons set forth, we would urge the
4 Board to grant the special permit.

5 BRENDAN SULLIVAN: Thank you. Any questions by
6 Members of the Board? Mr. Alexander?

7 CONSTANTINE ALEXANDER: No questions.

8 BRENDAN SULLIVAN: Jim Monteverde?

9 JIM MONTEVERDE: Can the proponent just explain
10 the need for the addition?

11 JAMES RAFFERTY: The need will result in
12 increasing the living space on the ground floor of the
13 first-floor unit. It will also, then, make the apartment
14 there more accommodating for the retirement years of Mr. and
15 Mrs. Bard. It will be entirely single-floor living.

16 They live around the corner currently, and this is
17 their retirement plan. They purchased this house in 2000,
18 it's a rather modest house currently. The current GFA is
19 2400. The apartment size is only 1200 square feet.

20 JIM MONTEVERDE: Thank you.

21 BRENDAN SULLIVAN: Jason, any questions at this
22 time?

1 JASON MARSHALL: Thanks, Mr. Chair. I have no
2 questions. I would just note for Mr. Rafferty that at any
3 point please feel free to take a sip of water. We are far
4 from an intimidating Board, a humane Board. So if at any
5 time you need that water, please feel free.

6 JAMES RAFFERTY: I appreciate that. And you're a
7 breath of fresh air to this group, Mr. Marshall, for the
8 expression of hospitality.

9 COLLECTIVE: [Laughter]

10 JAMES RAFFERTY: I'm always reminded that my
11 mother watches these hearings, so she critiques my
12 performance afterwards, and I'm sure I'll get similar
13 feedback. Thank you.

14 BRENDAN SULLIVAN: Matina, any comments or
15 questions at this time?

16 MATINA WILLIAMS: No comments or questions at this
17 time. Thank you.

18 BRENDAN SULLIVAN: Let me open it to public
19 comment. Any member of the public who wishes to speak
20 should now click the button that says, "Participants," and
21 then click the button that says, "Raise hand."

22 If you are calling in by phone, you can raise your

1 hand by pressing *9 and unmute or mute by pressing *6. You
2 will have up to three minutes to comment.

3 There appears to be nobody calling in. We are in
4 receipt of -- we are not in receipt of any correspondence.

5 We note for the record that the petitioner in his
6 presentation said that there was a neighborhood meeting, and
7 that there was no opposition to the proposal before us. We
8 would take them at their word that we would probably be
9 appraised of that.

10 Let me call -- close the public comment part. Mr.
11 Rafferty, any last few words at all, or do you have
12 anything?

13 JAMES RAFFERTY: I think that covers it. I don't
14 know if Mr. Chan has anything he wishes to add. Because, as
15 you know, he is experienced in working with this Board.

16 BRENDAN SULLIVAN: Chris, anything -- are you
17 there? Anything to add?

18 JIM MONTEVERDE: You have to unmute yourself.

19 CHRISTOPHER CHAN: I did. Sorry. Just -- I
20 apologize that the drawing doesn't show the setbacks on it,
21 but the way it was actually designed was to meet the
22 setbacks on the sides and the back for the addition itself.

1 It's a narrow lot, only 35 feet wide, so it is
2 able to meet the narrow and small lot part of the code where
3 the minimum would be seven and a half feet. So it's a
4 slightly angled placement of the building on the lot,
5 they're not parallel with the sides. But we did keep to
6 seven and a half on both sides.

7 The small stair that goes down to the basement has
8 a railing, and that encroaches into the side yard. But the
9 building itself --

10 Same with the rear lot line. That is, I believe,
11 over 30 feet for a 25-foot setback. And the deck pushes in
12 about four or five feet. But again, it's less than four
13 feet so respects the rear setback.

14 And again, single-story basically because we were
15 trying to create a unit that they could grow into as they
16 grow older.

17 We encouraged them at the time to actually take
18 advantage of the basement at this time, but they really felt
19 that it really was going to be a single floor. So there are
20 really minor changes to the basement in terms of any living
21 space.

22 Certainly happy to answer any questions. We try

1 to keep a relatively low sloped roof on it to keep the
2 windows in the second floor and the back of the house
3 available, and also, not to cast too many shadows on our
4 neighbors.

5 BRENDAN SULLIVAN: Thank you. Any questions for
6 Mr. Chan?

7 CONSTANTINE ALEXANDER: I have none.

8 BRENDAN SULLIVAN: Ready for a motion, then?

9 JIM MONTEVERDE: Yes.

10 BRENDAN SULLIVAN: Let me make a motion, then, to
11 grant the relief being requested. It's a special permit to
12 construct a single-story rear addition and deck, as per the
13 plans submitted and the supporting statements and the
14 dimensional form, as attached and referenced also.

15 The Board finds that the requirements of the
16 ordinance can be met. The Board finds that traffic
17 generated or patterns of access or egress would not cause
18 congestion, hazard, or substantial change in the established
19 neighborhood character.

20 The Board finds that continued operations of or
21 development of adjacent uses, as permitted in the zoning
22 ordinance, would not be adversely affected by the nature of

1 the proposed use.

2 The Board finds that there would not be any
3 nuisance or hazard created to the detriment of the health,
4 safety and/or welfare of the occupant of the proposed use;
5 in fact, it would actually enhance the livability of the
6 structure.

7 The Board finds that the proposed use would not
8 impair the integrity of the district or adjoining district,
9 or otherwise derogate from the intent and purpose of the
10 ordinance.

11 The Board also makes a finding under 8.22.2d that
12 the Board may grant a special permit for the alteration or
13 enlargement of a preexisting dimensionally nonconforming,
14 detached single dwelling.

15 The Board finds that in order to grant such
16 special permit, the Board is required to find that the
17 alteration -- and does find that the alteration -- or
18 enlargement shall not be substantially more detrimental than
19 the existing nonconforming structure to the neighborhood,
20 and that the alteration or enlargement satisfies the
21 criteria in Section 10.43, as previously stated.

22 On the motion then, to grant the special permit as

1 per the application and the supporting documents? Mr.
2 Alexander?

3 CONSTANTINE ALEXANDER: I vote in favor.

4 BRENDAN SULLIVAN: Jim Monteverde?

5 JIM MONTEVERDE: I vote in favor.

6 BRENDAN SULLIVAN: Matina?

7 MATINA WILLIAMS: I vote in favor.

8 BRENDAN SULLIVAN: And Jason Marshall?

9 JASON MARSHALL: Yes, in favor.

10 BRENDAN SULLIVAN: And Brendan Sullivan voting in
11 favor.

12 [All vote YES]

13 BRENDAN SULLIVAN: Five affirmative votes, the
14 special permit is granted. Good luck.

15 JAMES RAFFERTY: Thank you. Good evening.
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(7:31 p.m.)

BRENDAN SULLIVAN: The Board will now hear Case
8 -- 35 Buena Vista Park #1.

The -- we are requesting a variance for the building of a deck on the rear of the house. It's a three-family house. It has two porch -- two decks above on the second and third floor on the rear. And we would like to construct a deck on the first floor, that's at the first-floor level.

Because this deck will be covered by the existing porches above, it counts towards the FAR, which is an existing nonconformity of 0.77, and will be increased to 0.79 by adding this deck.

We'd also like to extend -- the decks above are about six feet deep, and we'd like to extend an additional

1 two feet beyond that for an eight-foot deck and stairs going
2 down to the back yard.

3 This will give the first-floor unit access rather
4 than -- access to the back yard, which is part of their
5 exclusive use for the first-floor unit -- access directly
6 from the unit, rather than through the common stairway,
7 which is in the back corner of the project.

8 I think probably looking at the site plan that's
9 included is probably the most helpful. And maybe if you
10 want to zoom in -- no, that first image that you had there
11 was the site plan. Maybe zoom in to that -- yeah, plan. So
12 there you go.

13 So as you can see, the Buena Vista Park is on the
14 right of the drawing, front door of the steps. And then in
15 the back on the left is the proposed footprint of the deck
16 six feet underneath the decks above, and two feet extending
17 beyond that, plus the stair is another two steps down. So
18 we're taking up the width of the existing decks above.

19 And the other I think most relevant or easiest,
20 most helpful image is the photograph of the rear, which I
21 think is the last photograph that we provided. Yes, #10.
22 There you go.

1 So as you can see, the existing stairs, that blue
2 door there is off of the common stairway, and serves as a
3 second means of egress for the units above and for the
4 first-floor unit.

5 So we propose building basically from where you
6 see in the foreground the column on this side to the far
7 column on the far side, and underneath the entire decks that
8 are above plus another two feet extending towards the back.

9 I believe that Matt would also like to talk about
10 how he intends to use the space and why they're doing this
11 work now, if he's available? If not, I can do my best to --

12 MATTHEW BAGEDONOW: I am.

13 DAMON SIDEL: Okay.

14 MATTHEW BAGEDONOW: I am available.

15 DAMON SIDEL: There you go, Matt.

16 MATTHEW BAGEDONOW: Hi. Can everybody hear me?

17 COLLECTIVE: Yes.

18 MATTHEW BAGEDONOW: Good evening, everybody.

19 Yeah, we bought 35 Buena Vista in 1986, and we lived there
20 until 1999 in this unit. And, you know, as the family grew,
21 we bought another house on Oxford Street, and that's where
22 we're currently living. We're now empty-nesters and retired

1 and we would like to plan on moving back to Buena Vista for
2 our retirement.

3 And the other advantage is that, you know, it's a
4 single floor. We now live in a multi-floor with stairs, and
5 as we get older, we just felt it would be better to live on
6 a single floor.

7 And so we felt that the apartment hadn't been
8 renovated for quite a while, and so we're doing renovations
9 to the apartment, and we wanted to add a deck in the back
10 also, as part of that renovation.

11 So that's basically our motivation, because we
12 want to move back here. So that's our plan for retirement.

13 BRENDAN SULLIVAN: When you bought the house, was
14 there a deck on the back first floor?

15 MATTHEW BAGEDONOW: No, there was not. The
16 original plans -- and I don't know if they were part of the
17 plans -- the original plans show what's called a, "piazza"
18 interestingly. I've heard that term before for a deck.

19 So the house was built with a deck back there, I'm
20 almost positive of that.

21 BRENDAN SULLIVAN: Good.

22 MATTHEW BAGEDONOW: It's a typical, you know,

1 triple-decker in Cambridge. You see the same house built in
2 many places. It may even have been the same builder who
3 built them everywhere.

4 But you see the steel columns. Some -- before we
5 bought the house, there must have been a repair done to that
6 deck. They probably -- the posts probably rotted. They --
7 obviously the deck rotted, and they put in steel columns and
8 took the deck off and built that stair going down the back,
9 or egress out the back.

10 So.

11 BRENDAN SULLIVAN: It looks to me like a Building
12 Inspector's nightmare.

13 MATTHEW BAGEDONOW: [Laughter].

14 BRENDAN SULLIVAN: Seriously in need of something,
15 so. Okay, thank you for your presentation. Mr. Alexander,
16 any questions or comments?

17 CONSTANTINE ALEXANDER: No questions or comments?

18 BRENDAN SULLIVAN: Jim, any questions or comments?

19 JIM MONTEVERDE: No questions, thank you.

20 BRENDAN SULLIVAN: Jason?

21 JASON MARSHALL: Thanks, Mr. Chair, no questions.
22 Just a comment. It looks like the change you're proposing

1 will have a real substantial and material impact on the
2 livability of this property and the use of it.

3 BRENDAN SULLIVAN: It's in need of something.

4 MATTHEW BAGEDONOW: Agreed.

5 BRENDAN SULLIVAN: Yeah. Matina, any questions or
6 comments at this time?

7 MATINA WILLIAMS: No questions or comments.

8 BRENDAN SULLIVAN: Okay. Let me ask, well, I do
9 have one question. This is a three-unit condominium?

10 MATTHEW BAGEDONOW: No. I own the building,
11 contig --

12 BRENDAN SULLIVAN: Oh, you own all three?

13 MATTHEW BAGEDONOW: Yes. Yes, I own the building.
14 It's not a condo.

15 BRENDAN SULLIVAN: All right. Let me open it to
16 public comment, if I can find my sheet here. Any member of
17 the public who wishes to speak should note by now, who
18 wishes to speak should now click the button that says,
19 "Participants," and then click the button that says, "Raise
20 hand."

21 If you are calling in by phone, you can raise your
22 hand by pressing *9 and unmute or mute by pressing *6. And

1 you'll have up to three minutes to comment.

2 [Pause]

3 There's nobody calling in. The Board is in
4 receipt of correspondence dated Friday, January 28 by
5 "Matthew."

6 "As your neighbor from across the street at 30
7 Buena Vista Park, I am writing to let you know that I have
8 no problem with your plan to add a front forward deck to the
9 back of your house.

10 Melissa Ludkee,

11 30 Buena Vista Park."

12 There is also correspondence...

13 "To Matthew, I am the owner of 31 Buena Vista
14 Park. Our house is located next to your house. I have no
15 objection to the proposed deck that would be built under the
16 existing porches.

17 Sofia Turetsky."

18 And that is the sum and substance of the
19 correspondence. I will now close public testimony phase of
20 the hearing. Anything else to add, Damon, at all? Or --

21 DAMON SIDEL: No, I think that is -- I think
22 that's all. Thank you very much.

1 BRENDAN SULLIVAN: Great. Okay. Let me close the
2 public -- the presentation part, and discuss among the
3 Board. Ready for a motion, Mr. Alexander? Anybody else any
4 questions or --

5 COLLECTIVE: Ready for a motion.

6 BRENDAN SULLIVAN: Let me make a motion, then, to
7 grant the relief requested, which is a variance -- the
8 addition of an unenclosed deck at the rear of Unit #1 and
9 modifications to the decks above.

10 As per the plan submitted, supporting documents
11 and the dimensional form as always submitted shall be
12 incorporated by reference.

13 The Board finds that a literal enforcement of the
14 provisions of the ordinance would involve a substantial
15 hardship to the petitioner because it would preclude the
16 petitioner from adequately and safely building a platform
17 via a deck off the back of the house, one that was
18 preexisting on the house when it was probably built, and
19 also in prior years before it was taken down.

20 And as such, the hardship is the fact that the
21 petitioner is encumbered by the existing ordinance, and that
22 the addition as proposed would have to require some relief

1 from this Board.

2 The hardship is owing to the size and shape of the
3 structure and of the lot and on the lot, and the siting of
4 the house thereon, which is encumbered by the ordinance and
5 precludes any as-of-right solution of this particular
6 nature.

7 The Board finds that desirable relief may be
8 granted without substantial detriment to the public good,
9 and it would not nullify or substantially derogating from
10 the intent and purpose of the ordinance, to allow a
11 homeowner to adequately provide a safe entry and egress out
12 of their property is beneficial to any occupant of the
13 structure.

14 On the motion then, to grant the variance as
15 requested, Mr. Alexander?

16 CONSTANTINE ALEXANDER: I vote in favor.

17 BRENDAN SULLIVAN: Jason Marshall?

18 JASON MARSHALL: Yes in favor of the relief
19 requested.

20 BRENDAN SULLIVAN: Matina Williams?

21 MATINA WILLIAMS: In favor of granting the relief.

22 BRENDAN SULLIVAN: Jim Monteverde on the motion to

1 grant?

2 JIM MONTEVERDE: Jim Monteverde voting in favor.

3 BRENDAN SULLIVAN: And Brendan Sullivan yes to
4 grant the variance.

5 [All vote YES]

6 Five affirmative votes. The variance is granted.
7 Good luck.

8 MATTHEW BAGEDONOW: Thank you very much.

9 DAMON SIDEL: Okay. Thank you very much,
10 everybody. I appreciate your time.

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(7:45 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Monteverde, Matina Williams, and Jason
Marshall

BRENDAN SULLIVAN: The Board will now hear Case
No. 159180 -- 7 Crescent Street. Mahmood, the floor is
yours.

MAHMOOD FIROUZBAKHT: Good evening, Members of
the Board. I'm here tonight with Deidre Deegan, my wife
and myself. And Kelly Boucher, who helped us with our
previous application, is going to help us with the
presentation. So Kelly, I'll pass the mic to you.

KELLY BOUCHER: Great. Olivia, if you want to
share your screen?

So a little bit of context: This project was
heard before the Board in 2008, and at that time we
presented a larger dormer, similar to what we have today.
We continued our hearing and then came back. And we're
finally approved for the gable end dormer at the end, but
not the middle section.

That was four years ago, and we did have Board

1 approval. But between now and then, as you know, we no
2 longer need a variance in order to provide this addition to
3 the third floor. And so instead we're coming back with a
4 proposal for a special permit instead for a third-floor
5 addition.

6 This addition is located in the third floor of the
7 master bedroom suite of Mahmood and Deidre. It adds almost
8 90 square feet of floor area to the building. It does not
9 increase the height or setbacks or building footprint in any
10 other way. It's a pretty straightforward addition.

11 And can you flip to the elevations, possibly?

12 All right. So on the left-hand side is what we're
13 proposing, and on the right-hand side is what exists. So
14 currently there is a gable end third-floor addition now that
15 is the one shared bathroom for the whole family on the third
16 floor.

17 And the addition we're proposing mirrors that
18 dormer in the master bedroom to create a little bit more
19 ceiling height there, it's quite low, and also proposes to
20 connect the two with an addition that will serve as a second
21 bathroom for the family, so that Mahmood and Deidre can have
22 their own bathroom.

1 So that's pretty much an explanation of what it is
2 we're looking to do. This is a special permit and not a
3 variance. So we don't believe that this proposed addition
4 creates any nuisance or, you know, it doesn't affect traffic
5 patterns or how the building is used.

6 There are no residential neighbors on that side of
7 the house. So we're not creating any new sight lines into
8 anyone else's property, and we're hoping that you guys will
9 consider -- the Board will consider this special permit
10 application that we put before you today.

11 BRENDAN SULLIVAN: Okay. Kelly, in the file are
12 plans. And they're dated 12/08/21.

13 KELLY BOUCHER: Mm-hm.

14 BRENDAN SULLIVAN: And it's -- in the cover sheet,
15 which basically says, "Project Summary" it says, "old"
16 written across it. And I am not sure why the set we have
17 in. But if we go to sheet A100 -- and again, the issue date
18 of that is 12/08/21, is that correct?

19 KELLY BOUCHER: We resubmitted drawings just last
20 week, and the current date and the drawings that Olivia has
21 up on the screen are dated 03/02/22, which was the end of
22 last week.

1 BRENDAN SULLIVAN: It's not in the file.

2 KELLY BOUCHER: The only difference between the
3 original December application and our new application that
4 we submitted was after speaking with Ranjit, he suggested
5 that we were not a dormer, and we were in fact a third-floor
6 addition instead. And so the text notes were changed to,
7 "addition" instead of "dormer."

8 BRENDAN SULLIVAN: Okay.

9 KELLY BOUCHER: -- is the main difference between
10 what was originally said.

11 BRENDAN SULLIVAN: I just found them, so.

12 KELLY BOUCHER: Oh, great.

13 BRENDAN SULLIVAN: It was temporarily misplaced.
14 So the drawings are dated 03/02/22.

15 KELLY BOUCHER: Yes. Those are the same drawings
16 we're looking at on the screen.

17 BRENDAN SULLIVAN: And if we could pull up -- and
18 so the sum and substance of it is really sheet A200, which
19 is of the exterior elevation, and --

20 KELLY BOUCHER: Yes.

21 BRENDAN SULLIVAN: -- A 301 basically a cross-
22 section through. So okay.

1 All right. Anything else to add?

2 KELLY BOUCHER: No, that's it.

3 BRENDAN SULLIVAN: Okay. Any questions by Members
4 of the Board at all?

5 CONSTANTINE ALEXANDER: I have a question. Just
6 to be -- understand what's going on, the original
7 application talked about building a construction of a dormer
8 --

9 KELLY BOUCHER: Yep.

10 CONSTANTINE ALEXANDER: -- to allow a bathroom, et
11 cetera. And then in that -- as Mahmood well knows, that
12 brings into play the City's Dormer Guidelines, which are not
13 mandatory, but it's something that we pay a lot of attention
14 to.

15 Then there's also Memo or a letter in the file
16 from the petitioners to the effect that after meeting with
17 Mr. Singanayagam, it was agreed or decided or Mr.
18 Singanayagam pointed out that what is being proposed is not
19 a dormer, it's an addition.

20 Could you help me what's the difference between a
21 dormer and an addition?

22 KELLY BOUCHER: I mean, I think essentially the

1 difference between a dormer and an addition in this case is
2 that we do not meet the Dormer Guidelines. This is, you
3 know, basically for life because we do have the setbacks
4 required.

5 And the Dormer Guidelines do have a section in
6 them that says when you have a gable end such as we have
7 existing, that this is aesthetically how you would -- you
8 mirror that dormer and connect with a shed in between.

9 But because it's big and the existing dormer
10 that's there now is bigger than the 15 feet in the
11 guidelines, we decided that it wasn't really a dormer, it
12 doesn't meet the requirements, which is really the same
13 thing that the Board had said to us when we were here the
14 first time.

15 CONSTANTINE ALEXANDER: I'm sorry, it's still past
16 me, why have you decided it's not a dormer? What's the
17 basis?

18 KELLY BOUCHER: It's just too big to be -- it's
19 larger than a dormer.

20 CONSTANTINE ALEXANDER: Stop, stop.

21 JIM MONTEVERDE: Because you don't comply.

22 CONSTANTINE ALEXANDER: One of the big points of

1 the Dormer Guidelines is you shouldn't be -- you've got
2 Dimensional Requirements. Can't be more than 15 feet long,
3 set back from the roof line at the ridge.

4 If it's too big, then it doesn't comply with
5 Dormer Guidelines. You just can't say, because it's too big
6 for Dormer Guidelines, it's not a dormer. There's got to be
7 a reason why. I don't understand.

8 KELLY BOUCHER: I apologize I don't have an exact
9 logical answer for you. Maybe Mahmood will weigh in a
10 little bit on the nuances of what we're asking for here?

11 MAHMOOD FIROUZBAKHT: I guess -- I mean there was
12 maybe clarification that Ranjit provided for us in using a
13 more accurate description of the work we're proposing to do.
14 And I mean we took direction from Ranjit in using that
15 terminology of describing this as an addition as opposed to
16 a dormer.

17 And I would think, I mean, kind of maybe to
18 Kelly's point, it -- because of the connector section, and
19 the overall I guess dimension of what we're proposing, that
20 is why in Ranjit's opinion this is deemed to be an addition
21 as opposed to a dormer addition.

22 And so we -- to the extent that that was helpful

1 for the Board to hear that Commissioner's perspective, we
2 included that revision or clarification to the plans.

3 And then further I guess notwithstanding whether
4 we call this a dormer or an addition, given the special
5 permit application this time around, our hope and
6 understanding would be that regardless of how it gets
7 defined, that we meet the legal standards of the special
8 permit here.

9 CONSTANTINE ALEXANDER: Okay. I don't want to
10 beat this to death, so I'll move on, but it does seem to me
11 that what you're proposing is a dormer. It doesn't comply
12 with the Dormer Guidelines -- it's not even close, I don't
13 think, and -- but I understand the reason why you want the
14 relief, and the basis for the relief.

15 I just think -- I just don't understand how we got
16 here. We've had a lot of additions that have dormers on
17 them, and we apply the -- as part of the addition, and they
18 are -- our review we apply the Dormer Guidelines.

19 I'm not going to beat this up anymore. Thank you
20 for the explanation, such that it is.

21 BRENDAN SULLIVAN: Jim Monteverde, any questions
22 or comments?

1 JIM MONTEVERDE: Yeah. I share Gus's concern.
2 You know, looking at the drawings, it's just what you call
3 it. I mean, it looks like a duck, quacks like a duck. It
4 looks like a dormer. And with that in mind, I wouldn't
5 support the application.

6 BRENDAN SULLIVAN: Okay. Jason, any comments?
7 Questions at this time?

8 JASON MARSHALL: No questions at this time, Mr.
9 Chair. I guess I would -- at this time I am inclined to
10 credit the Building Commissioner's characterization of this
11 as an addition and not a dormer, and therefore I would be
12 inclined to support the application and, as we know in
13 special permit there is a bias toward granting those in the
14 ordinance. That's where I am right now subject to public
15 comment.

16 BRENDAN SULLIVAN: Okay. Matina, any questions or
17 comments at this time?

18 MATINA WILLIAMS: No, not at this time. I do
19 believe that it is a dormer. That's it.

20 BRENDAN SULLIVAN: Okay. Thank you. Let me open
21 it to public comment. Any members of the public who wish to
22 speak should now click the button that says, "Participants,"

1 and then click the button that says, "Raise hand."

2 If you are calling in by phone, you can raise your
3 hand by pressing *9 and unmute or mute by pressing *6, and
4 you will have up to three minutes in which to comment.

5 [Pause]

6 There's nobody calling in. The Board is in
7 receipt of a letter. Basically:

8 "Dear Members of the Board,

9 "As direct abutter to Deidre and Mahmood's home at
10 7 Crescent Street, we would like to express our support for
11 their application to add living space to the third floor of
12 their house. The size and scale of the proposed addition is
13 appropriate and consistent with the character of the
14 neighborhood.

15 "We hope the Board will approve Deidre and
16 Mahmood's request as submitted."

17 [And signed by resident of it looks like 14 Eustis
18 Street, 29 Crescent, 15 Crescent, 16 Crescent, 100 Oxford
19 and 12 Crescent Street.]

20 That is the sum and substance of the
21 correspondence to the Board. I will close the public
22 comment part.

1 And anything else to add, Kelly, or Mahmood at
2 all? Or Deidre? I mean, very quiet about this whole thing.
3 Any other comments? No?

4 DEIDRE DEEGAN: No.

5 BRENDAN SULLIVAN: No? Okay. Let me close the
6 presentation part and discuss it among the Board. I guess
7 it's sort of a funny spot here, because to me it looks like
8 a dormer. However, under the special permit application
9 8.222d, that it almost is blind to the Dormer Guidelines.

10 And as such, other criteria what governs is the
11 governing facet here is the ordinance, and the wording of
12 the ordinance, and I suppose not the Dormer Guidelines. So
13 unfortunately, the Bellalta decision is going to, I feel,
14 come in conflict with the Dormer Guidelines. And that's a
15 whole other story.

16 So that's my feeling on it is that if it were not
17 -- if there was any new violation, then I think I might have
18 a different act on it as to why it was necessary. But given
19 that there are no new dimensional violations, then the
20 governing issue here is the ordinance, as far as I'm
21 concerned. So anyhow, I would support the granting of the
22 special permit.

1 Mr. Alexander, your thoughts?

2 CONSTANTINE ALEXANDER: I sort of -- I get there
3 like you do, Brendan, but I get there a slightly different
4 way. The Dormer Guidelines, after all, are aesthetic.
5 They're not -- they are not dimensional. They have a
6 dimension, but the bottom line is to maintain the aesthetics
7 of the homes in Cambridge.

8 What I think is proposed is aesthetically fine. I
9 don't see anything -- it's not -- it doesn't jump out at
10 you; it doesn't disrupt the appearance of the building.
11 There is a need for it, as indicated by the petitioners.

12 So I think it's a situation where I think the
13 Dormer Guidelines give way to the realities and the -- of
14 what is necessary to be done and the quality of the design
15 of what's going to be done here.

16 So bottom line, I will vote in favor.

17 BRENDAN SULLIVAN: Jim Monteverde?

18 JIM MONTEVERDE: I have one question. So does the
19 ever-so-modest increase in the FAR mean anything? I'm
20 looking for any handle here to say that it's, you know, in
21 fact it's not dimensionally compliant, because it just feels
22 like a way to circumvent the Dormer Guidelines.

1 We've seen any number of additions like this that
2 would usually -- what I've seen push back on when it comes
3 in as a variance. And to just change the title and say it's
4 a special permit and therefore it's allowed seems
5 counterintuitive to me.

6 BRENDAN SULLIVAN: Yeah.

7 JIM MONTEVERDE: So I guess my question first is
8 does the modest increase -- because the Dormer Guidelines,
9 whatever you want to call it, the additions always include
10 some added FAR.

11 BRENDAN SULLIVAN: Ah --

12 JIM MONTEVERDE: Does that mean anything?

13 BRENDAN SULLIVAN: The FAR which increases is
14 already a dimensional nonconformance, and so the increase of
15 a dimensional nonconformity allows that to be extended.
16 Now, sky is the limit, but on the same token, it is not a
17 new violation that's being created.

18 JIM MONTEVERDE: Okay.

19 BRENDAN SULLIVAN: The latter under that section
20 of the ordinance, then that basically gives the increase of
21 an existing nonconformity a pass, in a sense. The latter
22 decision opens up a floodgate for an awful lot of this, Jim,

1 so.

2 JIM MONTEVERDE: Understood.

3 BRENDAN SULLIVAN: That's the decision by the
4 courts. And we have to adjust our ordinance to comply with
5 that decision. So --

6 CONSTANTINE ALEXANDER: If I may, Mr. Chairman, I
7 would point out that the Bellalta decision, in my opinion,
8 is designed to ease the ability to modify nonconforming
9 single and two-family houses. Because Cambridge is a
10 commonwealth of many nonconforming houses; it's an old
11 community. And Bellalta is a Dimensional Requirement.

12 I think the dimensional requirements supersede the
13 design issues that the Community Development Department of
14 Cambridge was focusing on when they adopted these.

15 So as I said, I think the Bellalta trumps the
16 Design Guidelines. And I'm, again, in favor of what is
17 proposed.

18 BRENDAN SULLIVAN: Anything else, Jim?

19 JIM MONTEVERDE: No, thank you.

20 BRENDAN SULLIVAN: Okay. Jason? Your comments
21 were duly noted. Anything else?

22 JASON MARSHALL: Yeah, I think just -- I guess

1 just briefly to build on my earlier comments and the
2 comments that have been provided, I -- I mean I would say I
3 agree that the Dormer Guidelines are just that. It's not
4 binding, and I wouldn't feel comfortable making a
5 determination based on the guidelines.

6 As has been noted, Bellalta confirms that state
7 law provides special protections for single and two-family
8 houses, and this is a case of increasing an existing
9 nonconformity. I think the guidelines have to yield at that
10 point to state law, and it meets the criteria for a special
11 permit under the ordinance.

12 So as I noted before, I am inclined to grant the
13 petition.

14 BRENDAN SULLIVAN: Thank you. Matina, anything
15 else? Any comments, any --

16 MATINA WILLIAMS: Not really. Now, you did say,
17 Kelly, that there's nobody else that's going to be -- that
18 it doesn't affect anybody else's view?

19 KELLY BOUCHER: Yeah, the -- and there's a photo
20 in the application, it's alibi hard to see, but this
21 building is one property up from Oxford Street on Crescent.

22 MATINA WILLIAMS: Mm-hm. And the building on the

1 corner is a commercial one-story brick store building, and
2 not a residence.

3 So here you can see the roof eave facing that is
4 existing that we're looking to match. And you can -- that
5 little corner of red brick is the commercial building next
6 door. So there's not a house there or any -- you know,
7 residences that will be able to have new views into their
8 property from these new windows that we'll be adding.

9 MATINA WILLIAMS: Okay. All right. That was my
10 only question or comment for clarification. Thank you.

11 BRENDAN SULLIVAN: Let me make a motion, then, to
12 grant the special permit as per the drawings submitted, the
13 dimensional form and the supporting statements initialed by
14 the Chair. The Board finds that the requirements of the
15 ordinance can be met.

16 That the traffic generated or patterns of access
17 or egress would not cause congestion, hazard, or substantial
18 change in the established neighborhood character.

19 The Board finds that the continued operation of or
20 development of adjacent uses, as permitted in the zoning
21 ordinance would not be adversely affected by the nature of
22 the proposed use.

1 The Board finds that there would not be any
2 nuisance or hazard created to the detriment of the health,
3 safety and/or welfare of the occupant of the proposed use.
4 In fact, the livability of the house would be enhanced.

5 And that the proposed use would not impair the
6 integrity of the district or adjoining district, or
7 otherwise derogate from the intent and purpose of the
8 ordinance.

9 In furtherance, the Board may grant a special
10 permit for the alteration or enlargement of a preexisting
11 dimensionally nonconforming, detached single-family or two-
12 family dwelling, provided there is no change in use, and
13 that any enlargement or alteration of such preexisting,
14 nonconforming detached single-family dwelling or two-family
15 dwelling may only increase a preexisting dimensional
16 nonconformity, but does not create any new dimensional
17 nonconformity.

18 In order to grant such special permit, the Board
19 is required to find that the alteration or enlargement shall
20 not be substantially more detrimental than the existing
21 nonconforming structure to the neighborhood -- and the Board
22 does make that finding -- and that the alteration or

1 enlargement satisfy the criteria in Section 10.43, as
2 previously stated.

3 On the motion then, to grant the special permit,
4 Mr. Alexander?

5 CONSTANTINE ALEXANDER: I vote in favor.

6 BRENDAN SULLIVAN: Jim Monteverde?

7 JIM MONTEVERDE: Regrettably, I feel like I have
8 no option except to accept it.

9 BRENDAN SULLIVAN: I'm sorry, you said yes?

10 JIM MONTEVERDE: I had to say yes.

11 BRENDAN SULLIVAN: Okay. Thank you. Jason, on
12 the motion?

13 JASON MARSHALL: Yes in favor of granting the
14 special permit.

15 BRENDAN SULLIVAN: Matina Williams?

16 MATINA WILLIAMS: Yes in favor of granting the
17 special permit.

18 BRENDAN SULLIVAN: Brendan Sullivan yes to
19 granting the special permit.

20 [All vote YES]

21 On the four, five affirmative votes, the special
22 permit is granted. Good luck.

1 COLLECTIVE: Thank you.

2 JIM MONTEVERDE: Mr. Chair, could I request a
3 five-minute break?

4 BRENDAN SULLIVAN: You sure can.

5 JIM MONTEVERDE: Thank you.

6 BRENDAN SULLIVAN: The Board will be recessed for
7 five or six minutes or so.

8 [RECESS]

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(8:13 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Monteverde, Matina Williams, and Jason
Marshall

BRENDAN SULLIVAN: The Board will now hear Case
No. 161584 -- 40 Blakeslee Street. Mr. Greenup?

JOHN GREENUP: Good evening, Mr. Chairman and
Members of the Board. This is John Greenup, attorney for
the owners of 38 and 40 Blakeslee Street in Cambridge.

And I have with me Sandra Jahnes, who is the
Principal Architect for Ruhl Jahnes, the architectural firm
that is doing the design on this case.

We have a request here for a special permit to
alter some windows on the north and the east elevations.
And we have a request for a variance to add approximately
eight square feet to an existing nonconforming GFA to
support an external fireplace and chimney assembly that we
proposed for the first floor.

The homeowners, the Hurhula family, is a young
family who's moving into Cambridge and is renovating the
house to support having their children attend the Cambridge

1 schools.

2 And the house is -- was at one point a two-family,
3 but had previously been converted to a single-family. And
4 the variances and the special permit are to support the use
5 of the house to better suit the young and growing family.

6 I'll speak quickly about the variance, the
7 external chimney as you can see in the left side in the
8 existing first-floor plan is a small, external addition in
9 the lower drawing there, which is -- does not create an
10 additional nonconformity because it is behind the projection
11 of the bay. And it's also exempt under the chimney aspect
12 of 5.24.2.

13 So all we're asking for is an additional eight
14 square feet of GFA. And Sandra will tell you about the
15 architectural aspects.

16 And if we go to the next slide?

17 You'll see that we're asking for some -- a special
18 permit on this, to change the existing east elevation by
19 enlarging two doors on the first floor, changing the windows
20 and reducing the total glass area on the second floor, and
21 changing the window with approximately the same glass area
22 on the third floor.

1 And if we go to the right-hand side of that
2 drawing, you'll see that we have approximately 10 windows in
3 the existing east -- north elevation drawing, and we're
4 proposing to change that to nine windows in a slightly
5 different location, with a slightly smaller amount of glass
6 area.

7 We've reached out to the various neighbors, and I
8 have had no written or oral comments back from any of them,
9 either in support or in opposition to this. And at this
10 point, I'll turn the details over to Sandra, who will talk
11 about it from an architectural perspective.

12 JASON MARSHALL: One second. Mr. Chair, before we
13 transition to the architecture, would it be appropriate for
14 me to just ask a couple of questions?

15 BRENDAN SULLIVAN: Absolutely. Sure.

16 JASON MARSHALL: Thank you. And just to confirm,
17 so the variance you're saying is -- you're applying for a
18 variance because you're increasing the GFA, you're already
19 nonconforming for GFA, is that correct?

20 JOHN GREENUP: Exactly.

21 JASON MARSHALL: Are you creating any new
22 nonconformity?

1 JOHN GREENUP: No. No new nonconformities.

2 JASON MARSHALL: Okay. There's a lot of
3 discussion this evening about Bellalta, and there's a
4 section of our ordinance which is relatively new, which was
5 Developed in response to that case.

6 And I guess I'm wondering why you need to apply
7 for a variance and not a special permit, given that this is
8 a single-family house and would seem to fall under the
9 protections.

10 JOHN GREENUP: We would be very happy to have it
11 as a special permit. We were told by the Inspectional
12 Services Department that they would like it to be a
13 variance, and we're just responding by doing the application
14 as was previously requested.

15 But we would -- in consideration of the Bellalta
16 case and the -- and the change in the code, we would be very
17 happy it be a special permit.

18 JASON MARSHALL: All right. I mean, it's -- I
19 look forward to hearing perspectives from my fellow Board
20 Members. It's absent other information. To me, it seems
21 that it would fall under the 8.22.2d provision. So I'll
22 stop there and look forward to the discussion. But thank

1 you for answering those clarifying questions.

2 JOHN GREENUP: You're welcome.

3 JASON MARSHALL: Appreciate it.

4 BRENDAN SULLIVAN: Thank you for raising that
5 because, that's the part that I had too, Jason. So Olivia,
6 what was the -- were you were part of that decision? John,
7 who was from Inspectional, was it the Commissioner or an
8 inspector?

9 JOHN GREENUP: I'm not sure, because that predated
10 me getting onto this particular matter. And these were the
11 notes that I received back when the original set of plans
12 was first submitted to ISD. And the notes I got back was it
13 was requested to have a variance and a special permit.

14 BRENDAN SULLIVAN: Okay.

15 JOHN GREENUP: I don't know if it was -- whoever
16 was doing the zoning review work at that time.

17 BRENDAN SULLIVAN: Okay. Well, I think Mr.
18 Marshall raises a very valid point in my review of this. I
19 was looking as to where the violation was, and I couldn't
20 find it either. And I said, well, it must be there
21 someplace, I just can't pick it up.

22 Gus, what are your thoughts on this?

1 CONSTANTINE ALEXANDER: I don't get too worked up
2 about -- probably this case should have qualified for a
3 special permit, but I'm happy to consider it as a variance
4 case, because I think you're entitled to a variance.

5 BRENDAN SULLIVAN: I think if we -- there's two
6 votes go down, either to accept the application as is -- the
7 variance -- make the findings for hardship, and that you
8 would qualify for a variance.

9 If we were to set that aside and go right to the
10 special permit, that you can always, the more restrictive
11 relief is the variance. And I think if we granted that,
12 then that would cover you in any circumstance.

13 CONSTANTINE ALEXANDER: I'm not sure. I'm not
14 sure.

15 BRENDAN SULLIVAN: Right?

16 CONSTANTINE ALEXANDER: You may be right. I would
17 be troubled to have a case advertised for one form of
18 relief, restrictive or not, and then deciding the case using
19 a different starting.

20 BRENDAN SULLIVAN: Yeah, no, I understand that.
21 But if we were to set aside the variance --

22 CONSTANTINE ALEXANDER: It has to be advertised.

1 BRENDAN SULLIVAN: Right. And go to the special
2 permit. I think it either has to be readvertised. If we
3 grant the variance, then that would cover all his bases in a
4 sense.

5 CONSTANTINE ALEXANDER: Sure.

6 BRENDAN SULLIVAN: Yeah. Right. So I think -- my
7 feeling would be that we would proceed as advertised, John?

8 JOHN GREENUP: I would be very happy with that.
9 And if the Board is inclined to give us the variance, which
10 I think the case supports, I think that's a very good
11 outcome.

12 BRENDAN SULLIVAN: Okay. Jason, what are your
13 subsequent thoughts?

14 JASON MARSHALL: I mean, I'll defer to you on the
15 process, Mr. Chair. I guess my assumption was that if --
16 the special permit is a lower standard, obviously -- a
17 variance is a much more exacting standard.

18 So I guess it surprises me to hear that we
19 wouldn't be able to approve a special permit because a
20 variance was advertised, given that it's a lower standard.

21 But again, I do defer to the Chair on that. I
22 guess in terms of if we do move forward with this hearing as

1 a variance, you know, if Counsel could provide a little more
2 information on how this constitutes a substantial hardship,
3 that would be very helpful to me at some point during the
4 presentation.

5 BRENDAN SULLIVAN: Okay. Jim Monteverde, do you
6 want to weigh in on this discussion at all?

7 JIM MONTEVERDE: Nope. No comments. Thank you.

8 BRENDAN SULLIVAN: Matina, any comments?

9 MATINA WILLIAMS: No. I'm in agreement, in
10 agreement with you all.

11 BRENDAN SULLIVAN: Okay. All right. Don't mean
12 to take your thunder away from you. John or Sandra, do
13 either one of you want to speak on your presentation?

14 SANDRA JAHNES: Sure.

15 BRENDAN SULLIVAN: Do you want to go forward? I
16 think you were talking about the windows and all of the
17 that.

18 JOHN GREENUP: I'll let Sandra talk about the
19 windows.

20 BRENDAN SULLIVAN: Yep.

21 JOHN GREENUP: And why we've -- from a hardship
22 perspective why we made the choice to put the fireplace and

1 chimney on the exterior of the building and why we were
2 unable to use the existing chimney.

3 BRENDAN SULLIVAN: Yep, okay.

4 SANDRA JAHNES: Yeah. Sure. I'll go ahead and
5 start, if it's okay, with the fireplace, since that's the
6 topic we've been discussing.

7 So you can see that the fireplace is located
8 projecting slightly outside the footprint. And the reason
9 that we did this was that, you know, we wanted to treat the
10 fireplace as sort of a traditional concept for a fireplace,
11 but obviously we're using a modern, energy efficient unit
12 that can sort of be seated outside the building as such, and
13 is sort of a framed enclosure.

14 But in general, the design intent was that it be
15 treated much more conventionally. And as you can see from
16 the floor plan, this sort of opening up of the floor plan
17 for family use really sort of drove the position of the
18 fireplace itself. This was sort of the natural landing
19 place for it within the floor plan of the home.

20 So I believe that would be our comments about the
21 design intent, or the hardship for that fireplace. If we
22 were to move to the next slide and just look at the windows,

1 I think John did a great job of describing the reasoning for
2 the changes in these openings on the façades.

3 I think in particular on the north elevation,
4 which is the one that is quite close to the property line,
5 we've had a pretty significant almost 50 square feet
6 reduction in window area on that particular façade. So, you
7 know, reducing the number of windows, but that are suiting
8 the needs of the family.

9 And then on the east elevation, again, just trying
10 to bring in a little bit more light to that particular side
11 of the home through the repositioning of the windows,
12 especially on the first floor, where there's sort of a
13 kitchen family room just looking to bring in a lot more
14 natural light to that space.

15 So that's some of the main design factors there.

16 JOHN GREENUP: I might add one more comment to
17 that, which is that on the north elevation it reduces the
18 sight lines from the adjoining property to provide the more
19 privacy, both to the petitioner's property, but also to the
20 property directly to the north of it.

21 BRENDAN SULLIVAN: My recollection is that on
22 either side of that house, it's heavily screened with

1 vegetation and with plantings, is that correct? Yes?

2 SANDRA JAHNES: Yeah, I would say so.

3 BRENDAN SULLIVAN: Okay.

4 JOHN GREENUP: At present.

5 BRENDAN SULLIVAN: All right. As to Mr.
6 Marshall's request, as far as John the -- if you could delve
7 into the hardship a little bit more, the hardship aspect of
8 the variance request?

9 JOHN GREENUP: Yes. From a hardship perspective,
10 we looked at trying to use the existing fireplace and make
11 it work. The existing fireplace on the previous slide, or
12 the existing chimney --

13 SANDRA JAHNES: Chimney.

14 JOHN GREENUP: -- chimney on the previous slide
15 was designed for use with a boiler, but not for use as a
16 venting for an actual fireplace chimney.

17 And from a telephone perspective, you know, we
18 looked at the aspect, or the architects looked at the aspect
19 of doing that, and once it became clear that was not a
20 suitable answer, and the homeowner desired to have a
21 traditional fireplace, the option became to put it into the
22 exterior space.

1 And the only available exterior space is on the
2 section in that particular location. We examined other
3 opportunities for putting a fireplace in. No other option
4 was suitable in this particular case. And I think you can
5 see that from the previous slide.

6 SANDRA JAHNES: Yeah.

7 JOHN GREENUP: So the hardship is that the
8 existing -- the existing chimney does not support a wood-
9 burning fireplace, and the -- there is no other opportunity
10 to place on in the exterior of the structure, except in this
11 particular location.

12 BRENDAN SULLIVAN: Okay. Great. Thank you. Let
13 me open it to Members of the Board for questions. Mr.
14 Alexander, any questions?

15 CONSTANTINE ALEXANDER: No questions.

16 BRENDAN SULLIVAN: Jim, any comments or questions?

17 JIM MONTEVERDE: No questions.

18 BRENDAN SULLIVAN: Jason, anything further at all?

19 JASON MARSHALL: No further questions, Mr. Chair,
20 thank you.

21 BRENDAN SULLIVAN: Matina, any questions or
22 comments at this time?

1 MATINA WILLIAMS: I do have one comment about the
2 windows.

3 BRENDAN SULLIVAN: Yep.

4 MATINA WILLIAMS: Aesthetically, the new plan --
5 doesn't sit well with me. But that's my only -- I feel like
6 you're really changing the feel of the structure. But --

7 BRENDAN SULLIVAN: Sandra, do you want to comment
8 on --

9 SANDRA JAHNES: Yeah. I mean, I think that the --
10 like I said before, the window openings are, you know,
11 driven in part by the needs of the family. But, you know,
12 we really feel they are sort of in keeping with the
13 aesthetics of the neighborhood.

14 I think, you know, we walked the street. And, you
15 know, I think there's a number of properties that have
16 similar apertures on them. So, you know, I think that we
17 took care in placing them, where -- you know, as we spoke
18 about the north elevation, I think we felt that, you know,
19 where there's this close adjacency, we were trying to create
20 intentional privacy.

21 So we were really being specific about creating
22 solid where it was sort of beneficial, both to the owners

1 and to the neighbors, and then opening it up where suitable.

2 So I think we allowed that in part to drive the
3 windows on the project.

4 BRENDAN SULLIVAN: Okay. Matina, does that answer
5 the question?

6 MATINA WILLIAMS: I mean, it answers the question,
7 it's just aesthetically it's not -- I think it's going to
8 change the look of the home and the area that you're in.
9 But okay.

10 BRENDAN SULLIVAN: Thank you. Let me open it to
11 public comment. Any member of the public who wishes to
12 speak should now click the button that says, "Participants,"
13 and then click the button that says, "Raise hand."

14 If you are calling in by phone, you can raise your
15 hand by pressing *9 and unmute or mute by pressing *6, and
16 you will have up to three minutes in which to speak.

17 OLIVIA RATAY: Jerry Garvey?

18 JERRY GARVEY: Can you hear me?

19 BRENDAN SULLIVAN: Yes.

20 CONSTANTINE ALEXANDER: Yes.

21 JERRY GARVEY: Hi. We are the neighbors at 42

22 Blakeslee. And we were not contacted regarding the windows

1 on that side, and do this, it does change aesthetically.

2 And in particular, you mentioned the vegetation. Vegetation
3 might cover the bottom part, but it does not cover the top
4 part.

5 And that window at the very top would look
6 directly into our daughter's bedroom. We went to very big
7 lengths to make sure that when we redid our house recently
8 that we designed it so we wouldn't be looking into anybody
9 else's house, and do think it changes the character quite a
10 bit, particularly the one on the top floor there of the
11 dormer.

12 BRENDAN SULLIVAN: Yeah. We're talking on the
13 north elevation?

14 JERRY GARVEY: North elevation, the dormer prior
15 to on the third floor --

16 BRENDAN SULLIVAN: Yeah.

17 JERRY GARVEY: -- it is the small window, now it's
18 a large window. It's 15, 20 feet across. It looks directly
19 into the bedroom of our -- our daughter's bedroom.

20 JOHN GREENUP: Mr. Chair, can I respond?

21 BRENDAN SULLIVAN: Sure, yep.

22 JOHN GREENUP: The window that the neighbor is

1 talking about is actually a by right window. It's not in
2 setback.

3 BRENDAN SULLIVAN: Okay. In other words, it can
4 be changed as-of-right.

5 JOHN GREENUP: Yes, it can.

6 JERRY GARVEY: Okay. Then, then -- and what about
7 the other windows below?

8 BRENDAN SULLIVAN: The windows on the first floor
9 and second floor --

10 JERRY GARVEY: Yes.

11 BRENDAN SULLIVAN: -- are within the side yard
12 setback. They're requesting relief to -- for those windows,
13 for those new windows.

14 JERRY GARVEY: Yeah. That does change the
15 aesthetics of the house. And, you know, we'd be
16 appreciative if they would consider changing the one on the
17 top floor, but yeah. It's just disappointing that nobody
18 talked to us about this. And John, you represented that you
19 did, you did not. Nobody talked to us.

20 JOHN GREENUP: I was told that the -- that someone
21 had talked to you. And I apologize that if that was not the
22 case.

1 JERRY GARVEY: Yep.

2 JOHN GREENUP: Then I was given incorrect
3 information.

4 JERRY GARVEY: Yes, you were.

5 JOHN GREENUP: But I would be -- I would support
6 having a conversation between the architect and the
7 homeowner and yourself about seeing if there's anything
8 possible to do with the by right window.

9 BRENDAN SULLIVAN: Okay. Well, I think there
10 would be an order then to continue this matter to allow you
11 to have that conversation. Because it appears that there
12 may be changes that would come out of that conversation.

13 And I don't want to do this on the fly, and I
14 think really, we should have a final plan that comes back to
15 us to consider, unless any other Member of the Board thinks
16 otherwise.

17 CONSTANTINE ALEXANDER: No. Since they don't need
18 relief, they can -- as you point out -- can modify it as a
19 matter of right, my suggestion would be that the petitioner
20 and architect and the neighbor discuss perhaps a window that
21 is not -- what's the word, it's -- you know, you can't see
22 through it.

1 So that maintains the privacy for the neighbor, or
2 neighbor's daughter, and it allows the increased light that
3 apparently that's the intention of making the bigger window.

4 BRENDAN SULLIVAN: Yeah. This window in the
5 dormer they don't need relief for. They're asking for with
6 the special permit --

7 CONSTANTINE ALEXANDER: I know.

8 BRENDAN SULLIVAN: -- for these here.

9 CONSTANTINE ALEXANDER: If they -- the neighbor
10 has now discovered that what they don't need relief for is a
11 change, and that change affects the privacy.

12 BRENDAN SULLIVAN: Right. That.

13 SANDRA JAHNES: Well, if --

14 BRENDAN SULLIVAN: And then he's also raising the
15 issue about this particular one also, I believe. Is that
16 the kitchen on the second floor? Or not a kitchen, but is
17 that --

18 SANDRA JAHNES: I'll just clarify that both of the
19 windows in question are actually bathroom windows. And the
20 window that is within right on the third floor is actually a
21 frosted glass window, because it is a bathroom. So it's
22 really just configured as such shape for light purposes. So

1 there's actually not a visibility factor on that third-floor
2 window.

3 The window on the second floor is also -- is
4 actually also a window. And that's why it's configured as
5 high up on the wall, and also, horizontally oriented. So
6 those are both bathroom windows.

7 JERRY GARVEY: I would also point out that Matina
8 -- I think it's Matina Williams, excuse me if I got the name
9 wrong -- was also considering the aesthetics of the design
10 on their side as well as it's -- might not be in keeping. I
11 think we just should have time to discuss it. It would have
12 been nice to have the conversation about it.

13 BRENDAN SULLIVAN: Let me open it to Members of
14 the Board. Jim Monteverde, what are your thoughts on the
15 issue before us?

16 JIM MONTEVERDE: Well, I think regarding the
17 aesthetics, I think we've heard and been told a number of
18 times that that's not what this Board has jurisdiction over.
19 So if it's strictly a zoning issue, then I'll take it
20 strictly that way. That's my sense.

21 BRENDAN SULLIVAN: Okay, Jason, your thoughts on -
22 - I guess my thought is whether or not we should continue

1 this matter to allow the petitioner and next-door neighbor
2 to have conversation, and then to come back to us with the
3 bottom line of whatever their conversation is?

4 CONSTANTINE ALEXANDER: If they don't need relief
5 for the window, that's an issue here, what's to come back to
6 this Board? We're not --

7 JIM MONTEVERDE: Right.

8 CONSTANTINE ALEXANDER: -- we have no -- there's
9 nothing to approve.

10 BRENDAN SULLIVAN: Well, the neighbor could have
11 standing, or --

12 CONSTANTINE ALEXANDER: Sorry?

13 BRENDAN SULLIVAN: The neighbor could have
14 standing for the action that we take tonight.

15 CONSTANTINE ALEXANDER: I think we -- as Jim just
16 said, we take action tonight on what they need the zoning
17 relief for. There are other issues that are coming out that
18 does not relief zoning relief, that's a matter for
19 discussion offline by the neighbor and the petitioner. And
20 hopefully there will be some accommodation.

21 BRENDAN SULLIVAN: Okay. And again, just to be
22 clear, the window on the dormer they do not need relief for.

1 But you need relief, you need a special permit, for the
2 window on the second floor --

3 CONSTANTINE ALEXANDER: Right.

4 BRENDAN SULLIVAN: -- which I think is in a
5 bathtub. Is that correct? Bathroom area of that room?

6 SANDRA JAHNES: That is correct, yep.

7 BRENDAN SULLIVAN: Yeah. And then the triple
8 window, awning window directly below that, you need relief
9 for that.

10 CONSTANTINE ALEXANDER: Yep.

11 SANDRA JAHNES: That is correct.

12 JOHN GREENUP: Yes. And those four windows on the
13 first and second floor are substantially smaller than the
14 windows as they exist, so they should in theory improve the
15 privacy of the neighbor directly to the north who's just
16 commented.

17 And I believe that the neighbor to the north made
18 a comment about the sightline into his daughter's bedroom.
19 And if it's a frosted window, and it doesn't create a sight
20 line, that may obviate that complaint as well. But we need
21 to hear from the next-door neighbor on that matter.

22 JERRY GARVEY: Yeah, if it's a frosted window

1 where they cannot see out of, then that would -- that would
2 make a lot of sense, and that would go a long ways towards,
3 you know, rectifying the situation if in fact it is that.

4 BRENDAN SULLIVAN: Yeah. My only thought is that
5 it's a smaller window than what was there before.

6 JERRY GARVEY: No, not on the third floor.

7 BRENDAN SULLIVAN: Well, the third floor they
8 don't need any relief from that.

9 JERRY GARVEY: Understood.

10 BRENDAN SULLIVAN: And so they can do that as-of-
11 right.

12 JERRY GARVEY: Mm-hm.

13 BRENDAN SULLIVAN: We're not -- there's not --
14 Jason, what are your thoughts on this?

15 JASON MARSHALL: I agree with Gus that we can and
16 should act on the petition before us. Not hearing any
17 compelling reason for not doing it.

18 BRENDAN SULLIVAN: Okay. And Matina, your -- I
19 think you had previously raised some thoughts on the windows
20 anyhow?

21 MATINA WILLIAMS: Mm-hm.

22 BRENDAN SULLIVAN: So I think the issue before us

1 is whether or not the petitioner and the next-door neighbor
2 should have further conversation, or that we should just
3 consider what is before us and make -- and take a vote on
4 that? Would you be in favor of either continuing it, or
5 would you be in favor of proceeding to a vote?

6 JOHN GREENUP: I think, Mr. Chairman, that, if
7 possible, we would support having a vote on the relief as
8 requested, and we would also work with the neighbor to, for
9 example make the second-floor window in the bathroom a
10 frosted window, if that's something he would like --

11 BRENDAN SULLIVAN: Okay.

12 JOHN GREENUP: -- you know, on a personal level.

13 BRENDAN SULLIVAN: Okay.

14 JOHN GREENUP: Because, you know, the petitioner
15 and the owners would very much like to have good relations
16 with their next-door neighbors.

17 BRENDAN SULLIVAN: Okay. So Matina, I'm sorry, I
18 had -- your thoughts. Proceed, or --

19 MATINA WILLIAMS: I mean, I would proceed. But it
20 -- you know, still begs the question did you talk with the
21 neighbors again, you know, as you said you did. But, you
22 know, I think we should proceed.

1 BRENDAN SULLIVAN: Okay, great. Thank you. Okay.
2 It was public comment. You're still on the line there, sir?
3 Right? Have you concluded your comments, or --

4 JERRY GARVEY: Yeah. So I'm a little bit
5 confused. Is it the second floor that's going to be
6 frosted, or the third floor that's going to be frosted?

7 SANDRA JAHNES: The current design is such that
8 the third-floor window is frosted. The second-floor window
9 is -- I'm not exactly sure of the sill level, but it is sort
10 of head height.

11 JERRY GARVEY: Okay. Yeah. Okay. But the third
12 floor is going to be frosted?

13 SANDRA JAHNES: Yes.

14 JERRY GARVEY: Okay, thank you.

15 BRENDAN SULLIVAN: Okay. You've concluded your
16 comments?

17 JERRY GARVEY: Yes.

18 BRENDAN SULLIVAN: Okay. Anybody else?

19 CONSTANTINE ALEXANDER: That's it.

20 BRENDAN SULLIVAN: Okay. I will -- there are no
21 correspondences in the file. And so I will conclude the
22 public comment phase. John, any further -- or Sandra, any

1 other comments before we take it to the Board for a vote?

2 JOHN GREENUP: I'm all set if you are.

3 BRENDAN SULLIVAN: All right. Let me conclude the
4 presentation part. Ready for a motion?

5 CONSTANTINE ALEXANDER: Yes.

6 JIM MONTEVERDE: Ready.

7 BRENDAN SULLIVAN: Let me take the motion then.
8 On the variance part, the Board finds that a -- let me make
9 a motion to grant the relief requested, as per the drawings
10 submitted, the supporting statements, and also the
11 dimensional form incorporated thereon.

12 The Board finds that a literal enforcement -- all
13 initialed by the Chair -- the Board finds that a literal
14 enforcement of the provisions of the ordinance would involve
15 a substantial hardship to the petitioner, because it would
16 preclude the petitioner from extending the wall of the house
17 demonstrably to allow for the fireplace.

18 The Board finds that the hardship is owing to the
19 size and shape of the lot and the structure thereon, which
20 predates the existing ordinance, and as such encumbers the
21 existing property so that any addition of this nature would
22 require relief from this Board by way of the variance.

1 The Board finds that desirable relief may be
2 granted without substantial detriment to the public good,
3 and would not nullify or substantially derogat[ing] from the
4 intent and purpose of this ordinance.

5 On the motion then to grant the variance, to allow
6 for the addition of eight square feet in GFA on the first
7 floor for the chimney? Mr. Alexander?

8 CONSTANTINE ALEXANDER: I vote in favor on the
9 basis that that fireplace will be consistent with the plans
10 --

11 BRENDAN SULLIVAN: Correct.

12 CONSTANTINE ALEXANDER: -- that were submitted by
13 the petitioner.

14 BRENDAN SULLIVAN: Correct. Jim Monteverde on the
15 motion?

16 JIM MONTEVERDE: I'm voting in favor.

17 BRENDAN SULLIVAN: Jason on the motion to grant?

18 JASON MARSHALL: Yes in favor of the relief
19 requested.

20 BRENDAN SULLIVAN: Matina Williams? Matina
21 Williams on the motion to grant the variance?

22 MATINA WILLIAMS: Yes to granting the variance.

1 BRENDAN SULLIVAN: And Brendan Sullivan yes to
2 grant the variance as per the request.

3 [All vote YES]

4 Affirmative vote of five Members of the Board.
5 The variance is requested, and the variance is allowed.

6 The special permit to alter the windows on the
7 left north side and rear exterior walls within setback as
8 per the application, it appears that the requirements of the
9 ordinance can be met. It appears that traffic generated or
10 patterns of access or egress would not cause congestion,
11 hazard, or substantial change in established neighborhood
12 character.

13 The Board finds that continued operation of or
14 development of adjacent uses, as permitted in the zoning
15 ordinance, would not be adversely affected by what is being
16 proposed use.

17 There would not be any nuisance or hazard created
18 to the detriment of the health, safety and/or welfare of the
19 occupant of the proposed use, and that the proposed use
20 would not impair the integrity of the district or adjoining
21 district, or otherwise derogate from the intent and purpose
22 of the ordinance.

1 On the motion to grant the special permit for the
2 relocation of and inclusion of different windows, as per the
3 application, Mr. Alexander?

4 CONSTANTINE ALEXANDER: I would vote -- I vote in
5 favor on the condition that the window -- the upper window,
6 the glass be frosted, as part of the relief granted.

7 BRENDAN SULLIVAN: Okay. And Mr. Monteverde?

8 JIM MONTEVERDE: I vote in favor.

9 BRENDAN SULLIVAN: Jason Marshall?

10 JASON MARSHALL: Yes in favor of the special
11 permit.

12 BRENDAN SULLIVAN: Matina Williams?

13 MATINA WILLIAMS: I vote in favor as long as the
14 window is frosted.

15 BRENDAN SULLIVAN: Brendan Sullivan voting in
16 favor of granting the special permit.

17 [All vote YES]

18 BRENDAN SULLIVAN: Five affirmative votes, the
19 special permit is granted. Goodnight. Thank you.

20 CONSTANTINE ALEXANDER: Thank you.

21 JERRY GARVEY: Thank you, Mr. Chairman and Members
22 of the Board. We appreciate your efforts tonight.

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BRENDAN SULLIVAN: Yep.

* * * * *

(8:46 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Monteverde, Matina Williams, and Jason
Marshall

BRENDAN SULLIVAN: The Board will hear now -- will
now hear Case No. 162034 -- 5 Buckingham Place.

TAD HEUER: Good evening, Mr. Chairman and Members
of the Board. Ted Heuer from Foley Hoag on behalf of the
applicant, Buckingham Browne & Nichols.

BRENDAN SULLIVAN: Okay.

TAD HEUER: Mr. Chairman, I have with me in the
event that it is useful three members of the School itself.
I have Dr. Tara Gohlmann, who is the Chief Financial
Officer, I have Jennifer Price, who is the head of School;
and Cynthia Westerman, who is the facility's Project
Manager.

The application here for BB&N is for a use
variance authorizing the School utilize the parcel at 5
Buckingham Place for primary and earlier educational uses.
As the Board is aware, this is the same relief that BB&N
requested and was granted unanimously by the Board two years

1 ago in 2020 for its property at the Upper School.

2 Relief is required here because even though BB&N's
3 Lower School campus is the original location of the
4 Buckingham School that dates back 120 years, and the School
5 has been located on Buckingham Street and Buckingham Place
6 since well before the existence of zoning, the Lower School,
7 unless it's Upper School counterpart, is not located within
8 its "Student Overlay District."

9 And because of that, the ordinance requires new
10 educational uses to obtain zoning relief.

11 The School acquired 5 Buckingham last November.
12 It's one of seven parcels abutting the dead-end, an
13 unaccepted public way of Buckingham Place, of which BB&N
14 already owns four of them, all of which are in active
15 educational use today, including the 1902 original
16 schoolhouse.

17 The parcel contains, as you see in the dimensional
18 form, a roughly 3700 square-foot Victorian structure built
19 in the late 1890s, and it's on a lot of approximately 9500
20 square feet.

21 BB&N intends to use 5 Buckingham primarily for
22 consolidating existing Lower School administrative staff and

1 uses that are currently located in two smaller, former
2 residential structures that are located directly across the
3 street.

4 And I think we have some slides in the
5 presentation that will show exactly what we're talking
6 about. Those administrative uses -- there we are -- those
7 administrative uses include administrative staff offices,
8 faculty offices, the staff lunchroom, kitchen facilities,
9 small meeting spaces, things of that nature.

10 So the property here you can see on the screen 5
11 Buckingham Place is on the south side of Buckingham Place.
12 The two properties that the existing administrative
13 functions are in are predominantly Kelsey and Morrison.
14 Those are the two on the north side of Buckingham Place.
15 And the building labeled, "Markham" is the original
16 schoolhouse building.

17 The other buildings in Browne are the other
18 facility buildings that the School owns. So that's what
19 comprises the campus.

20 It is key here to emphasize to the Board that
21 neither the intensity of the use of the streets -- including
22 parking -- nor the intensity of the use of the campus will

1 change as a result of relief being granted.

2 If relief is granted, the School will still have
3 the same number of students, which is about 330 at the
4 moment, and the same number of staff, which is about 50 at
5 the moment, as before.

6 So this is simply moving things around, not adding
7 or expanding the intensity of the use.

8 I'm happy to go into the statutory requirements,
9 and that's also I think going into quite a bit of
10 background, as you've seen in our petition for why we're
11 asking to do this.

12 As the Board well knows, there are four standards,
13 the four statutory standards we believe are met here. As to
14 substantial hardship, as I mentioned, BB&N is located in
15 several locations around the city. It doesn't have a single
16 consolidated campus.

17 The Lower School is a combination, as you can see,
18 of purpose-built structures, more down on the bottom there.
19 It's a purpose-built structure. Lainard (sic) is a purpose-
20 built structure for the School.

21 But also a number of adaptive or (sic) used
22 houses. So that's Markham, Kelsey, Morrison, Bridgeman, St.

1 Anne's -- which is the old Catholic Sisters' facility. That
2 means that when you're trying to create a campus for a
3 twenty-first-century primary school, they're essentially
4 using twentieth and even nineteenth-century buildings to do
5 it.

6 And the square footage is not evenly or
7 appropriately distributed between those buildings to make it
8 efficient at all times. So they've done a lot of work over
9 the last few decades to make that work. They were already
10 planning increasingly difficult prep to make that work for a
11 twenty-first-century primary school.

12 With the pandemic, that was made exceptionally
13 difficult. As the Board knows, there are major physical
14 changes required for teaching and learning. You had social
15 distancing, you have remote access, there are legal mandates
16 from the Department of Education about how you could use
17 classroom space, how often you could use classroom space,
18 who's allowed in it, HVAC, other types of things.

19 Because of that, the School recognized that
20 there's an urgent need to incorporate in this Master Plan
21 not just additional educational programmatic space, but also
22 increased use of on-campus outdoor space and green space,

1 all in all neighborhood where there is no space.

2 And in doing so, their Master Plan identified a
3 creative way to obtain both of those components in this
4 neighborhood where there is space at a premium.

5 And what they're proposing to do is to take the
6 green space that is to the -- this is the east of Bridgeman,
7 north of Lainard, that area at the top of the bird's eye
8 view that you're seeing, and to construct a new programmatic
9 building in that space by right, and then reclaim as green
10 space the area currently occupied by Kelsey and Morrison, so
11 to remove those buildings.

12 That meant, of course, that those administrative
13 functions would have to go somewhere. And the School was
14 engaged in a number of different exercises to figure out
15 what they would do to move those and where they would move
16 them to, whether to other places on campus, or whether they
17 would have to move them off campus, which is where the
18 significant hardship comes in.

19 The need to potentially disburse and relocate
20 administrative uses like admissions, like staff dining, like
21 faculty offices, would obviously have a major disruption of
22 their educational offerings and to the extent that they

1 needed swing space in order to move some of those people
2 around while they're engaging in the construction of the new
3 facility, that would also be something that they would need
4 to find elsewhere on campus.

5 So literal enforcement of the provisions of the
6 ordinance would preclude them from using 5 Buckingham to
7 resolve those issues.

8 And essentially, they'd be expending significant
9 financial and logistical resources and to merely perpetuate
10 an educationally suboptimal dispersion of their key
11 administrative functions and moving them off of the Lower
12 School campus itself.

13 With respect to the hardship being owing to the
14 shape and topography of the land and the structures, 5
15 Buckingham itself is preexisting, nonconforming. It's
16 significantly into its rear yard setback. It was built,
17 again, in 1893. Parking is also preexisting, nonconforming.
18 It has spots located in the front yard setback. It's on an
19 unaccepted public way.

20 Moreover, as we explained in more detail in our
21 petition, the hardship is owing more broadly to the shape
22 and topography of the land and structures that comprise

1 their campus.

2 As you can see from the overhead view, it's a
3 highly unusually shaped campus. It's been built into an
4 existing West Cambridge neighborhood. It's got an unusual
5 footprint.

6 And in order to adapt these structures and create
7 an educational experience for a primary school for the
8 current era, being able to, you know, use 5 Buckingham Place
9 is fairly essential for them. Otherwise, they're going to
10 be using these smaller buildings and Kelsey and Morrison to
11 house things that they're just not designed to house, and
12 don't effectively house anymore.

13 Desirable relief may be granted without
14 substantial detriment to the public good. Here the use of
15 the parcel for primary school purposes is entirely
16 compatible with the neighborhood in which they're located.

17 As you can see, Buckingham Place is a short dead-
18 end, on which the properties owned by BB&N have been used
19 for primary school uses for decades.

20 The reuse, as I mentioned, will involve
21 consolidation of existing administrative uses from other
22 locations on the campus -- again, literally most of them

1 from across the street.

2 So there's no expected change in the current
3 vehicular uses of Buckingham Place. We'll be driving in and
4 out of it. We're already driving in and out of it already.
5 There will be no change to parking.

6 Again, we're not increasing staff. Those staff
7 would be otherwise parking and traveling to Kelsey and
8 Morrison. They'll instead be taking a right instead of left
9 once they get onto Buckingham Place and walking into a
10 different building, they're doing the same thing.

11 And finally, we point out the use is compatible
12 with the City's Institutional Growth Management Plan. In
13 that plan, the City has said that "all else being equal --"
14 and that's a quote "-- concentration of new institutional
15 activity in areas of existing institutional development is
16 preferable to dispersion, where's scattered growth of those
17 new activities.

18 And here, obviously we are looking to consolidate
19 the use of these activities in one of location around
20 Buckingham Place. We're not trying to go further afield or
21 create scattered uses; we are trying to keep everything in
22 the same physical vicinity.

1 The last of the four statutory criteria,
2 obviously, is whether desirable relief can be granted
3 without substantial detriment to the public good, or
4 nullifying or substantially derogating from the intent and
5 purpose of this ordinance. Here, we would note that the
6 purpose of Institutional Use Regulations is in Section 4.52.

7 And it states that the purpose of the IUR is to
8 protect residential neighborhoods from unlimited expansion
9 of institutional activities to reduce pressures for
10 conversion of existing housing stock, to minimize the
11 development activities which are different from and
12 incompatible with activity patterns found in those
13 neighborhoods, and to provide a framework for allowing those
14 institutions which are compatible with residential
15 neighborhoods to locate and expand there.

16 Here, we would note that the granted relief would
17 not in any way constitute unlimited expansion. It would
18 merely allow primary school use of a single structure that
19 is physically adjacent to a century-old physical structure
20 of the existing primary school.

21 And far from it producing an incompatible activity
22 pattern into the neighborhood, the existing pattern on

1 Buckingham Place is that predominantly of a children's day
2 camp and primary school.

3 Again, the access to these parcels comes from
4 Buckingham Place, which already is almost entirely used by
5 BB&N because it owns those four buildings on the north side.
6 So the granted relief wouldn't cause congestion hazards or
7 substantial change in neighborhood character.

8 And for the same reasons, we don't believe that
9 there would be any additional traffic generated in the
10 neighborhood because of the use of #5, the current uses that
11 are in Kelsey and in Morrison.

12 So in sum, Mr. Chair, we believe that the School's
13 request for relief meets the requirements for a variance
14 under the ordinance.

15 We think the request is reasonable and tailored to
16 the existing neighborhood, and would relieve a significant
17 dimensional and educational hardship for the School. And we
18 would ask for the Board's favorable vote.

19 BRENDAN SULLIVAN: Great. Thank you. Any
20 questions by Members of the Board? Mr. Alexander?

21 CONSTANTINE ALEXANDER: No questions.

22 BRENDAN SULLIVAN: Jim Monteverde?

1 JIM MONTEVERDE: No questions, thank you.

2 BRENDAN SULLIVAN: Jason Marshall?

3 JASON MARSHALL: No questions at this time.

4 BRENDAN SULLIVAN: Matina, any questions or
5 comments at this time?

6 MATINA WILLIAMS: No questions.

7 BRENDAN SULLIVAN: Okay. Let me open it to public
8 comment. Any member of the public who wishes to speak
9 should now click the button that says, "Participants," and
10 then click the button that says, "Raise hand."

11 If you are calling in by phone, you can raise your
12 hand by pressing *9 and unmute or mute by pressing *6.
13 You'll have up to three minutes to comment.

14 OLIVIA RATAY: Michael Wiggins?

15 BRENDAN SULLIVAN: Michael, are you on the line?

16 MICHAEL WIGGINS: Yes, I am. Can you hear me?

17 BRENDAN SULLIVAN: Yes.

18 MICHAEL WIGGINS: Good evening, Mr. Chairman and
19 Members of the Board. I represent the abutters to this
20 project on Buckingham Street and Buckingham Place, Alain and
21 Veronique Curaudeau are at 7 Buckingham Place.

22 And if you look at the diagram, the birds eye view

1 of the existing campus, the Curaudeaus are just to the right
2 of #5. They're #7 Buckingham Place.

3 And to the left of #5 is #4 Buckingham Street.
4 It's kind of confusing, because the numbers, they look like
5 they line up, but actually #4 Buckingham Street is a
6 different street. Nevertheless, Buckingham Street faces
7 Buckingham Place, and of course, so does #7 Buckingham
8 Place.

9 And this is on the right side of Buckingham Place
10 a distinctly residential area. I would agree on the left
11 side, it's distinctly residential, but up until now, there's
12 always been a separation.

13 The Curaudeaus face the School on two sides
14 currently. If this relief is granted, they'll be facing it
15 on three sides. They'll be basically a bit of an island in
16 an institutional campus.

17 As the petitioner's attorney pointed out, this is
18 not the case where it's located in an Institutional Overlay
19 District, where a special permit is all that's needed, it's
20 a variance case, and stricter scrutiny is required here.

21 And when we speak about the hardship, the hardship
22 should arise out of the shape of the lot and the topography

1 of the lot and the soil conditions of the lot. There is no
2 such problem here. This is a rectangular lot, #5. So there
3 is no particular hardship now.

4 We do look at this case, though, with the --
5 through the lens, unfortunately, of the Dover Amendment,
6 which does favor use variances, and my clients in
7 considering this proposal actually do appreciate that it's
8 going to be an administrative use.

9 And I think if, you know, after I talked a little
10 bit about their perspectives, I'd like to be asking you for
11 a condition if you're inclined to grant the relief that
12 there be some conditions do it so that it is basically --
13 the relief is geared to exactly what they have said they are
14 intending to do, and not what they might choose to do at
15 some later time.

16 So my clients enjoy the view onto 5 Buckingham
17 Place from both their directions, the greenery it provides,
18 unlike the institutional use on the other side.

19 My clients at #4 Buckingham have zero side yard
20 setback, and their windows look right into the yard of #5
21 Buckingham. Steven Sands, one of the owners of Buckingham -
22 - #4 Buckingham -- has his practice, a home practice there

1 with clients visiting every day. It's important to him to
2 have quiet and tranquility, at least on the side facing #5.

3 The -- of course the School is directly across
4 from the middle of the din, and he has dealt with that over
5 the years. But is not interested in having that happen here
6 right beside him, where a place that, you know, has zero
7 setback is.

8 #7 Buckingham, as I said, is going to be
9 surrounded now with institutional buildings if #5 is allowed
10 to proceed with its use variance.

11 And so it would be important to both of my clients
12 to have the use pretty much in line with what's proposed,
13 and not have it be sort of an open sesame with just an
14 educational use variance with no guidelines as to what could
15 happen.

16 So they do appreciate that, you know, this would
17 be a good proposal for something much more, or much less
18 pleasing and more interfering with the use of the adjacent
19 two buildings.

20 If the Board's inclined to grant this relief, then
21 we would want to see conditions placed in the decision to
22 reflect the incorporation of the exact intent as stated.

1 And so those would include that there would be no
2 additional parking on this site at any time, that there be
3 no expansion of the structure other than the accessible
4 grants that we've been told will be needed for accessible
5 use...

6 That existing gardens and green space would be
7 maintained the way they are now, with no impervious surfaces
8 to be installed, and that the outdoor space be limited as
9 described by the proponent for plants and gardening and
10 experiential educational opportunities for kids, but not to
11 be turned into a large, yet again recreational area right
12 outside the windows of my client at #4 Buckingham Street,
13 and also right outside on the side facing #5 of the
14 Curaudeaus.

15 So that's sort of in a nutshell what we're talking
16 about. But I've been hoping it's good news for the
17 proponent to know that we're not proposing that this
18 variance be denied, but rather that it be carefully
19 described, that the conditions reflect exactly the intent as
20 described, and the use of the building be primarily for
21 administrative use, not primarily for classroom use or for
22 concerts and other things like that.

1 There is a description in the letter supporting
2 the project. And I think language from that letter could be
3 used as part of the conditions for the use variance.

4 BRENDAN SULLIVAN: Okay. On -- according to the
5 submittal by the petitioner, they state that on October 19,
6 2021, BB&N held an open community meeting, to which it
7 invited all abutters to the property and the campus, as well
8 as all residents of the Buckingham Street neighborhood to
9 explain the proposed Lower School campus Master Plan,
10 including the proposed acquisition and use of #5 Buckingham
11 Place, and respond to any questions.

12 Do you know if your client, Gerburg and Steve
13 attended that meeting, or had any conversations with BB&N at
14 all?

15 MICHAEL WIGGINS: I don't know. I know that
16 they're -- you're witness tonight I think observing. But --

17 TAD HEUER: I can answer that, Mr. Chair, if it
18 helps.

19 BRENDAN SULLIVAN: Yeah, if you identify yourself
20 for the record?

21 TAD HEUER: This is Tad Heuer, petitioner.

22 BRENDAN SULLIVAN: Oh, I'm sorry. I wasn't

1 looking at you, Ted. Okay.

2 TAD HEUER: No problem. So yes, Dr. Sands from #4
3 Buckingham Street did attend that meeting on the nineteenth.
4 In addition, in late January the School reached out
5 specifically again to both the direct abutters on Buckingham
6 Place -- Dr. Sands and Ms. Wulf at #4 Buckingham Street, a
7 and the Curaudeaus at #7 Buckingham Place.

8 They arranged to meet them in #5 Buckingham Place
9 on February 1. They were actually scheduled to meet on
10 January 25, but rescheduled that meeting at the express
11 request of Ms. Wulf to accommodate her schedule.

12 And both Ms. Wulf and Ms. Curaudeau did indeed
13 attend that meeting at #5 Buckingham Street with the School,
14 where they discussed their plans to end this application.
15 And that was before this application was submitted.

16 The School wanted to make sure that they had any
17 concerns or were able to incorporate those in the
18 application we submitted on February 7, a week later.

19 And no substantial -- I'm not sure any concerns
20 were raised, either then or subsequently until this evening.

21 TARA GOHLMANN: So if I could just add to that,
22 thank you very much, Tad. This is Tara Gohlmann. I am the

1 Chief Operating and Financial Officer of the School. I was
2 at that meeting with Cynthia Westerman and Jen Price, who
3 are also on this call. And we also offered at any time to
4 answer any questions and to meet with them if there were any
5 concerns and hadn't heard from them until this morning.

6 BRENDAN SULLIVAN: Well, I open it to public
7 comment. Anyhow, because we -- Michael, are you -- have you
8 concluded? I may continue anyhow, but --

9 MICHAEL WIGGINS: Yeah. I haven't -- actually I'd
10 like to respond to that briefly, if I could. The tenor of
11 my remarks are not that my client opposed this project, they
12 are more concerned about that the variance that if the Board
13 is inclined to grant the variance, that it be that it be
14 subscribed -- circumscribed so as to comport with what the
15 proponent said that they were going to be doing with the
16 property.

17 So again, it's not -- it's not an option, we're
18 not here to oppose the project, but rather to clarify how
19 it's going to be used, as described previously in previous
20 meetings.

21 BRENDAN SULLIVAN: Okay. We are in receipt of
22 communication from Ms. Wulf and Mr. Sands. And it's dated

1 Monday, March 7.

2 "We live on #4 Buckingham Street, and there will
3 be a meeting on March 10 about change of use via Buckingham
4 Place, our direct neighbor. We are still trying to
5 understand what the ramifications would be, and are hoping
6 that the meeting could possibly be postponed."

7 So it seems like I'm getting sort of conflicting
8 reports from different things as, you know, they were at the
9 meetings, and now there seems to be some hang-up.

10 And I guess Michael, you were just recently
11 retained, is that right, yesterday?

12 MICHAEL WIGGINS: That's correct. And what it
13 reflects is just, as you can understand, some anxiety about
14 the future of their building and this building, and how it
15 will impact into the future.

16 And again, they don't oppose -- neither of my
17 clients on either side are saying that we don't want this to
18 go forward. It's more that they want it to be -- that it be
19 lined up with the stated intent has been for the use of this
20 property.

21 In other words, the Board could just say we grant
22 you a use variance to use this property, however you may see

1 fit, and I don't think that would be fair, as you consider
2 the standards for a variance in the neighborhood at large to
3 give what I would call sort of an open sesame kind of use
4 variance, as opposed to something that is in accord with
5 what they were told.

6 And yes, they did attend those meetings, and they
7 didn't object to those uses at that time.

8 CONSTANTINE ALEXANDER: Mr. Chairman, I wonder
9 whether this is a case that should be continued? It seems
10 to me there needs to be more dialogue between the affected
11 neighbors and the School.

12 And maybe -- you know, I think at the end of the
13 day they will reach an agreement with some conditions or
14 protections for the neighborhood. And I think to try to
15 resolve the case tonight one way or another I think would be
16 a good mistake.

17 BRENDAN SULLIVAN: Well, I think it's sloppier and
18 not --

19 MICHAEL WIGGINS: I'm sorry?

20 BRENDAN SULLIVAN: I think it's -- I don't want to
21 do this sloppily.

22 MICHAEL WIGGINS: Yeah.

1 BRENDAN SULLIVAN: If that's a real word or
2 something like that. Mr. Heuer, would you entertain a
3 continuance, so that you and Mr. Wiggins can have
4 conversation, and then eventually come back to us with an
5 agreement, and more people? Okay, or an agree to
6 disagreement?

7 TAD HEUER: Mr. Chairman, again, when we're
8 talking about doing things on the fly, you know, because
9 we're in a remote setting, I don't have the ability to
10 confer with my clients the way I would if I were sitting at
11 the table, unfortunately.

12 I mean, I think I would reluctantly entertain a
13 continuance, but I'd ask for a bit of the Board's
14 consideration of the fact that we've had these discussions
15 available and have been made available to the applicant
16 since October. We're now five months since then.

17 And it wasn't just this public meeting, it was a
18 meeting where we followed it up with an individual meeting
19 custom tailored to them at their schedule, at the location,
20 where they could ask any questions they wanted. And that
21 was a month in -- you know, I almost a month and a week ago.

22 So to hear at the last minute that there are

1 things that, you know, they would like to do that
2 essentially, they're asking are you going to do what you
3 said your petition is going to do?

4 I'm not sure -- I mean, there is a certain level
5 of equity that I'm hoping that the Board will extend here to
6 recognize that, you know, this is not a situation where we
7 have, you know, as you had in the last case where the
8 petitioner simply didn't meet with their neighbors. We've
9 met with the neighbors and offered to meet them on multiple
10 occasions. So this is not for lack of trying.

11 I appreciate that the neighbors, you know, have
12 these concerns. And the School is of course always willing
13 to have discussions with any of its neighbors about
14 addressing issues and minimizing impacts. They've done so
15 for decades.

16 I just think there is a lot concern as I think the
17 Board has always recognized with, you know, issues like this
18 being raised at literally the last minute, particularly when
19 there's been an opportunity to do so and the abutters
20 haven't availed themselves of that opportunity. That's my
21 concern.

22 BRENDAN SULLIVAN: Okay. All right. There are

1 other people who are calling in. So let me defer to anybody
2 else who wishes to comment.

3 OLIVIA RATAY: Alain Curaudeau?

4 ALAIN CURAUDEAU: Can you hear me? Okay. So I am
5 one of the neighbors. And I think what we are asking --
6 first of all, I think as Michael already said, we are not
7 opposing to the proposal, what we are asking is just to
8 formalize as a condition what we were told at the meeting.

9 We were told at the meeting that it will be an
10 administrative use. There will be no change in the trees,
11 in the grass, in the open space, no change in the parking,
12 and this is the only thing that we are asking to formalize
13 as a condition to the petition. Very simple.

14 So we are not opposing, we are not -- I'm not --
15 our family is not questioning any further, we are just
16 asking to formalize what we were told.

17 BRENDAN SULLIVAN: Thank you.

18 OLIVIA RATAY: Gerburg Wulf?

19 BRENDAN SULLIVAN: Gerburg?

20 OLIVIA RATAY: Oh, Steven.

21 STEVEN SANDS: Hi. This is Steven Sands. I'm
22 here with Gerburg. I'd like to support what Mr. Curaudeau

1 just said. I would like to respond to what was said by the
2 lawyer representing the School, which is -- repeatedly this
3 evening, which is that these things are being sprung on the
4 School now as a surprise.

5 At the neighborhood meeting, this was brought up
6 and it was specified. And a couple of people from the --
7 representing the School said they thought it would be nice
8 to keep the green spaces around #5. So there's nothing new
9 or surprising about this.

10 We hope the School will stand by that. They
11 sometimes haven't stood by what they said -- example about
12 paving Buckingham Place, which is in very bad repair, saying
13 they would and then changing their mind saying they
14 wouldn't. And that's why we'd like to pin this down if we
15 can.

16 Thank you very much.

17 BRENDAN SULLIVAN: Thank you. That is the sum and
18 substance of anybody calling in. So now we have to make
19 some sense out of all of this.

20 MICHAEL WIGGINS: Mr. Chair, one final comment I'd
21 make, you know, I'm wondering if there is some slight
22 confusion and we're really all necessarily saying the same

1 thing potentially. As the Board is well aware, the petition
2 that goes in from the applicants is part and parcel of their
3 application, and is the statement of what is being requested
4 by the Board. That's the intent of the narrative.

5 You know, as the Board sees on page 3 of that
6 narrative, we've stated the functional uses to which we
7 expect to put the School. We've stated the functional uses
8 to which we expect to equip the School. We've said that we
9 believe that the garden space is something that we want to
10 maintain for educational purposes.

11 I'm fairly certain I can represent that there's no
12 intent to be paving the space to create additional parking
13 or quite frankly anything else.

14 If those -- and, you know, as the Board has
15 mentioned, there's, you know, likely to be a handicap ramp
16 that would be installed at some point in order to ensure
17 compliance with federal ADA requirements that under state
18 laws, under the purview of zoning it's exempted under 40A
19 Section 3.

20 To the extent that the Board writes its decision
21 consistent with the petition that has been submitted, I'm
22 not sure that anything more will be required in order to

1 address the petitioner's or the abutters' concerns.

2 BRENDAN SULLIVAN: Okay, good. Jim Monteverde,
3 what are your thoughts on all of this?

4 JIM MONTEVERDE: I will defer for a second. I'm
5 just going back to read all the particulars.

6 BRENDAN SULLIVAN: Okay. Jason Marshall, your
7 thoughts?

8 JASON MARSHALL: Yeah. I think just to respond,
9 Counsel, I think, to how you just postured, and I appreciate
10 your response and appreciate the outreach that the School
11 has made.

12 I think, though, the disconnect, it sounds like
13 it's a difference between, you know, you use words like
14 there's an expectation of what you expect the use might be,
15 or the intent. And what I'm hearing from neighbors is
16 they're looking for something that is more concrete, which
17 is why they're asking it sounds like for conditions that
18 would be very specific.

19 So I'm not sure that quite gets us there. I guess
20 I'd be interested in your response to the request for
21 specific conditions. Absent that, I think I'm inclined to
22 agree with my colleague Gus that this case may benefit from

1 a continuance, so that further discussion can be had.

2 BRENDAN SULLIVAN: All right. Okay. Matina, any
3 thoughts on the matter before us?

4 MATINA WILLIAMS: Yes. I'm actually in agreement
5 with Jason Marshall that, you know, the conversation still
6 needs to be had, and that -- you know, so that we are all on
7 the same page. I mean, this is long-term, sort of, you
8 know, changes that can happen. They want to make sure that
9 they're not now, you know, there's no parking lot or a 15-
10 story building built.

11 So I understand, you know, where they're going as
12 neighbors. And then they've had, you know, an experience
13 with BB&N of paving stuff when they said they weren't. So I
14 think it really needs to be hashed out.

15 BRENDAN SULLIVAN: Okay, thank you.

16 CONSTANTINE ALEXANDER: -- I would point out --

17 COLLECTIVE: We can't hear you, Gus.

18 CONSTANTINE ALEXANDER: I apologize. I was about
19 to say if we do continue this case, obviously it'll be a
20 case heard. And I know from earlier in this session this
21 evening, we would not be able to hear this case again until
22 May. And that's a few months off, and I don't know what

1 impact it has on the School's plans and timing.

2 But we should keep in mind that's what we're
3 looking at if we continue the case.

4 BRENDAN SULLIVAN: What's the very latest?

5 OLIVIA RATAY: Well, you have May 5. I don't know
6 if that's --

7 BRENDAN SULLIVAN: Jason cannot be here on the
8 fifth.

9 CONSTANTINE ALEXANDER: Oh, that's right.

10 BRENDAN SULLIVAN: So it'll be the end of May.
11 Well --

12 TAD HEUER: That would be a good significant --

13 JENNIFER PRICE: That would mean we can't use, it
14 right? We can't --

15 TAD HEUER: Yep.

16 JENNIFER PRICE: -- use it until May?

17 TAD HEUER: Right. That would be a significant
18 concern, Mr. Chairman. A three-month delay, particularly
19 where, again, you know, if they wanted conditions like this,
20 I'm fairly certain that, you know, we seem to be very close
21 on these things. And indeed, I don't believe there's any
22 real disagreement.

1 I think so brings it down where, you know,
2 predominantly the uses that we said we were going to use,
3 there would be no expansion of the structure. As you know,
4 we're not requesting dimensional relief, so there cannot be
5 expansion of the structure without further relief from this
6 Board.

7 That the existing gardens not to be paved or have
8 impervious surface placed within them, particularly to allow
9 for parking. That would not occur. And that -- I think I
10 can heard 15-story buildings.

11 Again, this is on a lot where nothing could be
12 built, particularly for an educational use, without relief
13 from this Board. Indeed, that's the purpose of this
14 petition tonight, to be able to use this parcel for
15 educational purposes. Any relief would require relief from
16 this Board.

17 So if those are the concerns, I think I would
18 suggest that they're either addressed because we're
19 constrained by the ordinance already, or because they've
20 been addressed in the petition, and the Board is entitled to
21 take the petition as true; that we will do what we have
22 requested to do.

1 And it is the extent of what we're requesting.

2 BRENDAN SULLIVAN: Yeah. I mean, I have read your
3 summary of the request of relief. And I think, Michael --
4 Mr. Wiggins -- the issues that you have raised have been
5 actually addressed in this memo.

6 Now, I don't know if you want anything more
7 concrete than that -- you know, specific bullet points. But
8 I think that the issues raised are, as Mr. Heuer point out,
9 as are addressed.

10 I think that to delay the matter knowing the
11 current climate out there -- not the temperature but
12 construction and the meanderings of comings and goings that
13 the three months would be I think quite severe.

14 I'm just wondering if where at March 10? Is there
15 anything that we can squeeze in in -- what are we on now,
16 the twenty-fourth of March?

17 OLIVIA RATAY: I mean there's three separate
18 cases. On the fourteenth of April, there's three continued
19 cases on Webster Avenue.

20 BRENDAN SULLIVAN: I'm sorry.

21 CONSTANTINE ALEXANDER: They're all related.
22 They're actually one case, as I recall.

1 BRENDAN SULLIVAN: Right, right, yeah.

2 CONSTANTINE ALEXANDER: So.

3 OLIVIA RATAY: This is all going to be --

4 BRENDAN SULLIVAN: Yeah.

5 OLIVIA RATAY: -- one case.

6 CONSTANTINE ALEXANDER: How about April?

7 BRENDAN SULLIVAN: April 14? Can we do that, Mr.

8 Heuer?

9 TAD HEUER: Let me use the magic of --

10 BRENDAN SULLIVAN: I say that, but now let me poll
11 the Board. Jason Marshall, are you available on the
12 fourteenth of April?

13 JASON MARSHALL: I am, Mr. Chair.

14 BRENDAN SULLIVAN: You are?

15 JASON MARSHALL: Yes.

16 BRENDAN SULLIVAN: Yeah. Jim Monteverde?

17 JIM MONTEVERDE: I am. Thank you.

18 BRENDAN SULLIVAN: You're in. Matina, are you
19 available on the fourteenth?

20 MATINA WILLIAMS: Yes, I am.

21 BRENDAN SULLIVAN: Okay. And Mr. Alexander is
22 available?

1 CONSTANTINE ALEXANDER: I am.

2 BRENDAN SULLIVAN: And I'm not going anywhere
3 anyhow. I think it would be in order to continue this
4 matter to have further discussions, Mr. Wiggins, in
5 deference to Counsel for the abutter has just retained
6 yesterday, and I don't want to do this on the fly, and I
7 don't want to ignore the neighbors.

8 After all, it is a use variance. And those should
9 be granted very, very sparingly, as the Boards have said in
10 the past.

11 So I really think we need to get this right, and
12 so that at the end of the day, that BB&N can continue to be
13 a good neighbor, and to address some of the issues that are
14 raised up here and not let this thing start to spin out of
15 control any further.

16 So I would make a motion, then, that we continue
17 this matter until April 14, 2022 at 6:00 p.m. on the
18 condition that the petitioner change the posting sign to
19 reflect the new date of April 14 and the new time of 6:00
20 p.m.

21 Any new submittals not currently in the file be in
22 the file by 5:00 p.m. on the Monday prior to the April 14

1 date.

2 And that the petitioner sign a waiver to the
3 statutory requirement for a hearing and a decision to be
4 rendered in the file thereafter.

5 And that that waiver shall be in the file by 5:00
6 p.m. a week from Monday.

7 TAD HEUER: Brendan, do we need a waiver, since
8 we're well before the 130 or the 110 days?

9 BRENDAN SULLIVAN: Well, I think we do it pro
10 forma anyhow, if you attach it --

11 TAD HEUER: That's fine.

12 BRENDAN SULLIVAN: -- so we have it, and it's a
13 little simple -- so he can, if -- that's another belt and
14 suspenders, anyhow. So --

15 TAD HEUER: No problem.

16 BRENDAN SULLIVAN: Anything else to add to it? So
17 on the motion then to continue this matter to allow the
18 petitioner -- petitioner's counsel, petitioner, petitioner's
19 counsel and the neighborhood counsel to have further
20 discussions and to come back to the Board with some form of
21 agreement, on the motion, then, to continue this matter, Jim
22 Monteverde?

1 JIM MONTEVERDE: In favor.

2 BRENDAN SULLIVAN: Matina Williams, on the matter
3 to continue?

4 MATINA WILLIAMS: [Vote] yes to continue.

5 BRENDAN SULLIVAN: Jason Marshall?

6 JASON MARSHALL: Yes, in favor of the continuance.

7 BRENDAN SULLIVAN: Mr. Alexander?

8 CONSTANTINE ALEXANDER: I'm in favor of the
9 continuance, but I think I would like to state for the
10 record that I think the petitioner is somewhat prejudiced by
11 what's happening tonight. They do have to proceed.

12 Bottom line what I'm trying to say is I would not
13 support any further continuances for this case. I think
14 we're making an accommodation as it is, and that's as far as
15 we should go.

16 BRENDAN SULLIVAN: I think that if there's a
17 sufficient time to give both parties --

18 CONSTANTINE ALEXANDER: Right.

19 BRENDAN SULLIVAN: -- the opportunity to act in
20 good faith, and we would expect that good faith to be on
21 display April 14. Brendan Sullivan on the motion to grant
22 the continuance.

1 [All vote YES]

2 BRENDAN SULLIVAN: Five votes, the matter is
3 continued until April 14 at 6:00 p.m. Goodnight.

4 MICHAEL WIGGINS: Thank you, Mr. Chairman.

5 CONSTANTINE ALEXANDER: Thank you. That's all she
6 wrote.

7 BRENDAN SULLIVAN: All right. Thank you, all.
8 Goodnight.

9 JASON MARSHALL: Good job, Mr. Chair. Goodnight,
10 everybody.

11 MATINA WILLIAMS: Goodnight.

12 JIM MONTEVERDE: Goodnight.

13 BRENDAN SULLIVAN: Goodnight, Matina.

14 [09:30 p.m. End of Proceedings]

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CERTIFICATE

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.

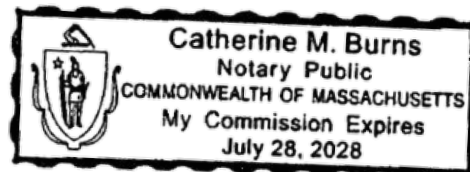
In witness whereof, I have hereunto set my hand
this 18th day of March, 2022.



Notary Public

My commission expires:

July 28, 2028



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