

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, JULY 12, 2018

7:05 p.m.

in

Senior Center

806 Massachusetts Avenue

First Floor

Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Brendan Sullivan, Vice Chair

Janet Green, Member

Slater W. Anderson, Associate Member

George S. Best, Associate Member

Maria Pacheco, Zoning Secretary

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I N D E X

CASE

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6:30 P.M. EXECUTIVE SESSION - CASE: BZA-015324-2017
29 FAIRMONT AVENUE - TO DISCUSS STRATEGY WITH RESPECT TO LITIGATION KNOWN AS JUAN CARLOS SERNA v THE BOARD OF ZONING APPEALS AND ITS MEMBERS, LAND COURT CASE NO.18 MISC 000223-GHP, AS DISCUSSING THIS MATTER IN AN OPEN SESSION MAY HAVE A DETRIMENTAL EFFECT ON THE LITIGATING POSITION OF THE BOARD OF ZONING APPEAL

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(7:05 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Janet Green, Slater W. Anderson, George S. Best.)

CONSTANTINE ALEXANDER: The Chair will call this meeting of the Zoning Board of Appeals to order. And at the outset let me read a statement:

After notifying the Chair, any person may make a video or audio recording of our open sessions, which this is, or may transmit the meeting through any medium, subject to reasonable requirements that the Chair may impose as to the number, placement, and operation of equipment used so as to not to interfere with the conduct of the meeting. At the beginning of the meeting the Chair will inform other attendees that a recording is being made.

And I wish to inform those of you in the audience that two recordings are being made. Our stenographer records to assist her in preparing the transcript of the meeting, and a citizen of the city has left his tape recorder here. He's also tape recording. So two tape recordings are being made. I trust none of you are planning to or are recording this

meeting?

UNIDENTIFIED MEMBER FROM THE AUDIENCE: No.

CONSTANTINE ALEXANDER: Okay.

And with that I'll turn to our two continued cases and one case involving a request for an extension of time for a previously granted Variance. I'll take the extension of time case first.

(7:05 p.m.)

(Sitting Members Case No. BZA-013282-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Slater W. Anderson, George S. Best.)

CONSTANTINE ALEXANDER: I'll take the extension of time request case first. That's case No. 013282, 132-134 Banks Street.

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

(No Response.)

CONSTANTINE ALEXANDER: No.

As I mentioned, we do have a request for an extension of time.

The Chair moves that we grant, as requested, a six-month extension for the commencement of work on this project for which we've

previously granted a Variance.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Extension of
time granted.

(Alexander, Sullivan, Green, Anderson, Best.)

* * * * *

(7:10 p.m.)

(Sitting Members Case No. BZA-016152-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Slater W. Anderson, George S. Best.)

CONSTANTINE ALEXANDER: Next the Chair will call case No. 016152, 65 Griswold Street.

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

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Yes.

My architect said he was gonna be here at seven.

CONSTANTINE ALEXANDER: That's okay. This is the continued case.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Yeah.

CONSTANTINE ALEXANDER: And I was going to propose anyway, is that we further continue this case until immediately after we hear your case on the regular agenda which is slightly different.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Okay.

CONSTANTINE ALEXANDER: And then we can dispose of the continued case then.

UNIDENTIFIED MEMBER THE AUDIENCE: Okay.

CONSTANTINE ALEXANDER: So we're not going to -- all I'm doing today is taking a vote to continue this continued case until immediately after the case on the agenda.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: It will all be done today, though?

CONSTANTINE ALEXANDER: God willing, it will all be done today, yes.

The Chair moves that we continue this case until immediately following the conclusion of the case for the same property that's on our regular agenda.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case further continued.

(Alexander, Sullivan, Green, Anderson, Best.)

* * * * *

(7:10 p.m.)

(Sitting Members Case No. BZA-015930-2018: Constantine Alexander,
Brendan Sullivan, Janet Green, Slater W. Anderson, George S. Best.)

CONSTANTINE ALEXANDER: The Chair will case No.
015930, 66 Antrim Street.

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

This is for a similar, it's a case we -- it's on our regular agenda

for tonight, a slightly different variation than the one we heard before.

And, again, I would suggest that we continue this case until immediately following the determination of our decision in the case on our regular agenda.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

(Alexander, Sullivan, Green, Anderson, Best.)

CONSTANTINE ALEXANDER: And with that, we're ready for our regular agenda. But we have to wait until 7:15. We have five minutes.

(A short recess was taken.)

* * * * *

(7:15 p.m.)

(Sitting Members Case No. BZA-016664-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Slater W. Anderson, George S. Best.)

CONSTANTINE ALEXANDER: Okay. We'll now turn to our regular session, and the first case I'm going to call is 65 Griswold Street.

Your architect going to be here? The Chair will call case No. 016664, 65 Griswold Street. Good evening, again.

MICHAEL KIM: Good evening.

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

MICHAEL KIM: I am Michael Kim. I am an architect. I have offices at One Holden Street in Brookline.

MYUNG-HEE VABULAS: And I'm Myung-Hee Vabulas. It's M-Y-U-N-G-H-E-E. Last name V-A-B-U-L-A-S at 65 Griswold Street.

CONSTANTINE ALEXANDER: And this case involves a redesign of a plan you submitted to us for a Variance earlier.

MICHAEL KIM: That's correct.

CONSTANTINE ALEXANDER: Because we have dormer guideline issues.

MICHAEL KIM: Yes.

CONSTANTINE ALEXANDER: And additional relief, which is Special Permits for windows in a setback.

MICHAEL KIM: That's correct.

CONSTANTINE ALEXANDER: Okay. Why don't you talk to us about the Variance request, particularly the dormer issue which is --

MICHAEL KIM: After our discussion at the last meeting, we shortened the dormer to 15 feet and we believe we are in compliance with the guidelines.

CONSTANTINE ALEXANDER: Okay.

I think -- you appear to be at certainly at least to the length of the dormer.

JANET GREEN: Sir, can you hear?

UNIDENTIFIED MEMBER FROM THE AUDIENCE: No, I
can't hear.

JANET GREEN: He can't hear. Use the microphone.

MICHAEL KIM: Okay. We've advised --

CONSTANTINE ALEXANDER: I'm not sure it's on.

BRENDAN SULLIVAN: It's on.

JANET GREEN: You have to hold it really close to your
mouth.

MICHAEL KIM: Okay.

We revised the design to what we believe is in compliance
with the guidelines. And we also submitted for a Special Permit the
location of the windows on the side walls. It's a very narrow lot, so they're
both in the setback. That corresponds to the arrangement of the
renovations on both floors of the building.

CONSTANTINE ALEXANDER: Just refresh -- since it's been
a while, refresh your memory as to why you believe you're entitled to the
Variance, the hardship, the special conditions and the like.

MICHAEL KIM: The site is extremely narrow and quite small.

So it was over the FAR from -- well, it predates the zoning so it's --

CONSTANTINE ALEXANDER: It's a non-conforming structure.

MICHAEL KIM: Exactly.

MYUNG-HEE VABULAS: I believe the FAR is actually going to go down.

MICHAEL KIM: Right. Although we're over the FAR so we couldn't apply the as-of-right Variance.

CONSTANTINE ALEXANDER: What about the hardship?

MICHAEL KIM: The hardship is the -- well, A, the -- a growing family needs more space. And that they're constrained by the confines of the lot which can't be moved.

CONSTANTINE ALEXANDER: Let me give my colleague here time to take a look.

BRENDAN SULLIVAN: Can I ask one question. Right now it is a two-family house?

MICHAEL KIM: That's correct.

BRENDAN SULLIVAN: And --

MICHAEL KIM: Has the -- has the use been formally changed?

MYUNG-HEE VABULAS: No.

MICHAEL KIM: No, not yet.

BRENDAN SULLIVAN: All right, so it's an existing two family. You're going to go to a single?

MICHAEL KIM: That's correct.

BRENDAN SULLIVAN: Oh, all right.

I noticed one of the letters in support, support your turning the house from a two-family to a single, yet in the dimensional form, it has existing two, proposed two.

CONSTANTINE ALEXANDER: Oh.

BRENDAN SULLIVAN: So, minor point, but just to bring that into conformity with what your intent is. I mean, the plan looks like a single.

MICHAEL KIM: It is.

CONSTANTINE ALEXANDER: And your dimensional form does talk about still being a two-family if we grant you relief. That's just

an error apparently.

MICHAEL KIM: There's an option to stick a kitchenette for visiting parents, which would in some interpretations make it a two-family. But simply to not enter into a change of use is another factor. It can go either way and we will take your direction on that.

CONSTANTINE ALEXANDER: So it may be continued as a two-family and it may not be, is that what you're saying?

MICHAEL KIM: Yes. And if the Board has a strong feeling, we'll take that direction.

CONSTANTINE ALEXANDER: I don't.

BRENDAN SULLIVAN: No, I don't. I just wanted to bring that in.

CONSTANTINE ALEXANDER: Yeah, correct the record. I mean, we have plenty of two-family houses in Cambridge.

JANET GREEN: That's right.

CONSTANTINE ALEXANDER: And your neighbors seem to be aware of the fact -- it's now a two-family. It's not going to get any worse. If anything, it's going to be better.

I have no comments or questions. Anybody have any questions at this point?

MICHAEL KIM: There are multiple letters of support.

CONSTANTINE ALEXANDER: Yes, there are. I'll get to that in a second.

We'll open the matter up for public testimony. Is there anyone here wishing to be heard on this matter?

Sir. You have to identify yourself.

JOHN LITTLE: Okay. My name is John Little and my family lives right next to -- adjacent on the -- if you're looking at the front or to the right. We're just to the right of them, and we're in favor of them doing anything they want to do, but the only concern that we have is that the dormer is so broad that it -- that one spot kind of blocks out the only light that we get, really, is from that side into the rooms that are gonna be directly affected by the dormer. But I don't know if that's an issue at all or whatever. But it's a concern that I know that my wife and family wanted me to at least put out there.

CONSTANTINE ALEXANDER: Well, I trust you understand

we've required them to reduce the size of the dormer, the length of it. It was going to be around 19 feet the first time around.

MICHAEL KIM: That's right.

CONSTANTINE ALEXANDER: And now it's going to be 15 feet which complies with the City's dormer guidelines when people are seeking zoning relief.

JOHN LITTLE: All right, that's fine. That was my only issue. Otherwise okay.

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

As indicated by the petitioner and in connection with the first case that we have continued, there have -- there are letters of support from neighbors.

I'll close public testimony.

Discussion or ready for a vote?

JANET GREEN: I'm ready.

CONSTANTINE ALEXANDER: Ready for a vote.

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

That a literal enforcement of the provisions of our Ordinance would involve a substantial hardship. Such hardship being is that this is a house located on a narrow lot and it requires additional living space, not only for you folks but for anybody who succeeds you in owning this property. And that proposal for the Variance will satisfy that. Satisfy the need -- will create the additional space that may be necessary for use of the property.

That the hardship is owing to the fact that it's already a non-conforming structure, and therefore any modification to the structure requires zoning relief.

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

In this regard the Chair would note that there is neighborhood support for the project. That the creation for a dormer of additional living

space is not exactly unique to the City of Cambridge or to this Board.

And what it does is it makes currently the inhabitability of the current structure, residential structure in Cambridge more beneficial.

So on the basis of all of these findings, the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with the plans prepared by Michael Kim Associates, dated July -- I mean January 12, 2018. The date hasn't changed but you've updated the plans.

MICHAEL KIM: Okay, that would be a different revision.

CONSTANTINE ALEXANDER: I don't see it on this.

SLATER ANDERSON: This is the 15-foot dormer.

CONSTANTINE ALEXANDER: Yeah, it does. You probably didn't change the date on your plans.

Anyway, the work proceed --

MICHAEL KIM: As submitted in June of --

SLATER ANDERSON: It's on this thing.

CONSTANTINE ALEXANDER: That's the motion.

SLATER ANDERSON: They actually have a March date

over here. March 21st here.

CONSTANTINE ALEXANDER: Still before tonight.

SLATER ANDERSON: It is.

CONSTANTINE ALEXANDER: Anyway, the Chair moves
that we grant the Variance subject to the compliance with these plans.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. The Variance
is granted. Good luck.

(Alexander, Sullivan, Green, Anderson, Best.)

MICHAEL KIM: That means the Special Permit --

CONSTANTINE ALEXANDER: No, that's coming up.

MICHAEL KIM: Oh, that's coming up.

CONSTANTINE ALEXANDER: Not done yet.

MICHAEL KIM: Okay.

CONSTANTINE ALEXANDER: Okay, let's turn to the
Special Permit. Why don't you talk just a little bit about the windows in
the setback issue that requires a Special Permit.

MICHAEL KIM: Okay. There are -- we're completely remodelling both floors of the house. Rooms are being moved and the windows are being moved with them. All the windows are being replaced with new. Therefore -- and both side walls are in their respective setbacks. So as a requirement of the zoning, we're required to submit the Special Permit.

CONSTANTINE ALEXANDER: And the reason why is that, the thing that we just look at on these cases is privacy for your neighbors who would -- have any of your neighbors complained about the new window proposal in your setbacks?

MYUNG-HEE VABULAS: There was one neighbor who expressed some concerns, and we worked with him to find a solution that he was happy with.

CONSTANTINE ALEXANDER: Okay. So you're reporting that he did -- he now is in support?

MYUNG-HEE VABULAS: Yes. And he sent an e-mail saying that. It might be in your file.

CONSTANTINE ALEXANDER: Okay.

Any questions from members of the Board?

JANET GREEN: No.

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

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

I think we're ready for a vote unless people have questions or want discussion? No.

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

That the requirements of our Ordinance cannot be met unless we grant you the Special Permit that you're requesting.

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

That the continued operation or development of adjacent uses as permitted by the Zoning Ordinance will not be adversely affected by

what is proposed.

And to in support of this, we have the fact that the neighbors, the neighbor most directly affected by the relocation apparently has no objection to what is being proposed.

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

And that generally what you're proposing with regard to the windows will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

So on the basis of these findings, the Chair moves that we grant the Special Permit requested, again, subject to the condition that the work proceed in accordance with the plans we referred to with regard to the Variance.

And just before we take the vote, just to a reminder, I think you know this, these are the final plans, because if you modify them, you're going to have to come back before and you don't want --

MICHAEL KIM: And nobody wants that.

CONSTANTINE ALEXANDER: All those in favor of granting
the Special Permit please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special
Permit granted.

(Alexander, Sullivan, Green, Anderson, Best.)

CONSTANTINE ALEXANDER: Don't go very far.

* * * * *

(7:25 p.m.)

(Sitting Members Case No. BZA-016152-2018: Constantine Alexander,
Brendan Sullivan, Janet Green, Slater W. Anderson, George S. Best.)

CONSTANTINE ALEXANDER: We have the continued case with the old dormers. You don't need it any longer. Are you requesting a withdrawal?

MICHAEL KIM: Yes, please.

CONSTANTINE ALEXANDER: All those in favor of accepting the withdrawal say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Now you're all done.

(Alexander, Sullivan, Green, Anderson, Best.)

* * * * *

(7:30 p.m.)

(Sitting Members Case No. BZA-016766-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Slater W. Anderson, George S. Best.)

CONSTANTINE ALEXANDER: The Chair will now call case No. 016766, 66 Antrim Street.

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

We've seen you before.

ALEX VAN PRAAGH: Yes. Nice to see you again.

CONSTANTINE ALEXANDER: Well, you know the drill.

Give your name and address to the stenographer and anybody else who may wish to speak.

SLATER ANDERSON: And use the mic, please.

CONSTANTINE ALEXANDER: Yeah, and use the mic, also.

ALEX VAN PRAAGH: Hi, my name is Alex van Praagh.

JANET GREEN: Get really close to the mic.

ALEX VAN PRAAGH: Yes. My name is Alex Van Praagh.

I live at 95 Antrim Street. I'm here to seek a Variance and a Special Permit for 66 Antrim. This is my wife Whitney.

CONSTANTINE ALEXANDER: Now, the issue is as you well know, before, up until now it's been the dormers or dormer perhaps.

ALEX VAN PRAAGH: Yes.

CONSTANTINE ALEXANDER: And the failure to comply with the dormer guidelines. Are you now in compliance?

ALEX VAN PRAAGH: I believe I am in compliance with the dormer guidelines. And I wrote notes which I would be happy to go

through.

CONSTANTINE ALEXANDER: Sure. The floor is yours, do whatever you wish in terms of what you want to tell us.

ALEX VAN PRAAGH: Okay.

Well, as just stated, I'm here to apply for the Variance to add to the rear of the third floor, add a northeast facing dormer, to rebuild the front porch roof and turn it into a second floor front porch deck.

The Special Permit is in order to add three northeast facing windows on a non-conforming setback. There's only four feet between me and the one neighbor to the left. And to enlarge the northeast facing basement windows.

So that's the gist of the application.

CONSTANTINE ALEXANDER: And the purpose -- I mean, the purpose of these new dormers and other relief, and with a mind toward complying with the zoning requirements, you know, literal substantial hardship, special conditions, etcetera.

ALEX VAN PRAAGH: Yes, it's on an existing non-conforming lot. And the house is in need of serious repair. So --

CONSTANTINE ALEXANDER: But you're expanding the size, the living space of the house.

ALEX VAN PRAAGH: Yes.

CONSTANTINE ALEXANDER: That's the purpose of the dormers.

ALEX VAN PRAAGH: Yes, it is.

CONSTANTINE ALEXANDER: And why is it a hardship that requires to you do these dormers? Is there not enough room in the house?

WHITNEY VAN PRAAGH: It's going from a two family to a one family.

CONSTANTINE ALEXANDER: Say it again.

ALEX VAN PRAAGH: Currently we live in 1400 square feet. We could continue to live in 1400 square feet, we could live in less. I'm not, I mean --

CONSTANTINE ALEXANDER: Your wife doesn't agree with you, you know that?

ALEX VAN PRAAGH: No, nor do my kids who are becoming

teenagers. Let me stay on point and just read through this if I may.

CONSTANTINE ALEXANDER: Sure, go ahead.

ALEX VAN PRAAGH: The case is new to at least one of you. So I wanted to reintroduce myself and go through the brief history of what -- how things have come to pass to now.

CONSTANTINE ALEXANDER: Good.

ALEX VAN PRAAGH: In April of 2004 --

JANET GREEN: One of us is new? I'm sorry.

CONSTANTINE ALEXANDER: Slater.

JANET GREEN: Slater's new on this?

CONSTANTINE ALEXANDER: Yes.

ALEX VAN PRAAGH: Yes. Which is -- so we purchased our first home on Antrim Street in April of 2004. It's a unit within a three-family. We've lived in Cambridge for over two decades. I've worked for local architecture firms. I've served on the Board of East End House. I volunteered for City Sprouts. I've chaired the Public Arts Commission. My wife teaches at the Cambridge Public Art -- teaches art at the after school program. We have three kids in the public schools.

We're strongly invested in the community.

In June of 2016 we were able to purchase the property in question at 66 Antrim. It needed substantial renovations. We didn't have funds remaining to do those renovations, so we rented the property. In the ensuing year we developed a design, part of which included measuring the house. And we learned that instead of being 313 square feet under the allowable FAR, it is only 66 square feet under the allowable FAR. The public records list it as one thing, my measurements showed it to be another.

The house has augmented wiring, failing windows, requires a new roof, requires plumbing repair, mold is forming because of the plumbing repairs. There's foundation work. None of these were huge surprises, but the square footage was. So a year later in 2017, the summer of 2017, we got some savings and we developed a design. We, you know, the best way forward was a gut renovation, and while we were doing the work, we thought that we would complete the third floor to best meet our needs. If we'd used the public records, we could have been under the allowable FAR but it didn't seem like the right way to go. I

checked with every abutter, and many of the nearby neighbors, none objected, and nearly half a dozen wrote strong letters of support. They're in my file.

The original application was back in September of 2017. The first hearing was continued due to a procedural error. Support documents were submitted --

CONSTANTINE ALEXANDER: Too late.

ALEX VAN PRAAGH: -- too late.

So the -- it was continued. And on November 9, 2017, my case was heard and it was approved.

Two months later on January 10, 2018, the approval decision was recorded and 19 days after that approval was recorded, an appeal was filed. I discovered it much to my dismay, but it was the owner, which I did not know, the son of whom I thought the owner was, filed the appeal. He owns and rents this property and he's on the LLC. He has every right to file the appeal and he did so.

So at this point the case automatically goes to Land Court and the expenses jump up and I meet with the abutter who filed the appeal

and I revised the design. We resubmit the design. And on April 26th I present the revised design that the abutter has signed off on to the BZA, but the BZA then said we would like this case continued because your solution is putting what we approved in a new light, and we would like you to continue this case and come up with a better design.

So I went back and I revised the design --

SLATER ANDERSON: Can I ask a question?

ALEX VAN PRAAGH: Absolutely.

SLATER ANDERSON: Was that related to the dormer guidelines?

CONSTANTINE ALEXANDER: That was the problem when he came back. Yes.

ALEX VAN PRAAGH: Yeah.

So then on May 31st I came back and there were four members of the Board, and it was advised that I should wait until there were five members of the Board. And I followed that advice. And I have met with the abutter. I have revised the design further so that it is even more in compliance. I've presented and reviewed the latest design with

Sarah Burks of the Cambridge Historic Commission. There's a new case number on this, so I realized it should probably go in front of Historic since it's Mid Cambridge Historic. So I took care of that.

She said that she's fine with it. It can be extended six months so that it won't expire until September 20, 2018, by which time hopefully I can get a permit. But that's pending this hearing. So the current proposal is essentially the same on the first -- on the basement, first, and second floor. And the third floor has been further reduced by 70 square feet. The overall proposal adds 286 square feet to the existing building. And, again, using public record numbers, this would keep the building 27 feet under the allowable square feet. But using my measurements, it's 219 square feet over. So here I am.

CONSTANTINE ALEXANDER: And just, I don't mean to interrupt you, but currently your structure is conforming as to FAR.

ALEX VAN PRAAGH: Yes.

CONSTANTINE ALEXANDER: This additional space you're adding makes you a nonconformance. You're going to go from 0.73 to 0.82 in a district where you're not supposed to be more than 0.75, which is

why you're down here for the Variance.

ALEX VAN PRAAGH: Yes. And I'm not arguing the fact that being down here -- and I put myself down here by being honest by declaring the numbers.

So I am -- I brought these photos in case, you know, the actual building -- and they're in the record already.

CONSTANTINE ALEXANDER: Right.

ALEX VAN PRAAGH: But if they want to be referenced by anybody new to the case.

The existing stair dormer is no longer being enlarged. We're leaving it as it is. We're gonna duck as we go down the stairs.

The new dormer is nine foot, ten on the interior and eleven foot two on the exterior. Per dormer guidelines, it's been pulled back from the exterior face of the building. It's not gonna line up with that other dormer, but I'm trying to go with the guidelines. So previously they were lining up.

I'm also lowering the front eave of this dormer so that it's more of a pitch on the roof. This dormer is also lowered, so there's more of a

pitch on this roof and we can see that in the elevations.

Let me flip to the third floor which is really the only floor that's changed. The bathroom serving the kids on the third floor is split up and there's a toilet and shower that's been shoehorned into the girls' room, and it's sort of just taking away room from what was already modest bedrooms, but it's tucked in there. And then I have a sink off the corridor, and I'm allowing headroom by introducing a skylight. No dormer connecting the dormers which is what I was hoping to do with a non-street visible connector.

The massing of the third floor bedroom is unchanged from the agreement that I have with the abutter who filed the appeal. It goes to the northeast side of the building. Fortunately the neighbors on the northeast side of the building are okay with every aspect of the design. I've met with them. I've reviewed it. They're aware of the dormer. They're okay with the dormer. They're aware of the windows that are on this side that are requiring the Special Permit. They're okay with that. They're aware of the basement windows being enlarged. So they've -- it's a two-unit building. All three -- the two members have each submitted letters on

record and they stand by their approval.

So that's the change from before. I can go through other aspects of the design as needed. If the Board sees fit to approve the design tonight, it's my hope that this long time coming decision -- you know, I understand there has to be a 20-day appeal period. No negotiation there.

CONSTANTINE ALEXANDER: And that runs not from tonight.

ALEX VAN PRAAGH: Not from tonight, but from the record. Now last time it took -- it took two days over two months to get the record filed. And if there is any way that that could be compressed -- what I'm looking at is a desire to try and do a renovation where I can get a building permit before the winter. And I'll just leave it, leave it at that.

CONSTANTINE ALEXANDER: We don't --

ALEX VAN PRAAGH: I know that's sort of maybe not --

CONSTANTINE ALEXANDER: We don't control that.

ALEX VAN PRAAGH: You don't control the --

CONSTANTINE ALEXANDER: No, I don't.

ALEX VAN PRAAGH: -- any aspect of the control.

CONSTANTINE ALEXANDER: No. It's more the
Inspectional Services. Once we decide a case --

ALEX VAN PRAAGH: Okay. A good note from you might
catch their attention.

CONSTANTINE ALEXANDER: Well, there's a representative
from the Inspectional Services Department here tonight.

ALEX VAN PRAAGH: Okay.

CONSTANTINE ALEXANDER: And she will pass on your
request.

ALEX VAN PRAAGH: Okay.

CONSTANTINE ALEXANDER: But it's only a request --

ALEX VAN PRAAGH: Fair enough.

CONSTANTINE ALEXANDER: They have a lot of other
cases to prepare.

ALEX VAN PRAAGH: Okay. I can be quiet.

JANET GREEN: The other thing I'd like to say is that it's not
you can go to get a permit on the 20th day.

ALEX VAN PRAAGH: No.

JANET GREEN: It's the 21st day that you can actually go --

ALEX VAN PRAAGH: Okay, fine. Yes.

JANET GREEN: Because it's the full 20 days.

ALEX VAN PRAAGH: The full 20 days, okay.

JANET GREEN: Just so you don't make an extra trip.

ALEX VAN PRAAGH: Thanks for clarifying.

Well, thanks for listening. I wanted to --

CONSTANTINE ALEXANDER: Thanks for a thorough presentation. It was very useful, particularly for Slater.

ALEX VAN PRAAGH: Well, I thought if it's a new mix, that I needed to do that.

CONSTANTINE ALEXANDER: Questions from members of the Board?

JANET GREEN: I'm good.

CONSTANTINE ALEXANDER: Apparently not. I'll open the matter up to public testimony.

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

You don't have to. I noticed you were here. But just give your name and address for the stenographer.

SANTINO FERRANTE: Santino Ferrante, S-A-N-T-I-N-O
Ferrante F-E-R-R-A-N-T-E. My address is 78 Inman Street in
Cambridge.

And I am the abutter who filed the appeal.

CONSTANTINE ALEXANDER: And what are your reviews
with regard to tonight?

SANTINO FERRANTE: I reviewed the plans. They're fine
with me. I was actually happy with the extra dormer in there. I thought
that made a lot more sense. But as presented, I'm happy with that plan.
It addresses the concerns that I have, and I support the petition.

CONSTANTINE ALEXANDER: Well, if we grant relief, it will
be on the basis that they go ahead with those plans.

SANTINO FERRANTE: Right, I understand.

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

SANTINO FERRANTE: Sure.

CONSTANTINE ALEXANDER: Sir? I saw a person over here.

GEORGE METZKER: Good evening.

CONSTANTINE ALEXANDER: Name and address to the stenographer, please.

GEORGE METZKER: George Metzker, 90 Antrim Street.

As a 44-year resident of the street, I spoke almost a year ago in favor of this when it first came before you. The petitioner is now obviously as they've described a longstanding member of the street. And they've been hoping to go stay on the street as their family grows. The conditions of relief that they're asking from you for are really consistent with most of what the street already is. Also, non-conforming structures, by in large up and down our street due to the narrowness of existing lots and the pattern of non-conforming side yards and floor areas. The planned alterations are also consistent with the guidelines of conservation district as Alex has already mentioned, which has approved the proposed design and the original proposed design, and is aware of the modifications. So I'm here to ask that you grant relief on the merits of the proposal, on the hardship

that the strict dimensional enforcement renders most other houses on the street non-conforming, prevents this owner from altering and occupying this family home in a manner that's consistent with all of those surrounding and non-conforming structures already on the street.

Limits the ability of invested families like them with several children to stay in our neighborhood, and serves only to exacerbate the current housing crisis for families with children.

Past opposition apparently has been withdrawn.

I urge the Zoning Board to approve this. And while you can certainly within your right, and I respect that, to comment on the design. The Mid Cambridge Conservation District has already done that and finds that it's appropriate. And I urge you to embrace that and grant that Variance on those matters of hardship regarding the existing pattern of dwellings and buildings on the street now.

Thank you.

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

Anyone else wishes to be heard?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

We have no letters in the file regarding this current version of the plans. They were letters of support as you indicated with earlier versions.

ALEX VAN PRAAGH: Yes.

CONSTANTINE ALEXANDER: So I'm going to close public testimony.

Discussion or we ready for a vote? We need two votes by the way, Variance and Special Permit.

All set?

JANET GREEN: I'm ready.

CONSTANTINE ALEXANDER: Okay, with regard to the Variance being sought:

The Chair moves that we make the following findings which are required by law:

That a literal enforcement of the provisions in the Ordinance would involve a substantial hardship. Such hardship being is that this is

an older non-conforming structure with a less than advantageous interior configuration, and therefore, relief of this sort that the petitioner is proposing with regard mainly to the construction of dormers will resolve this not only for him and his family but for future owners of the property.

The hardship is owing to the fact that this is already a non-conforming structure and therefore any modification to the structure requires zoning relief.

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

In this regard we have neighborhood testimony in support of what the petitioner is proposing. And pointing out is that what will be the result if we grant the relief will not be inconsistent with the typical streetscape in the immediate vicinity of 66 Antrim Street.

So on the basis of all of these findings, the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with plans submitted by the petitioner, dated June 12, 2018, and initialled by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

(Alexander, Sullivan, Green, Anderson, Best.)

CONSTANTINE ALEXANDER: Turning to the Special Permit with regard to the windows. The Chair moves that we make the following findings:

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

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

That the continued operation of or development of adjacent uses will not be adversely affected by what is proposed. In this regard you presented testimony is that the neighbor most affected by the window treatments and the dormers are in support of what you wish to do.

That no nuisance or hazard will be created to the detriment of

the health, safety, and/or welfare of the occupant. That's you. Of the proposed use or the citizens of the city.

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

Again, the Chair would cite the lack of neighborhood opposition and that the minor relief that's required with regard to the relocation or rebuilding of the windows.

So on the basis of all of these findings, the Chair moves we grant the Special Permit requested again on the condition that the work proceed in accordance with the plans that we referenced in the Variance we granted.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor, Special Permit granted.

(Alexander, Sullivan, Green, Anderson, Best.)

ALEX VAN PRAAGH: Thank you.

* * * * *

(7:45 p.m.)

(Sitting Members Case No. BZA-015930-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Slater W. Anderson, George S. Best.)

CONSTANTINE ALEXANDER: Last but not least we have your continued case from a prior time. Do I have a motion from you to withdraw since you don't need it, the request.

ALEX VAN PRAAGH: Yeah, the one that was approved before?

JANET GREEN: No.

CONSTANTINE ALEXANDER: No, the last one.

ALEX VAN PRAAGH: Oh, the continued? Yes, you do.

Yes, of course you do. Can I just ask --

CONSTANTINE ALEXANDER: Yeah. I mean, I don't know if I have an answer but you can ask.

ALEX VAN PRAAGH: Had I made this presentation with regard to the two dormers being connected by that eyebrow, I mean that's what's being dismissed now.

CONSTANTINE ALEXANDER: That was our problem last time --

ALEX VAN PRAAGH: Yeah.

CONSTANTINE ALEXANDER: -- that connection, it made the dormer too big.

ALEX VAN PRAAGH: Is that what I'm dismissing right now?

CONSTANTINE ALEXANDER: Yeah. The immediate prior plans.

ALEX VAN PRAAGH: Okay.

CONSTANTINE ALEXANDER: These are the ones. You showed us enough.

ALEX VAN PRAAGH: That's dismissed. That's gone.

CONSTANTINE ALEXANDER: You have to proceed in

accordance with these plans and no other.

ALEX VAN PRAAGH: I understand. I understand. It's just that one was ever heard. I chose -- I made that decision and --

CONSTANTINE ALEXANDER: Right. It was a wise decision, because I don't think you would have gotten relief.

ALEX VAN PRAAGH: Very good.

CONSTANTINE ALEXANDER: Based on those plans.

ALEX VAN PRAAGH: Okay.

CONSTANTINE ALEXANDER: We do, we do pay particular attention to the dormer guidelines.

ALEX VAN PRAAGH: Okay.

CONSTANTINE ALEXANDER: We don't rigidly apply them. And we thought there was a solution to comply with the dormer guidelines and you came up with that solution.

ALEX VAN PRAAGH: Okay.

CONSTANTINE ALEXANDER: So are you asking to withdraw?

ALEX VAN PRAAGH: I ask that you withdraw that previous

application.

CONSTANTINE ALEXANDER: The Chair moves that we grant the requested withdrawal.

All those in favor, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. And that's withdrawn and finally you're done.

(Alexander, Sullivan, Green, Anderson, Best.)

ALEX VAN PRAAGH: Thank you very much.

* * * * *

(7:50 p.m.)

(Sitting Members Case No. BZA-016634-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Slater W. Anderson, George S. Best.)

CONSTANTINE ALEXANDER: The Chair will call case No. 016634, 294 Huron Avenue.

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

Name and address, please.

STEVE LEWIS: Good evening.

CONSTANTINE ALEXANDER: Good evening.

STEVE LEWIS: Oh, sorry. I'm Steve Lewis, 294 Huron Avenue, Cambridge.

CONSTANTINE ALEXANDER: Okay. The floor is yours. You're seeking a Variance to enlarge a covered front entrance?

STEVE LEWIS: Yes, thank you. Again, I'm Steve Lewis. I'm here representing myself and my wife Serenella who apologizes for being absent. She had to work.

We've lived in this residence for about 20 years and raised our son continues to live with us. Three years ago my mother moved here from New York. So she has become our tenant on the first floor.

CONSTANTINE ALEXANDER: This is a two-family house?

STEVE LEWIS: Yeah, two-family house. We've been in this neighborhood quite sometime. We've done, we think a substantial number of improvements on our property, in the house, and pretty much maintained it. We took down a two car garage a number of years ago

and created a garden. And I think we have a pretty good understanding of the character of the neighborhood and what makes it attractive to us to live. And I'm here tonight to ask for a nonliteral enforcement or a relaxation of a literal enforcement --

CONSTANTINE ALEXANDER: It's a Variance we call it.

STEVE LEWIS: A Variance, yeah, sorry. A Variance.

Simply put, the front porch of our house, it's a two-family house, it's a single front door, you enter the house both unit -- the habitants of both units enter through a single front door, and then there's a very small kind of a foyer and then the actual front doors to each of the units enter onto that foyer. We need to replace this. And the porch has a covered roof over the one entry. It's essentially delapidated and it needs to be demolished and replaced. So we're here to ask you permission and allow us to replace it and enlarge the platform of the porch to accommodate a second front door which would then go directly into the primary entrance to the first floor unit.

CONSTANTINE ALEXANDER: That enlargement will add about 30 feet.

STEVE LEWIS: 30 square feet, that's correct. That's about a five foot, five-and-a-half extension of the length of the platform of the porch. And then we would, if permission is granted, extend the roof over the porch so that it would cover the entire porch pretty much in conformity with the --

SLATER ANDERSON: It's the roof that triggers the increase in area?

STEVE LEWIS: That's correct.

SLATER ANDERSON: If it was just a deck and a door --

STEVE LEWIS: Yes. We're not asking for permission to put that in. We're asking for permission for the Variance to allow us to cover the entire porch.

SLATER ANDERSON: Yeah.

STEVE LEWIS: To be specific it would add 30 square feet or which would translate into seven one-hundredths of one percent of an increase in the FAR. So that's what we're here to ask for.

CONSTANTINE ALEXANDER: This is just for the record, not to alarm you.

Right now you're non-conforming. Your structure is non-conforming --

STEVE LEWIS: Yes.

CONSTANTINE ALEXANDER: -- as to FAR?

STEVE LEWIS: Yes.

CONSTANTINE ALEXANDER: You're at 0.73 in a point-seven -- I'm looking at the wrong notes. I'm sorry. You're at 0.751 --

STEVE LEWIS: Yes.

CONSTANTINE ALEXANDER: -- in a district that's supposed to be no more than 0.5.

STEVE LEWIS: Yes.

CONSTANTINE ALEXANDER: And you would go to 0.758. So a very, very slight increase.

STEVE LEWIS: Yes. Yes. That's the seven, one-hundredths of one percent.

And if you would like, I'm happy to summarize the case that we put forth in the statement. I don't want to try people's patience.

CONSTANTINE ALEXANDER: I think you can assume that we've all read the statement. Although if not, members can request it.

STEVE LEWIS: Is there anything in particular you want me to comment on?

CONSTANTINE ALEXANDER: Not I.

JANET GREEN: I thought it was self-explanatory.

CONSTANTINE ALEXANDER: I think we're all set.

STEVE LEWIS: We have spoken to the neighbors, the abutters, and everyone is okay with the project. I believe one of our neighbors is here tonight.

CONSTANTINE ALEXANDER: Maybe more than one. I see a bunch of people.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Not us.

STEVE LEWIS: We've submitted a plan.

CONSTANTINE ALEXANDER: Yeah.

STEVE LEWIS: And it seems fairly straightforward.

CONSTANTINE ALEXANDER: With regard to that plan, you're talking about these construction plans?

STEVE LEWIS: Yes.

CONSTANTINE ALEXANDER: Just so you understand.

You may have got the sense from our earlier cases, when we approve something, and I assume we're going to approve it, we prove it subject in compliance with the plans you submitted.

STEVE LEWIS: Yes.

CONSTANTINE ALEXANDER: So that if you decide to change the plans in any material way, you're going to have to come back before us.

STEVE LEWIS: Yes.

CONSTANTINE ALEXANDER: You're comfortable these are your final plans?

STEVE LEWIS: Yes, yes.

CONSTANTINE ALEXANDER: Okay.

STEVE LEWIS: I have no reason to change it. I mean, it's a pretty clearcut project.

CONSTANTINE ALEXANDER: Okay.

Questions from members of the Board?

JANET GREEN: No.

CONSTANTINE ALEXANDER: No questions.

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

You don't have to speak, but you're welcome to. Sir. Name and address to the stenographer.

STUART BARNES: My name is Stuart Barnes. I live at 67 Reservoir Street, which is right across the street at the intersection. I'm sort of diagonally across from the corner. And I not only talked with Steve but looked at his plan, but I actually walked over and saw the space. And for someone -- I'm one of the long -- almost the longest living person in that immediate neighborhood now. The actuarial tables haven't quite caught up with me yet, and there are a lot of younger people moving in so it's changing. There aren't that many longtime residents as there was when I moved in in 1984.

When you actually are physically there and look at it, for someone who has arthritis and a little creaky, and for little kids walking around that entrance space, is at best awkward. And I wholeheartedly support the proposal. I think it will actually be more attractive and

certainly make it a lot easier to get in and out of the house. So....

CONSTANTINE ALEXANDER: Thank you.

STEVE LEWIS: Thank you. Thank you for coming in.

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

Anyone else wishing to be heard?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

The Chair would report that we are in receipt of a petition which reads: We have reviewed the plan of our neighbor Steve and Serenella to replace the existing single-family front porch with a two entrance porch, including extending the porch roof by approximately five feet at their two-family home at 294 Huron Avenue. We have no objection to this project and support its approval by the Board.

And this petition is signed by 1, 2, 3, 4, 5, 6, 7, 8, 9 persons.

And in addition, I think we have letters, individual letters of support as well, maybe not. It would be confusing. In any event, there's nothing in our files that indicate any neighborhood opposition to do what you want to do.

Discussion or ready for a vote?

JANET GREEN: Ready.

CONSTANTINE ALEXANDER: Okay.

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

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being, and this is an older two-family structure, poorly designed with regard to its front entrance, making the usability of the two units difficult.

And that further that the current -- the front entry in any event needs to be replaced because of delapidation.

That the hardship is owing to the fact that this is already a non-conforming structure, and therefore any zoning relief -- any modification to the structure requires zoning relief.

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

In this regard the Chair would note there is

unanimous -- apparent unanimous neighborhood support, and that what will result from this will be an improvement to the housing stock of the City of Cambridge.

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

All those in favor please say "Aye."

(Aye.)

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

(Alexander, Sullivan, Green, Anderson, Best.)

STEVE LEWIS: Thank you very much. Do we -- just a procedural question.

CONSTANTINE ALEXANDER: Yeah.

STEVE LEWIS: What happens next?

CONSTANTINE ALEXANDER: Okay. What happens next --

BRENDAN SULLIVAN: One day over two months.

CONSTANTINE ALEXANDER: You're not going to be building tomorrow that's the point.

The Inspectional Services Department writes up our decision, summarizes what happened tonight. That takes often weeks and weeks and weeks. Once that is done and signed by me as the Chair or someone on behalf of the Board. Then it gets filed with the City Clerk and the abutters are notified, you'll be notified of the filing. And then there's a 20-day appeal period. So that someone can take an appeal of our decision within those 20 days to the courts. Once the 20 days has run and there is no appeal, then you're home free and you can start work. But --

STEVE LEWIS: Apply for the permit you mean, and then --

CONSTANTINE ALEXANDER: Yeah. Well, you have a Variance. And then you can apply for your permit, right. Probably two to three months before you're able to do that.

STEVE LEWIS: All right. Thank you very much.

* * * * *

(8:00 p.m.)

(Sitting Members Case No. BZA-016549-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Slater W. Anderson, George S. Best.)

CONSTANTINE ALEXANDER: The Chair will call case No. 016549, 254 Franklin Street.

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

Sean.

ATTORNEY SEAN HOPE: Good evening, Mr. Chairman, members of the Board. For the record, attorney Sean Hope, Hope Legal Law Offices in Cambridge, and I'm here on behalf of the petitioner, the Hellenic Orthodox Community Church of Cambridge. And we have Mr. Eric Sioras.

ERIC SIORAS: My name is Eric Sioras. I'm the President of the parish council of the Hellenic Orthodox Community --

CONSTANTINE ALEXANDER: (Inaudible).

ERIC SIORAS: Also known as Saint Helen's Orthodox Church at 14 Magazine Street.

THE STENOGRAPHER: Can you spell your last name for

me?

ERIC SIORAS: Last name Sioras, S-I-O-R-A-S.

ATTORNEY SEAN HOPE: Yes. So this is a Variance application requesting an addition that's within the side yard setback. Also a Variance because the existing structure is within ten feet of an accessory garage. So by adding an addition on that side of the building, it triggers additional relief. So, it's -- this is existing three-family structure, and the third floor of the dwelling, the rear portion is actually some attic space that's not liveable. And the interior layout, if you look at the floor plans, are quite awkward. It almost reminds you of Philadelphia style house where you enter in and there's -- it's just not functional.

CONSTANTINE ALEXANDER: Can I ask you who prepared the plans that are in the file? There's no identification of a third party, like an architect or a designer.

ERIC SIORAS: The architect is Peter Fourtounis. Which he was supposed to be here today, but because he's doing charity work for the church, he's main job was in Philadelphia an today. He just landed --

CONSTANTINE ALEXANDER: Why didn't he sign the

plans?

ERIC SIORAS: That I don't know. But he's, he's doing charity work for the church.

CONSTANTINE ALEXANDER: Okay. But you say they have been reviewed --

ERIC SIORAS: Yes.

CONSTANTINE ALEXANDER: -- by an architect or maybe prepared?

ERIC SIORAS: Yes. They are prepared by Mr. Fourtounis.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY SEAN HOPE: And the architect is employed at Elkis-Manfredi, but I think this was outside of that realm so that's maybe why he didn't sign it --

CONSTANTINE ALEXANDER: Maybe he doesn't want to --

ATTORNEY SEAN HOPE: -- or put a stamp on it.

So in terms of the relief, so part of the relief is to approve the interior layout and to increase in functionality. One of the elements of the relief is raising the roof height in the rear portion, which is increasing the

total gross floor area. I'd like to point out to the Board that we're still below the 0.75 that's allowed in the district.

On the side that's most sensitive, we have one side yard setback that's less than two feet on that side. The main abutter is the church itself. So any issues of privacy and massing, they're their own abutter.

On the left-hand side where there's a driveway, there's also an addition on that side which is outside of the side yard setback. So really the mainly intrusion or violation of the Ordinance is within the right side setback which is the abutter.

And then also, even though having a structure within ten feet is additional relief, it is an accessory garage, and the addition is going to be on the third floor. So things like fire and hazard that are normally attributed with structures within ten feet, I don't believe are as relevant in this particular case.

This rental --

CONSTANTINE ALEXANDER: Who occupies this? This is used by the church for church purposes?

ERIC SIORAS: The property is run by the church.

CONSTANTINE ALEXANDER: Yes.

ERIC SIORAS: And currently it's occupied, two units are occupied.

CONSTANTINE ALEXANDER: I'm sorry?

ERIC SIORAS: Two units are occupied.

CONSTANTINE ALEXANDER: Right.

ERIC SIORAS: It's rented out. Actually, it serves as a main source of income to support the parish.

CONSTANTINE ALEXANDER: It's not rented out for the priest?

ERIC SIORAS: No, no, no. It's rented out for income.

CONSTANTINE ALEXANDER: It's commercial rental.

ERIC SIORAS: As for the purpose for revenue for the church. That's our main source. Anybody who is involved with a non-profit organizations and churches, you know what it's like to raise funds these days. So that's our main purpose.

ATTORNEY SEAN HOPE: And so, again, as Mr. Sioras

said, this is a rental property. It's going to remain a rental property.

There are some -- in the addition, there is a dormer of sorts. They had a rear dormer. And that is directly above on the one side it's directly above the stairwell, and part of that is creating a separate egress for that third unit where currently they go through a hallway through the front door through the side. So this gives that third top floor unit with the bedrooms an egress out to the rear yard, which improves, I believe, the safety in terms of access and egress to the structure. And so overall, I think there's going to be a drastic improvement in the structure.

The increase in the square footage is still within what's allowed, but I still don't believe that it's in excess of what the Board might typically see in a three-family structure such as this.

ERIC SIORAS: Also I wanted to -- on the previous question, the one about the priest. We're in the process of getting a new priest at the parish, that might become a reality if one of the units be occupied by the priest. The current conditions I wouldn't say that's, you know, liveable for somebody.

CONSTANTINE ALEXANDER: If that's the case --

ERIC SIORAS: For kids or whatever.

CONSTANTINE ALEXANDER: If that's the case, then you'll have two rental units and one that you'll provide free of charge presumably for the priest.

ERIC SIORAS: Exactly.

CONSTANTINE ALEXANDER: That's it?

ATTORNEY SEAN HOPE: That's it.

CONSTANTINE ALEXANDER: Questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. I'll open the matter up to public testimony.

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

Please come forward and give your name and address to the stenographer, please.

ADRIANA GUTIERREZ: My name is Adriana Gutierrez, and we live on 248 Franklin Street. We are on the left of their -- of the garage. We are incredibly close. It's less

than --

CONSTANTINE ALEXANDER: Two feet.

ADRIANA GUTIERREZ: Two feet.

And the addition, the raising of the building is of high concern to all of us because they will obstruct view and light from the side of the church. And it will increase definitely. There is already -- it, it will compound the fire code violation that already exists by virtue of being an old building previous to the fire code --

CONSTANTINE ALEXANDER: Right.

ADRIANA GUTIERREZ: -- norms that exist now. So we are really concerned of the raising of that building.

They did not contact us. We learned from the letter. I contacted the church. They told me that they were only renovating inside. And I don't know whether that's relevant or not, but they have not made any effort to contact their neighbors or to explain to us what's at stake.

CONSTANTINE ALEXANDER: Well, they're only renovating the inside, which they're not, they would not need zoning relief.

ADRIANA GUTIERREZ: Right, that's why we weren't concerned until we got the letter.

CONSTANTINE ALEXANDER: I'm very surprised that you haven't been contacted because Mr. Hope is an experienced zoning lawyer and he does a good job making sure that everybody, neighbors know, you know, seeking neighborhood approval or at least their opinions with regard to proposed zoning relief.

ADRIANA GUTIERREZ: Our building is going to change dramatically.

CONSTANTINE ALEXANDER: It is. It is going to change. It's going to have a big impact on their structure.

ERIC SIORAS: We have Ms. Gutierrez is on the driveway side. It's not -- you know, which is, it's an opening. And she's currently a tenant of ours, too, of the driveway.

BRENDAN SULLIVAN: Also, I would suggest that there be some discussion and not here, but it's probably a whole host of issues that need to be hashed out.

CONSTANTINE ALEXANDER: I think that's a good

suggestion.

ATTORNEY SEAN HOPE: Yeah.

CONSTANTINE ALEXANDER: What we're suggesting -- sir, one second. Let me just -- is we don't decide the case tonight. We call it -- we continue the case to another night and give you and all of your neighbors, all the concerned parties the opportunity to sit down, talk about this, and if necessary, and if you wish, to modify the plans. That's to be decided by you folks.

Now, sir, I'm sorry to interrupt you.

BRENDAN DOOLEY: I'm Brendan Dooley. And we're at 246, which is part of the same condo as 248, but we are on separate unit, a small cottage in the middle of the block. And we are also direct abutters. So our terrace and so on are on the -- basically we view on this property. And the same issues that concern 248 would absolutely concern us in terms of light, in terms of blocking the view, and in terms of the congestion and all of those issues also affect us.

CONSTANTINE ALEXANDER: Okay. Thank you.

Hopefully you will be able to join these discussions that I think are going to

be forthcoming.

Sir, you want to speak?

VALERIO TOLEDANO: So my name is Valerio Toledano.

V-A-L-E-R-I-O T-O-L-E-D-A-N-O. So I'm an owner of unit No. 2 at 240 Franklin Street. So we are the main abutters of the building. So I wanted to express similar concerns. We are only unit No. 2, so we have a beautiful view on the dome of the church actually, and we're very concerned that this extension would actually block, block our view at least partially for me and the light.

The fire hazard that was also mentioned, I mean I think maybe one element that didn't come up was that there was a fire on the other side, No. 240 in 2005, so this is still a very fresh memory in the condo. So we're very concerned. Not that this -- but anyway, we were aware that fires happen and it happened to happen on the other side and this for us is a big concern. I also wanted to mention Franklin Street is a busy street, but that particular part of Franklin Street is particularly busy because there are many street apartments. And so we're kind of a little concerned that this would, you know, compound the overcrowding of that

particular part of Franklin Street. And also of course it would affect the value of our property.

CONSTANTINE ALEXANDER: Sure. Okay, thank you for taking the time to come down.

I think we're going to continue this case. This will be continued as a case heard. So we need the five of us to be present as you well know.

ATTORNEY SEAN HOPE: Yeah.

CONSTANTINE ALEXANDER: What's the date, first date? How much time do you think you need first of all?

ATTORNEY SEAN HOPE: Because we didn't do the requisite outreach, there's probably larger concerns than necessary, so I think --

CONSTANTINE ALEXANDER: September date?

ATTORNEY SEAN HOPE: Yes, a September date would be great.

CONSTANTINE ALEXANDER: I assume we have September.

MARIA PACHECO: Yeah, we can do September 13th.

CONSTANTINE ALEXANDER: Can everybody make a September 13th hearing? The five of us have to be here on September 13th. I'm okay.

BRENDAN SULLIVAN: Yes.

CONSTANTINE ALEXANDER: Everybody's okay?

SLATER ANDERSON: Yeah.

JANET GREEN: Wait a minute. Yes, I'm here.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that this case be continued as a case heard until seven p.m. on September 13th. By the way, can you -- September 13th works for you folks?

UNIDENTIFIED MEMBER FROM AUDIENCE: Not us.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: For us it works.

CONSTANTINE ALEXANDER: You don't object to us going forward without you?

BRENDAN DOOLEY: We'll send a letter.

SLATER ANDERSON: And they will speak to you
beforehand.

CONSTANTINE ALEXANDER: Yeah.

BRENDAN DOOLEY: Presumably.

CONSTANTINE ALEXANDER: Continued as a case heard
until seven p.m. on September 13th, subject to the following conditions:

First, that the petitioner sign a waiver of time for decision.

Mr. Hope knows about that. And you have to sign that.

Second, that the posting sign that's there now, be modified.
You can do it yourself to reflect the new date, do it with a magic marker,
September 13th. New time, seven p.m. Make sure you do both. And
that the sign be maintained for the 14 days prior to September 13th just as
you've done for tonight's hearing.

And lastly, to the extent that the plans that you've submitted
are modified as a result of your discussions, that these new plans, Sean
knows this, these new plans must be in our files no later than five p.m. on
the Monday before September 13th. That's to allow us and members and
citizens of the city to come down, check, and draw their own conclusions

as to what you're proposing.

So on the basis of these conditions, the Chair moves we
continue the case.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. We'll see you
in September.

(Alexander, Sullivan, Green, Anderson, Best.)

* * * * *

(8:15 p.m.)

(Sitting Members Case No. BZA-016624-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Slater W. Anderson, George S. Best.)

CONSTANTINE ALEXANDER: The Chair will now call case No. 016624, 4 Aberdeen Court.

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

MARC RICHARDS: Good evening, I'm Marc Richards, owner and occupier of 4 Aberdeen Court. My wife is home with my two kids this evening so it's just me representing us today.

What can I tell you?

CONSTANTINE ALEXANDER: You want to build an addition to your rear for the kitchen.

MARC RICHARDS: Yes.

CONSTANTINE ALEXANDER: And that your problem, why you're here tonight --

MARC RICHARDS: Yes.

CONSTANTINE ALEXANDER: I'm sorry, I thought I heard somebody say something. The problem is rear yard setback.

MARC RICHARDS: Correct.

CONSTANTINE ALEXANDER: The addition will extend into your rear yard and that's why you need a Variance.

MARC RICHARDS: Yep. So we have -- Aberdeen Court is a dead end street right off of Aberdeen Avenue. There's four Capes that were all built in the 40s of roughly the same size, about 36 by 24. A couple of them have attached garages. Ours does not. And they're all on slightly irregular lots. It's a very small kind of close knit. We're friends with the neighbors. They're not here this evening, but I believe I had them sign a petition that's attached with the file.

We have two young boys. We have a relatively small kitchen for an eat-in kitchen, and we don't have a dining room in the house. So this is our primary eating as well as food preparation space. And it's

getting pretty tight with our kids getting bigger. And so we find when we have company over, when we have their friends over, it just gets very, very cramped in our kitchen. So what we'd like to do is expand the kitchen. We could have built the addition off the side of the house as-of-right because of the way the house is oriented on -- our lot's trapezoidal. And our house is kind of oriented in a an irregular way across the trapezoid. So we could have built it off the side as-of-right within the side setbacks, but that would have actually been I think more disruptive to the neighbors and had more of an effect on the character of the neighborhood, because the houses look the same and it's kind of quaint. So building out into our backyard was the desired approach for that reason. Go straight back eight feet off the back of the existing kitchen. And the width of the kitchen is about 20 feet.

We are already within I believe 18 feet of the setback today.

This would, again, because of the trapezoidal shape, going back eight feet we're only cutting another five feet into that, so that would take us into about 14 feet.

Just in the corner of the kitchen as you move across the

length of the addition, it would become 25 feet by the time you got to the end of it the.

CONSTANTINE ALEXANDER: 25 feet is the required --

MARC RICHARDS: Is the required setback.

CONSTANTINE ALEXANDER: -- minimum setback, rear yard.

MARC RICHARDS: Yes.

Our lot, again, because it's a funky shape -- I have the plot plan there somewhere, is over 5,000 square feet. So we are currently right now our FAR is 0.23, and this is only going to add another 160 square feet or so. So it would be well within the FAR.

We've talked to our neighbors about this. All of the Aberdeen Court residents I believe signed the petition. I talked to the two other -- or I attempted to talk to the two other abutting neighbors. We have a privacy fence and then there are some larger houses back in the Larchwood neighborhood. And so the two houses that would be most potentially affected, made a couple attempts to visit them in person, didn't have any luck. Sent them a letter when the same letter went out for the

Zoning Board. So they've at least been informed. I haven't heard anything back negative or positive, so I take that as a good sign.

And then the abutters off the rear of the house are Nick's Gas Station on Mount Auburn Street and Mount Auburn Memorial Company. We have a great relationship with Nick. He fixes our car. He has no problem with it.

The memorial company doesn't seem to be an issue with them either.

We specifically chose just to do the one story, kind of like the twenty by eight as kind of a smallest reasonable approach because for cost reasons and also just being cognizant of the fact that we are actually asking for a further extension into nonconformity. And I think that's all the information I have.

CONSTANTINE ALEXANDER: Very cogent and complete presentation.

MARC RICHARDS: Okay, great. Thank you.

CONSTANTINE ALEXANDER: Thank you.

Questions from members of the Board?

JANET GREEN: No.

CONSTANTINE ALEXANDER: None.

I'll open the matter up to public testimony. Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

We are in receipt of a petition signed by your neighbors in the Aberdeen Court area, and no communication otherwise. No objections from the people who haven't responded to your outreach. So that's the record we have.

The plan that you submitted, if should we approve -- grant you the relief, there will be, as you may have heard from other cases, it will be on the condition that you proceed in accordance with those plans that you've submitted.

MARC RICHARDS: Yes.

CONSTANTINE ALEXANDER: So if you decide to change them later, you're going to have to come back. So you have to be comfortable that these are the final plans.

MARC RICHARDS: Yes. We worked with Mr. Whitesman (phonetic), who is a resident and has done work in and around Cambridge and so we're happy with the plans that we have. And he felt these were appropriate plans to submit to you all.

CONSTANTINE ALEXANDER: How about discussion or ready for a vote?

JANET GREEN: I'm ready.

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

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being is that this is a rather small structure with an inadequate interior space for a family, including children. And therefore additional living space is required. Not only for you but for anybody who would succeed to your ownership of the premises.

That the hardship is owing to the fact this is a very irregularly shaped lot; trapezoidal I think you pointed out in nature, and therefore building any addition causes setback problems given that it's not a typical

rectangular lot.

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

In this regard the Chair would note that the project has support of the neighborhood. That it is an area that is not visible, to your benefit, to people -- residents of the city, and therefore its visual impact is negligible, and the impact on abutters is likewise negligible.

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

This is a typical case that we hear that where a neighborhood is in support of a project that would increase the size, and therefore the living -- livability of a structure in the neighborhood which is what you're proposing to do.

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

Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

MARC RICHARDS: Thank you very much.

(Alexander, Sullivan, Green, Anderson, Best.)

* * * * *

(8:30 p.m.)

(Sitting Members Case No. BZA-016737-2018: Constantine Alexander,
Brendan Sullivan, Janet Green, Slater W. Anderson, George S. Best.)

CONSTANTINE ALEXANDER: The Chair will call case No.
016737, 68 Sparks Street.

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

ATTORNEY JAMES RAFFERTY: Thank you. Good
evening. For the record, my name is James Rafferty. I'm an attorney
with offices at 675 Massachusetts Avenue in Cambridge. I'm here this
evening representing the applicant 68 Sparks Street, LLC. Seated to my
right is Mr. Joseph Glenmullen, he is a principal and managing member of

the LLC. And to Mr. Glenmullen's right is Blake Allison. Mr. Allison, A-L-L-I-S-O-N, is the project architect.

This is an application for a Variance to allow for a modest increase in FAR at a house at 68 Sparks Street that stretches Sparks Street between Huron Avenue.

CONSTANTINE ALEXANDER: This is a structure that's already non-conforming as to FAR. You're right --

ATTORNEY JAMES RAFFERTY: Yes.

CONSTANTINE ALEXANDER: -- it's modest. I agree with that.

ATTORNEY JAMES RAFFERTY: It is non-conforming. It's slightly, I think the allowable is slightly over 5,000. I think the number is around 5200.

CONSTANTINE ALEXANDER: Yeah.

ATTORNEY JAMES RAFFERTY: And we're looking to increase by about 240 square feet.

CONSTANTINE ALEXANDER: 0.56 in a 0.54 district. Your numbers are right.

ATTORNEY JAMES RAFFERTY: So the house is an interesting house, it has a couple of features. Some might suggest that those features actually detract from the integrity of this --

CONSTANTINE ALEXANDER: You have the owner of the house right here.

JOSEPH GLENMULLEN: I agree totally.

ATTORNEY JAMES RAFFERTY: Well, he bought it. That's why he's making these changes. He's a recent owner. He bought it with blemishes and all. And part of what he's doing is trying to, with Mr. Allison's assistance, remove some of the blemishes.

One of the more prominent blemishes appears to be the garage, the flat roof garage you can see from Sparks Street. So we've already obtained approval to remove that. That's not the subject of the Variance. But as noted by Mr. Sullivan, when we visited the Historical Commission, he felt the garage crowds the house.

CONSTANTINE ALEXANDER: It does.

ATTORNEY JAMES RAFFERTY: And there's no question it does. And it was built on a different era. It's a 60s style garage. Very

not much in keeping with the style of the house. In fact, if this was in a conservation district, I don't think a garage like that would ever have been approved.

So in this case Mr. Sullivan -- we have the demolition delay ordinance. Any structure over 50 years has to go through a public hearing process except in those cases when the Executive Director determines that the structure is not significant and that such a hearing isn't required. So not surprising in this case he made such a determination. That he signed off on the demolition of the garage without even a need for that.

CONSTANTINE ALEXANDER: So there will be no on-site parking as a result or a driveway?

ATTORNEY JAMES RAFFERTY: No. Our proposal involves, again, not the subject of the Variance, but putting a more traditionally sized garage further into the lot. Like most of the homes in this area that do have garages, they're set at the end of the driveway. So if you had a chance to see the site plan, you'll see we're showing that garage. But, again, it's an as-of-right garage.

And it's as -- it's a two car garage. And the reason it could be as-of-right is because in 1979 this property received a Variance to allow for an additional dwelling unit. And so it's actually a two-family house. And part of, part of the other design features of the house that aren't particularly endearing and maybe understated the test of time, you can see the rear addition where that dwelling unit is, and it's very much -- it was approved in 1979. And it has a greenhouse-style effect that leaks energy, leaks water, lights up the whole backyard on the rear abutters when it's being occupied. So --

CONSTANTINE ALEXANDER: Is it used now --

ATTORNEY JAMES RAFFERTY: Yes.

CONSTANTINE ALEXANDER: -- for a greenhouse?

ATTORNEY JAMES RAFFERTY: It's a functional dwelling unit.

CONSTANTINE ALEXANDER: Part of the apartment?

ATTORNEY JAMES RAFFERTY: It's principal area of the apartment. But it was granted a Variance in 1979. I always like to read the variances to see the people providing public service, and it may not

come as a surprise to you that there's one name that sat on the case in 1979 that is participating.

BRENDAN SULLIVAN: I was right out of high school.

ATTORNEY JAMES RAFFERTY: You know I checked the Census.

BRENDAN SULLIVAN: Came from the senior prom that night.

ATTORNEY JAMES RAFFERTY: I thought the same thing. He must not be barely an adult in 1979. Your classmate would agree I suspect. He would corroborate that fake news.

But at any rate, so this -- the one interesting thing about this, and actually we spent a lot of time studying the GFA on this thing.

This -- so the principal design move here involves two features. On this garage here, this wall slopes inward. So what he really wants to do is make the back of the house perpendicular. Take off this glass thing and square it off.

CONSTANTINE ALEXANDER: Right.

ATTORNEY JAMES RAFFERTY: So the plane doesn't

change, but as you go up, it goes straight. So we think we're picking up some square footage as we take a 45-degree angle and make it perfect angle. So that's one.

And then the other element of the Variance involves the desire to create access by elevator to the third floor. The way the house is currently laid out and organized, when that dwelling unit was created, what would have been the kitchen in the old house was -- the dining room in the main house was gutted and the kitchen was put in there and it's really an awkward organization. So Mr. Glenmullen's intention is to reorganize the house the way it was laid out. And the place to put that elevator then and principally to get to the third floor, is on the back of the house in this area where the extension is. So what we're looking to do is to take that bump out, move it up a floor, place the elevator within that bump out --

JOSEPH GLENMULLEN: Two floors to the roof.

ATTORNEY JAMES RAFFERTY: It's going all the way.

CONSTANTINE ALEXANDER: You could put this elevator in the interior of the building. The building is big enough.

ATTORNEY JAMES RAFFERTY: Well, right. So that's the reason why I point out the layout of the billing. To go in the interior, you'd have to disrupt the main organization of the house. So that is true. I mean, and not physically impossible, but less than desirable. And in examining the work that's going to be taking place here, the decision was made to see if the Board would find such a change within the criteria required for a Variance.

Mr. Glenmullen spoke to all of the rear abutters, and I have letters of support from all of them. I thought they had been delivered into the file.

CONSTANTINE ALEXANDER: I don't think so.

ATTORNEY JAMES RAFFERTY: But it appears they have not. There's a certain consistency in the narrative so you may not feel the need to read each one of them.

CONSTANTINE ALEXANDER: Don't worry.

ATTORNEY JAMES RAFFERTY: I can assure you they're heartfelt and sincere. Just happened to be the same.

But at any rate -- so, and that's where the GFA is coming

from.

And then there's a side porch here that's getting slightly extended. It, too, has not a particularly appealing organization. So they're going to bring that deck out slightly. Put in a new -- surround ballast grades and kind of more -- so extending that has a setback complication.

We have a couple of walls that are non-conforming and so some of the windows are Special Permits.

CONSTANTINE ALEXANDER: We'll get to that after the Variance.

ATTORNEY JAMES RAFFERTY: Right.

So the principal moves here are additional GFA created by this rear addition. It's a two-story addition that will create a volume that will accommodate the elevator. And the elevator will go to the -- it's a four-story house. It's a big house. The third floor is big. And then the attic floor is actually quite large as well. So to --

CONSTANTINE ALEXANDER: The attic floor used for residential --

JOSEPH GLENMULLEN: Not now, but I will finish -- so there will actually five floors including the lower level, which is why the elevator is really important.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY JAMES RAFFERTY: So that represents the case.

The numbers are reflected in the dimensional form.

Mr. Allison has drawings and boards. I don't know if the Board feels -- but just what you see here.

CONSTANTINE ALEXANDER: If it's what we see here, I don't think we need --

ATTORNEY JAMES RAFFERTY: Yeah. And as I said, the location -- the elevator has been sited in a way, by containing it this way, the visual impact of the elevator is quite modest. Even the head house for the override of the elevator is encased.

CONSTANTINE ALEXANDER: It's also in the rear of the structure. And a lot of the landscaping around it -- when I drove down, I couldn't even see the rear of your house.

JOSEPH GLENMULLEN: Right.

ATTORNEY JAMES RAFFERTY: Right. And that's the case. It's a good sized lot. But so between the as-of-right changes for which there is already a building permit for -- so once the garage comes off, Mr. Glenmullen studied the original house so the front entry, which is actually on the side of the house, now will get restored. And I don't know if you can see it in the drawings, it will have an overhang and a more traditional entry. Right now the front door is totally obscured by the garage. The garage doesn't appear to meet the ten foot separation. But if it did, it doesn't -- not by much. So between that and the changes in the back to the 1979 addition, it's not surprising frankly, that neighbors were supportive of this effort. So that's essentially the reason we're here.

SLATER ANDERSON: So this is going to be a unit, not that it matters, but is this sort of intended to be like a dwelling unit in the basement here with the little kitchenette?

ATTORNEY JAMES RAFFERTY: Yeah. And that's currently the condition so it will remain. A good opportunity for an au pair. Mr. Glenmullen has college age children that tend to return home on

occasion. So his current plan is to live in the house and that's -- that would be a nice option for --

SLATER ANDERSON: The windows in the elevator stack, are those actually going to be windows?

JOSEPH GLENMULLEN: It would just to make elevation look as nice as possible for the neighbors.

SLATER ANDERSON: So it will just be like blank?

BLAKE ALLISON: Blank windows, yeah.

SLATER ANDERSON: Blank windows.

CONSTANTINE ALEXANDER: With regard to the reconstruction of the garage, you've satisfied yourself that you don't need any zoning relief for that?

ATTORNEY JAMES RAFFERTY: Yes. We've reviewed the accessory structure five feet off the rear and sides and not more than 15 feet in height. Ten feet from the principal structure. We did review that with the Building Department. So I think -- do you have that building permit or close to having that?

JOSEPH GLENMULLEN: Close to having that.

ATTORNEY JAMES RAFFERTY: Yeah, so that's proceeding independent of tonight's relief.

SLATER ANDERSON: Open space is all fine with that?

ATTORNEY JAMES RAFFERTY: Yeah. The open space, it's gonna -- it's considerable. It's over 60 percent now and it will still be in the high 50s with the garage and the extended driveway. That was frankly the principal analysis that the Building Department looked to see on that, because we will be extending the driveway and footprint. But we're swapping out that footprint. So the open space still meets -- it's highest open space requirement as the Board knows, it's 50 percent. Still meets the 50 percent. And the -- I know the house, the abutting house to the right on the left and the rear, they all have garages and, you know, at the rear of the house, kind of carriage house style garages.

SLATER ANDERSON: You've got three minutes.

CONSTANTINE ALEXANDER: We have to finish the case in two minutes.

Questions? Any further questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: None.

I'll open the matter up to public testimony.

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

We are in receipt of I guess we can call it a petition submitted by the petitioner and signed by a number of neighbors, all of which are -- I'm not going to read it, because the case is not that complicated. But all of which are in favor of the relief being sought. Am I correct? I didn't want to --

ATTORNEY JAMES RAFFERTY: No, yes, yes.

CONSTANTINE ALEXANDER: I didn't want to go one by one.

So with that, I close public testimony. Ready for a vote?

We'll just do the Variance first and then we'll get to the Special Permit next. Ready for a vote?

BRENDAN SULLIVAN: Well, relief was warranted when I

was young and inexperienced, now I'm just a little bit older and relief is still warranted.

CONSTANTINE ALEXANDER: The voice of wisdom.

SLATER ANDERSON: To correct the prior relief.

ATTORNEY JAMES RAFFERTY: You know, it's funny, he was telling me -- I said we better tread lightly because one of the board members actually approved that thing. But it was for its time.

JOSEPH GLENMULLEN: And I said there was a lot of that back then. It was not the exception.

CONSTANTINE ALEXANDER: We've seen a lot of past variances granted, and I should shake my head, I don't know what people were thinking at the time. But we have a better Board now than we used to have. That's the answer.

ATTORNEY JAMES RAFFERTY: Well....

CONSTANTINE ALEXANDER: We have one continuity with Brendan, but otherwise we're a better Board.

All right, I think we're ready for a vote on the Variance.

The Chair moves that we make the following findings with

regard to the Variance being requested:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being this is a rather large structure both vertically as well as horizontally, and therefore there is a need for some form of mechanical relief to get to the upper floors that would apply not only to you but to any successor who owns this property.

That the hardship is owing to the fact that this is already a non-conforming structure and therefore any modification to the structure requires zoning relief.

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

In this regard the Chair would note that this project has -- apparently has unanimous neighborhood support.

That its impact on the neighborhood is obscure because of the siting of the structure and the proposed location of the elevator and other relief being requested pursuant to the Variance.

So on the basis of these findings, the Chair moves that we

grant the Variance requested on the condition that the work proceed in accordance with plans prepared by Dingman, Allison Architects. The date apparently is July 9th, and the first page of which has been initialled by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

(Alexander, Sullivan, Green, Anderson, Best.)

CONSTANTINE ALEXANDER: Turning to the Special Permit. Just briefly, very briefly why should we grant the Special Permit?

ATTORNEY JAMES RAFFERTY: No, I was going to ask Blake to be ready with the elevation to identify which of these windows just to point out to the Board exactly which windows are the subject to the relief.

CONSTANTINE ALEXANDER: Are these part of these plans that we have?

BLAKE ALLISON: Yes.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY JAMES RAFFERTY: It has to do with the reorganization of the house and the size and organization of the windows.

CONSTANTINE ALEXANDER: Right.

ATTORNEY JAMES RAFFERTY: Can you just point out? And could you reference the page so the Board might --

BLAKE ALLISON: Yeah, on A2-2.

CONSTANTINE ALEXANDER: Right, got it right in front of me.

BLAKE ALLISON: The proposed right side elevation. The last approximately three feet of the addition is in the rear yard setback zone, because in A1 the rear yard has to be -- the setback has to be increased if it's over 100 feet.

ATTORNEY JAMES RAFFERTY: No, but we just got a Variance for that.

BLAKE ALLISON: Oh, so this is the Special Permit.

ATTORNEY JAMES RAFFERTY: The Special Permit doesn't apply to those windows.

CONSTANTINE ALEXANDER: That's right.

BLAKE ALLISON: So these windows are located within the setback zone and that's --

CONSTANTINE ALEXANDER: How far back are they from the next structure that abuts that rear yard? Is it going to create any privacy issues?

BLAKE ALLISON: No, no. There's dense landscaping.

CONSTANTINE ALEXANDER: Okay.

BLAKE ALLISON: And the other house has a garage in their back which increases the distance to the actual residence behind here.

CONSTANTINE ALEXANDER: Okay.

BLAKE ALLISON: On A2-1 first of all, on the front elevation, this one window here which is actually going to be in window well.

ATTORNEY JAMES RAFFERTY: Excuse me. Yeah, we don't need it for fronts.

BLAKE ALLISON: It's in the side yard setback.

ATTORNEY JAMES RAFFERTY: You said front. The front elevation is in the side yard?

BLAKE ALLISON: This window which faces toward Sparks Street is actually located within the side yard, the 15-foot side yard setback.

ATTORNEY JAMES RAFFERTY: Okay.

BLAKE ALLISON: Yeah. So that's the second thing we need relief.

On the rear, all the openings on this rear elevation, which is currently that greenhouse assembly, that's all within the rear yard setback by about three feet or so.

And finally on the A2-3, which is the proposed left side elevation, these are restoring the original windows here on the second and third floor. These have been changed probably at the same time into Anderson casement windows. So the intention here is just to restore the original historic windows. The same here in the first floor dining room. This was the room that was changed into the kitchen. So they changed the windows there.

SLATER ANDERSON: Changed the location?

BLAKE ALLISON: Right.

This is the elevator shaft, which is -- are not window openings actually. They're just ornamental.

Here in the kitchen on the first floor, this door, new door is located on the wall that's just inside the setback zone.

And on the basement level these two windows are new. And, again, this wall is just into that setback zone. And this is an existing door here, but it's only five feet high. It was kind of like a bulkhead door or something. So we're going to change that into a full height, six foot, eight inch door.

CONSTANTINE ALEXANDER: It's actually quite a bit of window work.

BLAKE ALLISON: Yeah, it's miscellaneous, little pieces here and there.

CONSTANTINE ALEXANDER: Usually cases have two or three windows that are being relocated. And this is a lot more than that.

BLAKE ALLISON: Right. Actually most of it is because of the rear yard setback where we have to be 33 feet.

ATTORNEY JAMES RAFFERTY: Yeah, this is a lot that

exceeds 100 feet in depth. So the base rear setback is 25 and then you have to add a foot for every four foot. So when you do the formula, the rear setback here is exceptionally it's 33 feet. So when we're probably at about 30 feet, but the backyard is very dense and the neighbor's house has a significant backyard, too. So there's probably from face of structure to face of structure, 50, 60 feet?

BLAKE ALLISON: Well, it's 30 feet on this particular lot.

And on the other side, as I said, there's a -- their driveway comes up and turns at a right angle to a large garage in their backyard. So it's gonna be probably more than 30 feet on the other side. So something in excess of 60 feet.

CONSTANTINE ALEXANDER: Okay.

SLATER ANDERSON: So just a quick question.

CONSTANTINE ALEXANDER: Go ahead.

SLATER ANDERSON: So the windows on that left side, the abutter on that side has reviewed the plans and is fine with that?

JOSEPH GLENMULLEN: So the abutter has reviewed them. She did not want to sign a letter but she said she was neutral. She -- her

house is actually under agreement so she didn't want to be signing letters.

SLATER ANDERSON: Under agreement to sell? Like she's selling?

JOSEPH GLENMULLEN: Yeah.

ATTORNEY JAMES RAFFERTY: And that side, I don't know if you recall the house, it's set deep in the lot. It's a brick house. The abutting structure, it has a garage in the front of the house. These windows face the garage.

SLATER ANDERSON: Okay.

ATTORNEY JAMES RAFFERTY: Not the structure.

SLATER ANDERSON: Because those are the most significant changes there.

ATTORNEY JAMES RAFFERTY: Right.

SLATER ANDERSON: And if someone was right there --

ATTORNEY JAMES RAFFERTY: Right. There's a garage. It's probably 25 feet into the lot, and then the house is beyond that. So the setback where these windows are is in the portion of the house that faces the garage.

SLATER ANDERSON: Okay.

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

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. And we have the letters of support that we have with regard to the Variance that we just granted. So I will close public testimony.

Ready for a vote?

JANET GREEN: Yeah, I'm ready.

CONSTANTINE ALEXANDER: Okay.

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

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

That traffic generated or patterns of access or egress resulting from these changes will not cause congestion, hazard, or substantial

change in established neighborhood character.

Point of fact, that the window changes though numerous in number are relatively innocuous in terms of its impact in the neighborhood particularly in view of the landscaping in the rear -- to the rear of the structure.

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

And, again, I would reference the size and depth of the lot and the nature of the landscaping and the location of the structure of the lot.

No nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant of the structure or the citizens of the city.

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

So on the basis of these findings, the Chair moves that we grant the Special Permit requested again on the condition that the work proceed in accordance with the plans with respect to the Variance we just

granted.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Relief

granted. Good luck.

(Alexander, Sullivan, Green, Anderson, Best.)

* * * * *

(8:50 p.m.)

(Sitting Members Case No. BZA-016661-2018: Constantine Alexander,

Brendan Sullivan, Janet Green, Slater W. Anderson, George S. Best.)

CONSTANTINE ALEXANDER: The Chair will call case No.

016661, 3 Amory Place.

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

MATTHEW HANNA: Hello.

CONSTANTINE ALEXANDER: Good evening. As you know, you were here from the beginning. Name and address to the stenographer, please.

MATTHEW HANNA: Matt Hanna, H-A-N-N-A, 3 Amory Place.

ERIKA HANNA: Erika Hanna, 3 Amory Place.

MARK PHILBIN: And I'm Mark Philbin with Charlie Allen Renovations. We're doing the renovations. We're the contractor doing the work.

CONSTANTINE ALEXANDER: Okay. The floor is yours.

MARK PHILBIN: The description of the project, two parts to it. There is a front landing we'd like to replace with a larger landing. The current condition is really an unsafe condition. It's too small.

The project has two parts to it: The front landing which is currently too small. It's really a safety concern for the family with kids and

elderly parents. We would like to make the landing larger, put a railing on it. The handrail which it currently doesn't have. And in doing so, we would be encroaching on the property line. The shape of the lot, the proximity to the rest of the side yard makes it impossible to enlarge the landing without encroaching on the property line, so we're here to get some relief for that.

On the back of the house there's a deck that we'd like to put on the back of the house.

CONSTANTINE ALEXANDER: But it's a ground level deck?

MARK PHILBIN: No, no. It's going to be above ground.

CONSTANTINE ALEXANDER: Above ground?

MARK PHILBIN: Yeah, above ground.

CONSTANTINE ALEXANDER: Off the first floor.

MARK PHILBIN: Right.

CONSTANTINE ALEXANDER: So it doesn't count under the building inspector -- the Inspectional Services Department has ruled they don't count that towards encroachment of year yard and the like.

MARK PHILBIN: Okay.

CONSTANTINE ALEXANDER: You still need relief, but it's not as severe as a second floor.

MARK PHILBIN: Living space or something like that.

CONSTANTINE ALEXANDER: Yeah, yeah.

MARK PHILBIN: Okay.

We sort of have the same problem in the backyard that the size of the lot, the proximity of the house to the lot makes it impossible to do anything back there without encroaching on the property line.

One of the advantages to doing this, we'd like to put storage underneath the deck, which is gonna allow us to take down a very large unattractive shed, and that's got a lot of support from the neighbors. And, again, in doing so we're encroaching on the property line so we'd like to get relief from that.

CONSTANTINE ALEXANDER: Okay. So it's a grab -- in my words, the grab bag of minor modifications to the structure. It will make it usable for your purposes. And it is apparently the case, not objectionable at all to your neighbors. Even though this is a tight area where you live.

MATTHEW HANNA: We've had unanimous support. We've

had a lot of support to this point. In fact, we've learned that our neighbors are not so happy with our existing shed. And they're very much in favor of us taking it down.

CONSTANTINE ALEXANDER: Okay.

I thought I saw letters in here from support. Yeah, okay.

Okay.

Questions from members of the Board?

(No Response.)

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

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

Sir.

PETER KAPLAN: My name is Peter Kaplan, and I'm an abutter to the property at 8 King Place, direct abutter to the rear yard. And I wanted to ask that you grant the relief that's requested. That I think that it is going to benefit their property and generally the neighborhood. And I just wanted to lend my support. So with that, if -- I wish you luck this evening and I hope that this Board will agree in my assessment that it

is going to lead into the removal of the shed which appeared one day.

CONSTANTINE ALEXANDER: I gathered from the letters I read.

PETER KAPLAN: Yeah.

ERIKA HANNA: Previous owners.

PETER KAPLAN: I think it's inappropriate for the neighborhood. And also I know that it will benefit the family, this young family. And I think that it would be a nicer place to live with that. So I hope that you grant them the relief requested.

CONSTANTINE ALEXANDER: Thank you for your comments. And thank you for taking the time to come down and spend an evening here with us. We have to do it, you don't have to do it. So that's very nice of you.

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. The Chair will close public testimony. Before I do that, we are in receipt of letters. I'm not going to read them. Support from various neighbors. We have a

letter from Debra Cunningham and John Stouffer who reside at One Amory Place.

From Thomas and Susan Schweitzer, S-C-H-W-E-I-T-Z-E-R, who reside at 70 Inman Street.

And from Edward Liberaci, L-I-B-E-R-A-C-I who reside at 4 and 5 Amory Place. All of these letters -- oh, one more.

From Joseph S. Artley, A-R-T-L-E-Y and Linda M. Stevens, S-T-E-V-E-N-S who reside at 3 Amory Place. So all of these letters are in support of the relief being sought.

Discussion or ready for a vote?

JANET GREEN: Ready.

CONSTANTINE ALEXANDER: We're ready for a vote.

Okay, the Chair moves that -- let's see -- the Chair moves that we make the following findings with regard to the Variance being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being that this is a tight neighborhood, structures are small, and so whoever would occupy the structure would need the kind of relief being sought tonight to make

the property more liveable property.

That the hardship is owing to the fact that this is an already a non-conforming structure, and, again, in an unusually shaped lot in a tight neighborhood.

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

In this regard the Chair would note that the proposal has unanimous neighborhood support, and that what is designed to improve what are current deficiencies in the structure itself, the front landing and the need for a better rear deck, ground level rear deck.

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

These are the final plans?

MARK PHILBIN: Absolutely.

CONSTANTINE ALEXANDER: If you modify them, you have

to come back and you don't want to do that.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor, Variance
granted. Good luck.

(Alexander, Sullivan, Green, Anderson, Best.)

* * * * *

(9:00 p.m.)

(Sitting Members Case No. BZA-016752-2018: Constantine Alexander,

Brendan Sullivan, Janet Green, Slater W. Anderson, George S. Best.)

CONSTANTINE ALEXANDER: The Chair will call case No. 016752, 646 Green Street.

Is there anyone here wishing to be heard on this matter? Before we I want to be sure we have the right plans. Is there one --

ATTORNEY JAMES RAFFERTY: There was a modest revision submitted on Monday that changed.

CONSTANTINE ALEXANDER: That would be 7/3. There are two.

ATTORNEY JAMES RAFFERTY: Do they have a date stamped? I know the Monday we did.

CONSTANTINE ALEXANDER: I don't think so. Just checked. Somebody put a checkmark. Presumably Inspectional Services.

DANIEL KIRSCH: I can tell just by looking at it. These are the right ones.

CONSTANTINE ALEXANDER: Okay, thank you. Okay.

ATTORNEY JAMES RAFFERTY: So good evening, again,

Mr. Chair, members of the Board. For the record, James Rafferty, 675 Massachusetts Avenue on behalf of the applicant seated to my right, the homeowners Daniel and Sarah with an H Kirsch, K-I-R-S-C-H.

This is an application, a Variance that would essentially allow for a portion of a garage space to be converted into a dwelling unit. The relief being sought is related to the rear setback because the proposed dwelling unit is to be located in the garage. If you've had a chance to see the site plan, across the rear of the site there's a series of garages, I think eight in number.

DANIEL KIRSCH: Seven.

CONSTANTINE ALEXANDER: Seven garages back there?
Side by side?

DANIEL KIRSCH: Yeah.

ATTORNEY JAMES RAFFERTY: Yeah. It's a single structure with seven bays. But the reason you don't see it all is because this case got a Variance in 1983. This property got a Variance in 1983. But I don't see anyone's name on here that I recognize. But --

CONSTANTINE ALEXANDER: Must have been improperly

granted.

ATTORNEY JAMES RAFFERTY: Oh, I misspelled --

BRENDAN SULLIVAN: That was senior prom night.

ATTORNEY JAMES RAFFERTY: It was July 28th of 1983.

If anyone wants to know where you were, Mr. Sullivan, you were here with Hugh Russell, F.L. Clauson, Melvin Gadd, and Lisa DeLima.

But any rate, the interesting thing about the lot is that the lot can accommodate four dwelling units. There's currently -- the Kirsches live there with their young son. And the principal structure contains three units. The 1983 Variance allowed for a rear addition to the house. The rear addition sits just a few feet in front of about three of the bays of the garage. So the effect of the addition was to negate the functionality of the garage. Interestingly a year or so later, they sought to get an office Variance to put a small office in there to lease it out and the Board denied that. Neighbors didn't think the office use was compatible.

So, there are these garage bays that have been there for years. So when the Kirsches thought about what opportunities might exist to create a fourth dwelling unit, one of the options was to consider a

freestanding structure on the lot, but the more they looked at it, the more they felt that they really were looking to achieve a modest-sized dwelling unit, felt that the neighborhood and the marketplace would call for that. So they work with Mr. Khalsa, design firm. And essentially three of the bays of this garage would be as you can see, it's been turned into a single story relatively average sized apartment.

CONSTANTINE ALEXANDER: What is the -- that's the space being used for now? Is it just storage?

ATTORNEY JAMES RAFFERTY: Storage.

CONSTANTINE ALEXANDER: Just storage?

ATTORNEY JAMES RAFFERTY: Just storage.

CONSTANTINE ALEXANDER: You can't access it from a car?

ATTORNEY JAMES RAFFERTY: Yeah, no. And I think we have some photos that show -- on the site plan that shows the relationship. One of the things that the Variance included was relief from the ten-foot separation requirement between principal structures and accessory structures. The addition piece goes very close to the garage

piece. So --

SLATER ANDERSON: It is labelled as office on the plans?

ATTORNEY JAMES RAFFERTY: Is it?

SLATER ANDERSON: Yes, it is.

ATTORNEY JAMES RAFFERTY: Yeah, that must have been from years ago.

SLATER ANDERSON: There's a bathroom in there.

ATTORNEY JAMES RAFFERTY: There was a bathroom.

DANIEL KIRSCH: There's still a full bathroom and a water heater. The water's been turned off for years and it's just --

SLATER ANDERSON: So you own that whole lot. You own all the garages?

ATTORNEY JAMES RAFFERTY: Oh, yeah.

CONSTANTINE ALEXANDER: Should we be concerned about safety issues? If you're going to take this three bays that are not usable for a garage, convert them into a dwelling unit, and that dwelling unit's going to be less than ten feet from the structure in front of it which is not permitted by our Ordinance. Is that -- if a fire broke out in one

structures, it could easily spread to the other?

ATTORNEY JAMES RAFFERTY: Well, I think that's an issue that we dealt with with the building commissioner and with the architect. The separate -- we reviewed the existing Variance. The means of egress exist there, and the fire department will have to make that determination whether -- I mean the --

CONSTANTINE ALEXANDER: Do they? If we grant relief tonight, do they have --

ATTORNEY JAMES RAFFERTY: Oh, yes. The building permit could not issue without a full review by the fire department.

CONSTANTINE ALEXANDER: Okay, I didn't know that.

DANIEL KIRSCH: There is electricity to that unit. It's a vacant -- not unit.

CONSTANTINE ALEXANDER: I'm thinking about should we grant --

DANIEL KIRSCH: But what I'm saying is currently it's --

ATTORNEY JAMES RAFFERTY: But that's not the issue.

DANIEL KIRSCH: If someone's living there, they'll be more

aware that a fire is taking place where they live than --

CONSTANTINE ALEXANDER: We have a check and balance that we learned with the fire department.

ATTORNEY JAMES RAFFERTY: We do, because of the code -- yeah, the separate -- that's an element of the separation requirement, that's a valid point. But when we were discussing this with Mr. Khalsa, the egress issues, and I think also the fact that it's a one-story structure he said, and you have to have within 75 feet of any portion of the unit, he was explaining to us, has to be within 75 feet of the door which this would be.

CONSTANTINE ALEXANDER: How big will this dwelling unit be by the way? How many square feet roughly?

DANIEL KIRSCH: I think it's 670 square feet.

CONSTANTINE ALEXANDER: How much?

DANIEL KIRSCH: I think 670.

CONSTANTINE ALEXANDER: Very small.

ATTORNEY JAMES RAFFERTY: It's a modest size but it's actually relevant.

SLATER ANDERSON: There's three dwelling units currently the in the main --

ATTORNEY JAMES RAFFERTY: Yes, the main house.

SLATER ANDERSON: And this would be the fourth?

ATTORNEY JAMES RAFFERTY: Yeah, right.

SLATER ANDERSON: Complies with the lot area.

ATTORNEY JAMES RAFFERTY: And there's that provision in 5.26 that makes conversion so tough, and I always get reminded when I come here, well, you know, and it's a killer provision. I often think in my spare time I should have it changed. Because I often think well, why does it matter whether the house has conforming GFA or not in order to do this. But the four components to review are parking, open space, GFA, and -- parking, open space, GFA, and -- there are four. Lot area per dwelling unit. So in this case we meet all four. We have the lot area per dwelling unit. So this represents a setback issue essentially because the setback on the garage when it was an accessory structure, obviously it was built, probably built before there was even setback requirements there. But in this case the issue is that they're using a portion of the

garage. Here we no longer -- this doesn't get treated as having the advantages of setback exceptions. So what I did -- because I credited Mr. and Mrs. Kirsch with their outreach, I took the liberty of taking the tax atlas and identifying all of the letters that you have received, those hash areas represent all of the property owners that have written to the Board. Including notably the rear property that would be most affected. Attorney Silverglade (phonetic), I didn't know if you had an opportunity to read his letter.

CONSTANTINE ALEXANDER: Yes, I did.

ATTORNEY JAMES RAFFERTY: He has a garage at the back end of his property. So he's the property owner most affected by the rear setback. And he notes that it is his request or willingness to support this was that the height of the structure remain unchanged and there would be no roof deck. So the plans you can see demonstrate that.

CONSTANTINE ALEXANDER: You also may by coming to see us in the future to get a same kind of Variance to create his garage into a dwelling unit.

ATTORNEY JAMES RAFFERTY: I'm not sure he meets the

5.26 test on the -- based on my review of his lot. They -- he and his wife own -- they're two separate lots, they're two adjoining lots. So, but one owns one and one owns the other. But at any rate.

CONSTANTINE ALEXANDER: Anyway.

ATTORNEY JAMES RAFFERTY: They were I think some of the first people that the Kirsches reached out to knowing that the garage was right up against their property. So we -- I did have an opportunity to explain -- sent them a copy of the plans and addressed their concerns. And as I said, they support this. And so that's the issue. The issue is the density is allowed. And I actually think Mr. Silvergate's letter was -- kind of identified the issue which is the density allows for housing as needed. It's a creative way to put the unit on the lot.

CONSTANTINE ALEXANDER: It does.

ATTORNEY JAMES RAFFERTY: And it doesn't have any impact on -- it's actually -- the lot, I was surprised, the lot's a very nice lot. It has a lot of open space and green space for that street. And so that balance won't be changed by this. There's enough parking on the lot to accommodate that. So those are the issues.

BRENDAN SULLIVAN: The hardship?

ATTORNEY JAMES RAFFERTY: The hardship has to do with the nature of the existing structure, the garage structure that it's a pre-existing structure. It's built to the lot line. If the -- there would be an opportunity here to -- the 600 square feet is still below the allowable FAR. If they were to tear down the garage, they could site a 600-foot structure on the lot. But the hardship would be that it would cause the -- the garages would go away and it would impact the layout of the lot today.

CONSTANTINE ALEXANDER: The hardship also allows the space virtually unusable now to be used for a constructive purpose, too.

ATTORNEY JAMES RAFFERTY: Exactly. The logical use of property is the preamble in the Zoning Ordinance.

CONSTANTINE ALEXANDER: And the city needs more housing and this would create another housing unit for the city.

ATTORNEY JAMES RAFFERTY: Right.

SLATER ANDERSON: Of course that issue with the utility of it was created by the prior Variance.

CONSTANTINE ALEXANDER: Right.

SLATER ANDERSON: Not imposed by you but by the prior owners.

ATTORNEY JAMES RAFFERTY: There's some truth to that.

CONSTANTINE ALEXANDER: More than some.

ATTORNEY JAMES RAFFERTY: Yeah.

SLATER ANDERSON: Do we have --

ATTORNEY JAMES RAFFERTY: That term hardship that you're all making, I don't think that --

SLATER ANDERSON: Can we condition the roof deck or not -- no roof deck?

CONSTANTINE ALEXANDER: We can.

ATTORNEY JAMES RAFFERTY: We can. It's not on the plans. We're going to be limited to the plans.

CONSTANTINE ALEXANDER: That's right. That will solve it. Because the plans don't show a roof deck.

ATTORNEY JAMES RAFFERTY: Belt and suspenders, if a condition to that affect if it --

SLATER ANDERSON: But you could do a roof deck by right

outside the setback or maybe not.

ATTORNEY JAMES RAFFERTY: But I don't think you'd ever get out of the setback.

SLATER ANDERSON: It's a rear yard setback. That's right.

CONSTANTINE ALEXANDER: That's a good suggestion.

ATTORNEY JAMES RAFFERTY: I don't know how you would get up there. You have to have external stair. There's no intention. In fact, there's an explicit agreement not to do that. So if the Board felt that was needed, but the plans don't depict it and there's no as-of-right opportunity for that roof deck.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY JAMES RAFFERTY: So that's essentially it.

CONSTANTINE ALEXANDER: Questions or comments from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: None.

I'll open it up to public testimony. Is there anyone wishing to be heard on this matter?

UNIDENTIFIED MEMBER FROM THE AUDIENCE: The three of us submitted -- we are abutters. But we've also submitted letters of support. You should have them in the record.

CONSTANTINE ALEXANDER: We do. I hope we do. We have a letter from Mr. Silvergate and Ms. Dorfman. And McGroth (phonetic). Is that you?

UNIDENTIFIED MEMBER FROM THE AUDIENCE: He's not here.

CONSTANTINE ALEXANDER: Oh, Pam Iagami. I'm not sure if I'm pronouncing it right. I-K-A-G-A-M-I. And from Elaine Scari (phonetic). That's you. Those are the only letters that we have.

UNIDENTIFIED MEMBER FROM THE AUDIENCE:
Ms. Pacheco acknowledged receiving an e-mail from --

ATTORNEY JAMES RAFFERTY: There's several letters.

CONSTANTINE ALEXANDER: Maybe they're in the back. Oh, I'm sorry, they're behind the photographs. I'm sorry. Letters from, other e-mails from Charles Mertzbocher (phonetic). That's you?

UNIDENTIFIED MEMBER FROM THE AUDIENCE: And my

wife.

CONSTANTINE ALEXANDER: And Marcia Dwarkin

(phonetic).

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Yeah.

CONSTANTINE ALEXANDER: And from Sarah Hill and

Finius Baxendall (phonetic). All of these are in support. And that's it.

We do have letters.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: I sent a

letter.

ATTORNEY JAMES RAFFERTY: That's Ms. Scari.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Do you

have one from Robert Garrett?

CONSTANTINE ALEXANDER: I don't see it. But in any

event, your representation that you did send a letter of support?

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Yes.

CONSTANTINE ALEXANDER: And we have all the support.

ATTORNEY JAMES RAFFERTY: Mrs. Scari is notable --

CONSTANTINE ALEXANDER: I know.

ATTORNEY JAMES RAFFERTY: You know what?

CONSTANTINE ALEXANDER: I recognize the name.

ATTORNEY JAMES RAFFERTY: Oh, no. She's notable because she came for a nine o'clock hearing this morning. She thought it was a nine a.m. hearing. This is her second trip to the Board today. She told me.

CONSTANTINE ALEXANDER: You're not the author of children's books, are you?

UNIDENTIFIED MEMBER FROM THE AUDIENCE: I like to think so. Everyone with that name is from the same place in Ireland.

JOHN HAWKINSON: A Harvard professor.

ATTORNEY JAMES RAFFERTY: She said I was here for the nine o'clock hearing.

CONSTANTINE ALEXANDER: Sorry we disrupted your day.

That's it for public testimony.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: If I could say one thing.

CONSTANTINE ALEXANDER: Sure.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Is that when we came this morning, we were talking it over among ourselves, and we just wanted to say that in general we're not in favor of more building going on because it's a very tight neighborhood. But in terms of this project, we're very much in support of it because it's confined and it's been thought through.

CONSTANTINE ALEXANDER: Well, they're not creating any new structures or enlarging structures. It's the very same structure that's there now. They're changing essentially the interior of it.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: And it's going to be the garage structure and it's not going to be torn down. They're going to build within the new structure.

ATTORNEY JAMES RAFFERTY: That's correct.

CONSTANTINE ALEXANDER: Ready for a motion?

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

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being that whoever

owns this property on Franklin Street is saddled with a former garage that's essentially unusable. It's a garage. And for any other purposes short of just pure blank storage space, which is not something that's a desirable thing. It is a hardship to whoever owns the property.

That the hardship is owing to the fact that this is already a nonconformance structure. Well, it's not non-conforming I guess because it's got a Variance.

ATTORNEY JAMES RAFFERTY: Got a Variance.

CONSTANTINE ALEXANDER: Owing to the fact that the location, the nature of the lot and the location of the structure in question to the lot itself and to the three dwelling units, residents in front of the so-called garage.

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

In this regard there is neighborhood support. Unanimous apparently, neighborhood support. And that the end result is where we will be converting virtually unusable structure to a dwelling unit. And

additional dwelling units are in my opinion at least desirable for the City of Cambridge.

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

First, that the work proceed in accordance with the plans prepared by Khalsa, K-H-A-L-S-A, the first page of which has been initialled by the Chair.

Second, that the so-called garage in question will not be increased in its height. The height will remain what it is. Certainly it may be lowered, but not going to be increased and made higher.

And third, that there will be no rooftop deck installed on the garage that will now be converted to a dwelling unit.

On the basis of all of these conditions -- I mean on the basis of these findings and subject to the conditions, the Chair moves we grant the Variance requested.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance

granted.

(Alexander, Sullivan, Green, Anderson, Best.)

CONSTANTINE ALEXANDER: Now we have a Special Permit to construct skylights within the required setback.

ATTORNEY JAMES RAFFERTY: You know, in talking to Mr. Singanayagam after -- he agrees that that isn't --

CONSTANTINE ALEXANDER: That's crazy.

ATTORNEY JAMES RAFFERTY: That the Variance covers it. Once you approved that set of plans --

CONSTANTINE ALEXANDER: Belt and suspenders you want the Special Permit.

ATTORNEY JAMES RAFFERTY: As long as we applied for it.

CONSTANTINE ALEXANDER: It won't take me too long to make a motion.

ATTORNEY JAMES RAFFERTY: I would prefer that we have it, yes.

CONSTANTINE ALEXANDER: Okay.

The Chair that we make the following findings with regard to the Special Permit being sought relating to the skylights -- the skylight? Skylights. That requirements -- that these skylights cannot be done apparently without -- I mean, the requirements of the Ordinance require the Special Permit for the skylights.

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

That the continued operation of or development of adjacent uses will not be adversely affected by what is being proposed. These skylights will only face up to the sky and will have no impact on privacy or otherwise on neighborhood property -- neighboring properties.

That no nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant of the proposed use or of the citizens of the city. And generally what is proposed with regard to the skylights will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

So on the basis of these findings, the Chair moves that we

grant the Special Permit subject to the same conditions we imposed with regard to the Variance.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Relief granted there as well.

(Alexander, Sullivan, Green, Anderson, Best.)

(Whereupon, at 9:25 p.m., the

Board of Zoning Appeals Adjourned.)

ERRATA SHEET AND SIGNATURE INSTRUCTIONS

The original transcript and Errata Sheet has been delivered to
Inspectional Services Department.

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After reading this volume of the Zoning Board of Appeals
transcript, note any change or correction and the reason therefor on this
sheet. Sign and date this Errata Sheet.

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I have read the foregoing transcript of the Zoning Board of
Appeals, and except for any corrections or changes noted above, I hereby
subscribe to the transcript as an accurate record of the statement(s) made
by me.

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS BRISTOL, SS.

I, Catherine Lawson Zelinski, a Certified Shorthand Reporter, the undersigned Notary Public, certify:

That the hearing herein before set forth is a true and accurate record of the proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of July, 2018.

Catherine L. Zelinski
Notary Public
Certified Shorthand Reporter
License No. 147703

My Commission Expires:
April 29, 2022

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