

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY DECEMBER 1, 2022

6:00 p.m.

Remote Meeting

via

831 Massachusetts Avenue
Cambridge, Massachusetts 02139

Brendan Sullivan, Chair
Jim Monteverde, Vice Chair
Andrea A. Hickey
Wendy Leiserson
Laura Wernick
Slater W. Anderson
Matina Williams

City Employees
Olivia Ratay, Zoning and Building Associate



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P R O C E E D I N G S

* * * * *

(6:00 p.m.)

Sitting Members: Brendan Sullivan, Andrea A. Hickey,
Laura Wernick, Slater W. Anderson, and
Matina Williams

BRENDAN SULLIVAN: Welcome to the December 1, 2022 meeting of the Cambridge Board of Zoning Appeal. My name is Brendan Sullivan, and I am the Chair for tonight's meeting.

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

This meeting is being video and audio recorded and is broadcast on cable television Channel 22 within Cambridge.

There will also be a transcript of the

1 proceedings.

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

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

9 Generally, you will have up to three minutes to
10 speak, but that might change based on the numbers of
11 speakers, and also at the Chair's discretion.

12 I'll start by asking the Staff to take Board
13 members attendance and verify that all members are audible.

14 OLIVIA RATAY: Laura Wernick?

15 LAURA WERNICK: Here.

16 OLIVIA RATAY: Wendy Leiserson?

17 WENDY LEISERSON: Here.

18 OLIVIA RATAY: Slater Anderson?

19 SLATER ANDERSON: Here.

20 OLIVIA RATAY: Matina Williams?

21 MATINA WILLIAMS: Here.

22 OLIVIA RATAY: Andrea Hickey?

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ANDREA HICKEY: Here.

OLIVIA RATAY: And Brendan Sullivan?

BRENDAN SULLIVAN: Here, present and audible.

1 * * * * *

2 (6:03 p.m.)

3 Sitting Members: Brendan Sullivan, Andrea A. Hickey,
4 Laura Wernick, Slater W. Anderson, and
5 Matina Williams

6 BRENDAN SULLIVAN: First order of business is I
7 will make a motion to go into Executive Session to discuss
8 BZA Case No. 153014 -- 26 Bellis Circle.

9 The reason for going into executive discussion is
10 to discuss strategy concerning litigation known as Kun Hu
11 and Shuo -- S-h-u-o Wo v. the City of Cambridge Board of
12 Zoning Appeal, Land Court, 22 MISC 000200, as discussing
13 this matter in an open session may have a detrimental effect
14 on the litigation position of the Board of Zoning Appeal.

15 On the motion to go into Executive Session, Andrea
16 Hickey?

17 ANDREA HICKEY: Yes, in favor of the motion.

18 BRENDAN SULLIVAN: Laura Wernick?

19 LAURA WERNICK: In favor of the motion.

20 BRENDAN SULLIVAN: Slater Anderson?

21 SLATER ANDERSON: In favor of the motion.

22 BRENDAN SULLIVAN: Matina Williams?

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[Pause]

BRENDAN SULLIVAN: Matina Williams? Jim Monteverde, if you're present on the motion.

MATINA WILLIAMS: Sorry, Matina Williams present.

BRENDAN SULLIVAN: Okay.

MATINA WILLIAMS: In favor of going into Executive Session, sorry.

BRENDAN SULLIVAN: All right, and Brendan Sullivan yes to go into Executive Session.

[All vote YES]

BRENDAN SULLIVAN: On the affirmative votes of five members of the Board, we will now go into Executive Session. The regular agenda will begin after Executive Session has ended.

1 (6:27 p.m.)

2 Sitting Members: Brendan Sullivan, Andrea A. Hickey, Laura
3 Wernick, Slater W. Anderson, and Matina
4 Williams

5 JIM MONTEVERDE: Jim Monteverde is here.

6 OLIVIA RATAY: Brendan Sullivan?

7 BRENDAN SULLIVAN: Brendan Sullivan is here.

8 First case I'm going to call tonight is on the Continued
9 Agenda, BZA Case No. 154682, 30 Cameron Avenue. Anybody
10 here representing the petitioner?

11 We are in receipt of correspondence from Lewis
12 Colten directed to Ms. Maria Pacheco:

13 "Dear Maria,

14 [Dated November 22, 2022]

15 "Please accept this letter as a notice of
16 withdrawal of our request for a variance for the expansion
17 of the above-noted project. Accordingly, please remove us
18 from the agenda for the upcoming hearing.

19 "Thank you for your time and effort regarding this
20 matter.

21 "Louis Colton, AIA."

22 On the motion to accept the withdrawal, Andrea

1 Hickey?

2 ANDREA HICKEY: Yes, in favor.

3 BRENDAN SULLIVAN: Laura Wernick?

4 LAURA WERNICK: Yes, in favor.

5 BRENDAN SULLIVAN: Slater Anderson?

6 SLATER ANDERSON: Yes, in favor.

7 BRENDAN SULLIVAN: Matina Williams?

8 MATINA WILLIAMS: Yes, in favor.

9 [All vote YES]

10 BRENDAN SULLIVAN: Thank you.

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(6:28 p.m.)

Sitting Members: Brendan Sullivan, Andrea A. Hickey, Laura Wernick, Slater W. Anderson and Matina Williams

BRENDAN SULLIVAN: Next matter that we'll call is BZA Case No. 170145 -- 10 Van Norden Street. Not sure, Sam, if you're representing or --

SAM KACHMAR: Yep, Mr. Chairman. We're here representing 10 Van Norden, as I believe is the Zoning lawyer, Shanna Boughton as well.

BRENDAN SULLIVAN: Okay. Is Ms. Boughton on, or --

SHANNA BOUGHTON: Yes.

BRENDAN SULLIVAN: Are you representing -- okay, great.

SHANNA BOUGHTON: I'm here.

BRENDAN SULLIVAN: Okay.

SHANNA BOUGHTON: Yeah. Good evening.

BRENDAN SULLIVAN: All right. All right. So whoever wants to start?

SHANNA BOUGHTON: Sure. I will. Thank you.

1 Shanna Boughton here with the petitioner, John Denehy, who I
2 believe is on as well and Sam Kachmar.

3 This is a request for a special permit pursuant to
4 10.4 for the property at 10 Van Norden Street to approve the
5 addition of a dormer on the third floor.

6 At the last hearing on October 6, the Board
7 expressed their concern that the proposed renovation did not
8 meet the Cambridge Design Guidelines for roof dormers. And
9 we're thankful that the Board also provided some additional
10 feedback on the proposed renovation.

11 We have taken that feedback into consideration
12 with the current proposed renovation; namely that the west
13 side had a 15' dormer, and that there is a setback place of
14 at least 3.5' on the east side, more in line with the
15 original gable.

16 The current proposal before the Board is aligned
17 with that feedback, and we hope it does alleviate the
18 Board's prior concerns. And I will have Mr. Kachmar walk
19 you through the changes which we've made.

20 BRENDAN SULLIVAN: Okay. Sam?

21 SAM KACHMAR: Thank you, members of the Board. We
22 heard the feedback at the last hearing in regards to how the

1 dormers should be pulled back from the street side. I
2 believe we have accomplished most of the things that the
3 Board requested of us in there.

4 We've also received some additional letters of
5 support from abutters in there, which should be in the
6 record.

7 Olivia, if it's possible to pull up the drawings,
8 I'll run us through there really quick. I know we've been
9 here in front of the Board maybe four times now, so
10 everybody hopefully should be familiar with it. And I'll
11 try to keep it as brief as possible.

12 BRENDAN SULLIVAN: Okay.

13 SAM KACHMAR: On this sheet, on the cover sheet
14 here you can see the original house, which is in blue
15 towards the left; the white house in the middle where it
16 says, "Renovation," which is where the house stands of
17 today; and then on the right you can see the sort of blue
18 rendering with the red door that shows the dormers pulled
19 back from the original gable setup, which is what we're
20 proposing now.

21 If you could take us to the next sheet, please?

22 Here's just sort of a basic site plan showing

1 where the house exists on 10 Van Norden; nothing changes to
2 the footprint.

3 Next slide, please?

4 Here on this sheet, you can see our existing FAR
5 is 0.56, and we're going up to 0.59 and a 0.3 increase --
6 relatively de minimis overall, and most of that takes place
7 on the third floor, where the dormers just kind of extend it
8 a little bit.

9 If you can take us to the next slide, please?

10 The shadow studies really don't affect any of the
11 neighbors, because there's not a significant change to any
12 of the footprints in there.

13 Next slide, please?

14 Here you can see the original house on the left-
15 hand side. And then on the right you can see the proposed
16 renovation now with the dormer on the right side pulled
17 back, as well as the same thing on the left-hand side to
18 keep it back from the street. So that helps, this doesn't
19 become overly imposing onto the urban fabric.

20 Next slide, please?

21 Here's a street view showing the house as it
22 exists today, where those -- the roofline is very shallow.

1 And then you can see the render on the lower portion of the
2 drawing with the dormers pulled back from the street side.

3 Next slide, please?

4 Lower level there are no changes or any requested
5 relief on that level.

6 Next slide, please?

7 First floor: Same thing, reorganizing the floor,
8 but no additions or extensions to that.

9 Next slide, please?

10 Second floor: Same thing, no request for relief.

11 Next slide, please?

12 Third floor: Highlighted are the areas where we
13 are increasing the FAR, and that's where the 0.3 comes from
14 in there.

15 Next slide, please?

16 Our roof plans showing the dormers pulled back
17 from the street, as discussed with the Board at our last
18 hearing in October.

19 Next slide, please?

20 Here on the top left you can see the existing
21 elevation. In the top right you can see a photo. Again,
22 our rendering on the bottom left, and then the elevation of

1 that in the bottom right.

2 Next slide, please?

3 Here you can see the same thing on this side,
4 where we moved the dormer more towards the rear of the
5 building, which creates that original gable setup on the
6 front that seemed to be a pertinent element in the last
7 discussion in October.

8 Next slide, please?

9 Here you can see the rear of the house. There's
10 really not much of a change anywhere.

11 Next slide, please?

12 Here on this side, you can also see where we
13 pulled the dormer back from the street side on Van Norden to
14 create that gable setup in there.

15 Next slide, please?

16 And that's -- that finishes up our presentation.
17 We have additional photos in the site survey, as well as the
18 dimensional form attached to this. I'm glad to take any
19 questions or resume any kind of discussion with the Board at
20 this time.

21 BRENDAN SULLIVAN: Yeah, I'll open it to the
22 Board. I have no questions. Andrea Hickey, any questions

1 or comments at this time?

2 ANDREA HICKEY: I have nothing at this time.

3 BRENDAN SULLIVAN: Laura Wernick?

4 LAURA WERNICK: No questions.

5 BRENDAN SULLIVAN: Slater Anderson?

6 SLATER ANDERSON: Yeah. I'd just like to confirm
7 on I think it was, like slide 11 and maybe slide 13 the
8 width those new dormers.

9 SAM KACHMAR: Yep. The new dormers are both
10 smaller than 15 feet and meet the Cambridge Dormer
11 Guidelines.

12 SLATER ANDERSON: Thank you.

13 SAM KACHMAR: Yep.

14 BRENDAN SULLIVAN: Matina Williams?

15 MATINA WILLIAMS: I have no questions at this
16 time.

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

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

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

2 [Pause]

3 There appears to be nobody calling in. We are in
4 receipt of communication from a Mr. William Zylicz -- Z-y-l-
5 i-c-z -- dated November 22.

6 "To the Board of Zoning Appeal, I reside at 12 Van
7 Norden Street, Cambridge. I'm a neighbor in the property
8 owned -- I'm a neighbor to the property owned by John Denehy
9 at 10 Van Norden Street.

10 "I've resided at 12 Van Norden for 45 years; I
11 believe that the home renovated by Mr. Denehy has greatly
12 improved the value of my home and other homes on Van Norden
13 Street.

14 "I was in favor of the project originally and
15 understand that the project still has not been approved. I
16 have reviewed the new plans submitted to the ZBA last week
17 and want to confirm support of the project and urge the ZBA
18 to provide approval.

19 "I do not want this house sitting unfinished
20 through the winter. This has gone on far too long. I am
21 fully in support of the house built by Mr. Denehy."

22 There is also correspondence from Rupinder Singh

1 -- R-u-p-i-n-d-e-r S-i-n-g-h.

2 "To Maria Pacheco, I'm writing in support of 10
3 Van Norden Street for the latest design modification,
4 attached renovation to the residence."

5 And that is the sum and substance of the current
6 communication. I will close the public comment part, and
7 Sam, anything else to add?

8 SAM KACHMAR: Nothing else that I think that we
9 need to add to this. Thank you, Mr. Chairman.

10 BRENDAN SULLIVAN: Yes. Let me -- Board members,
11 any comment, or shall I take it to a motion for a vote?

12 ANDREA HICKEY: Motion.

13 BRENDAN SULLIVAN: Okay. Seeking relief under 5,
14 5.530 because there is some additional square footage, also
15 Section 8.22.2.D a special permit.

16 In all districts, the Board may grant a special
17 permit for the alteration or enlargement of a preexisting
18 dimensionally non-conforming, detached single-family
19 dwelling or two-family dwelling not otherwise permitted in
20 Section 8.22.1 above, but not the alteration or enlargement
21 of a preexisting, non-conforming use.

22 Provided that there is no change in use, and that

1 any enlargement or alteration of such preexisting, non-
2 conforming detached single-family dwelling or two-family
3 dwelling may only increase a preexisting dimensional non-
4 conformity but does not create a new dimensional non-
5 conformity.

6 In order to grant the special permit, the Board of
7 Zoning Appeal is required to find -- and does find -- that
8 the alteration or enlargement shall not be substantially
9 more detrimental than the existing non-conforming structure
10 to the neighborhood, and that the alteration or enlargement
11 satisfies the criteria of Section 10.43.

12 Under 10.43, the criteria for granting a special
13 permit, it appears that the requirements of the ordinance
14 can be met. Traffic generated, or patterns of access or
15 egress would not cause congestion, hazard, or substantial
16 change in the established neighborhood character.

17 The Board finds that continued operation of or
18 development of adjacent uses, as permitted in the Zoning
19 Ordinance, would not be adversely affected by the nature of
20 the proposed use.

21 The Board notes the two letters in support from
22 abutters attesting to that fact. There would not be any

1 nuisance or hazard created to the detriment of the health,
2 safety, and/or welfare of the occupant of the proposed use,
3 or the citizens of the City.

4 The Board finds that the new design and
5 rehabilitation -- renovation of the existing structure would
6 have a positive effect on anyone who occupies the structure
7 or anybody -- any citizen who visits it.

8 And that it appears that the proposed use would
9 not impair the integrity of the district or adjoining
10 district, or otherwise derogate from the intent and purpose
11 of the ordinance to allow homeowners to renovate, bring
12 residences up to modern standards. And the proposal before
13 us achieves that goal.

14 On the motion -- also that the Board grants the
15 special permit on the condition that the work is in
16 conformity with the latest set of drawings that are dated
17 11/01/22, stamped into the Inspectional Services on November
18 21, signed and initialed by the Chair.

19 On the motion, then, to grant the special permit
20 as per the application, supporting statements and the
21 dimensional form, Andrea Hickey?

22 ANDREA HICKEY: Yes, in favor.

1 BRENDAN SULLIVAN: Laura Wernick?

2 LAURA WERNICK: Yes.

3 BRENDAN SULLIVAN: Slater Anderson?

4 SLATER ANDERSON: Yes.

5 BRENDAN SULLIVAN: Matina Williams?

6 MATINA WILLIAMS: Yes.

7 BRENDAN SULLIVAN: And Brendan Sullivan yes.

8 [All vote YES]

9 BRENDAN SULLIVAN: Five affirmative votes; the
10 special permit is granted.

11 COLLECTIVE: Thank you, Mr. Chairman.

12 BRENDAN SULLIVAN: Well, again, Sam and Shanna,
13 thank you very much for your efforts and bringing this to I
14 think a successful conclusion. So --

15 SHANNA BOUGHTON: Thank you.

16 BRENDAN SULLIVAN: Thank you.

17 LAURA WERNICK: I think I'm off for the evening,
18 so goodnight, everyone.

19 BRENDAN SULLIVAN: Yes, thank you, thank you. For
20 the regular agenda --

21 ANDREA HICKEY: I believe I'm off as well.

22 SHANNA BOUGHTON: Bye, guys.

1 BRENDAN SULLIVAN: Bye.

2 ANDREA HICKEY: Mr. Chair, it's Andrea Hickey. I
3 think I'm off as well.

4 BRENDAN SULLIVAN: Yes, thank you.

5 ANDREA HICKEY: All right.

6 BRENDAN SULLIVAN: You're the best.

7 ANDREA HICKEY: Thank you. Have a good night.

8 On the regular agenda, the lineup is myself, Jim
9 Monteverde, Matina Williams, Wendy Leiserson and Slater
10 Anderson, correct? Everybody's --

11 COLLECTIVE: Yes, right.

12 BRENDAN SULLIVAN: -- here. Okay. All right. Is
13 it 6:30 yet? Yes, it should be. It is.

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2 (6:42 p.m.)

3 Sitting Members: Brendan Sullivan, Jim Monteverde, Matina
4 Williams, Wendy Leiserson, and Slater
5 Anderson

6 BRENDAN SULLIVAN: The Board will hear Case No.
7 199523 -- 1654 Mass Avenue. Ms. Freyman?

8 ELLEN FREYMAN: Hi. Good evening. I'm here to
9 represent Verizon Wireless. We do have two other people
10 representing Verizon attending. I don't know if they're
11 able to sign in as panelists.

12 BRENDAN SULLIVAN: Yeah. Before we open the case
13 and discuss the merits, there was correspondence, which I
14 believe you're aware of from the Community Development
15 Department.

16 ELLEN FREYMAN: Right.

17 BRENDAN SULLIVAN: And making some suggestions
18 regarding the -- to the initial application.

19 The thought I have is that I think that the
20 suggestions are substantial enough that it would in my mind
21 require a changing of the application, changing of the photo
22 sims and also the material application, location of the

1 devices of the telecommunication facilities.

2 That if we were to open this case up, that in
3 order to rehear it again, you would have to assemble the
4 same five people, which potentially could kick this off
5 sometime into the latter part of February.

6 The option would be to continue this matter if you
7 wish, and to address the recommendations from the Community
8 Development by way of Planning Board, and come back with a
9 new marked up plan.

10 The reason I say this is because we could probably
11 go through it point by point and discuss it, and you can
12 say, "Yes, we can do that" or, you know, and so on and so
13 forth, but the problem is that once it leaves here tonight
14 -- say you were to get a favorable action on the Board, you
15 know, you pass it on to the people at Verizon and we pass it
16 on to the people at Inspectional Services, and yet it's up
17 to them to interpret what was said, and Inspectional
18 Services to interpret what was said.

19 And to me, I think a marked up and a fresh set of
20 drawings is far more beneficial than having to read
21 transcripts and to try to determine exactly what is the
22 latest plan.

1 And so, that's where I was going with that you
2 might want to consider continuing this matter going through
3 point by point, coming back with a plan.

4 And again, you may come back with the same plan.
5 And that could be heard sooner than having a case heard and
6 being kicked off sometime into February. So that was my
7 point therapy.

8 That being said, without getting into the merits,
9 I would ask the members of the Board who have also reviewed
10 the material and also the correspondence from the Community
11 Development if they have a similar feeling regarding that,
12 or are they comfortable going forward with the presentation
13 by counsel, and also in light of the letter from the
14 Community Development Department.

15 Jim, what are your thoughts?

16 JIM MONTEVERDE: I would prefer we come back.

17 BRENDAN SULLIVAN: Okay. Matina Williams?

18 MATINA WILLIAMS: I would prefer that we come back
19 to it as well.

20 BRENDAN SULLIVAN: Okay. Wendy?

21 WENDY LEISERSON: I would also prefer seeing the
22 visuals.

1 BRENDAN SULLIVAN: Okay. And Slater Anderson?

2 SLATER ANDERSON: I concur with all the Board
3 members on coming back.

4 BRENDAN SULLIVAN: Okay. So let me -- Ellen, let
5 me send it back to you now, again, if -- you know, you've
6 heard our feelings. And that's what I'm just trying to
7 avert is, you know, I want to get you a decision as soon as
8 we can, but that's one of the issues that we have. So what
9 are your thoughts?

10 ELLEN FREYMAN: Well, we didn't think that the
11 comments were very significant. You know, they weren't
12 major comments that required major changes. We have
13 adjusted the drawings and the photo sims that we thought we
14 satisfied all of the comments.

15 And again, I don't think they're very drastic
16 steps. They weren't difficult for us to address them, and
17 we did -- I mean, the only change in the photo sims is that
18 we were showing the new painting color, and in the plans, we
19 just put some notes just to confirm what we'll do. So --

20 BRENDAN SULLIVAN: Yeah, well, the only thing is
21 -- again, maybe you were unaware -- is that you had to be in
22 by 5:00 p.m. last Monday. And this allows the members of

1 the Board -- I did not have a chance to review it --

2 ELLEN FREYMAN: Mm-hm.

3 BRENDAN SULLIVAN: -- the new submittals, and I am
4 not sure if the other members of the Board had a chance to
5 review the new photo sims because of the -- coming in after
6 5:00 p.m. on Monday, and also the general public too.

7 So if -- my suggestion would be to continue this,
8 and --

9 ELLEN FREYMAN: What are you talking about as far
10 as a date, then, for --

11 BRENDAN SULLIVAN: Well, that's what I'm trying to
12 -- I -- when do we come back? 12/15? Let's come back then,
13 because I think we can -- 12/15, December 15.

14 Because the second telecom is taking on
15 suggestions, and actually going to continue, but asked that
16 we do it, you know, as soon as we could. So I think we
17 would extend the same courtesy and the same time frame to
18 you is just -- basically just two weeks.

19 ELLEN FREYMAN: Okay.

20 BRENDAN SULLIVAN: So.

21 ELLEN FREYMAN: Yeah. I mean, I -- sure. I mean,
22 I want to work with the Board of course, and make sure you

1 have had time to review this. And hopefully you'll agree
2 that, you know, we are satisfying the request and want to
3 work with the Board and the City.

4 And so -- and I think it's pretty self-explanatory
5 that once you do see everything and read through the
6 materials that --

7 BRENDAN SULLIVAN: Okay.

8 ELLEN FREYMAN: -- we'll be good.

9 BRENDAN SULLIVAN: All right. So I'm going to
10 make a motion, then, to continue this matter to December 15,
11 2022 at 6:00 p.m. on the condition that the petitioner --
12 this is somewhat important that the petitioner -- change the
13 posting sign, and you really need to do it pretty quickly,
14 tomorrow have somebody -- change it to reflect the new date
15 of December 15, 2022 and the new time of 6:00 p.m.

16 Any that any new submittals be in the -- be
17 submitted by 5:00 p.m. on the Monday prior to the December
18 15 hearing.

19 ELLEN FREYMAN: Okay.

20 BRENDAN SULLIVAN: And I'm going to ask that you
21 also provide a waiver of the statutory requirement for a
22 hearing and a decision to be rendered therefore. And Maria

1 Pacheco or Olivia can send that to you tomorrow.

2 ELLEN FREYMAN: Okay.

3 BRENDAN SULLIVAN: And if you could sign it --

4 ELLEN FREYMAN: Mm-hm.

5 BRENDAN SULLIVAN: And then just send it right
6 back to us --

7 ELLEN FREYMAN: Sure.

8 BRENDAN SULLIVAN: -- that would be helpful. I
9 would ask that it return to us no later than next Tuesday
10 morning, actually, if you would.

11 ELLEN FREYMAN: Okay, sure.

12 BRENDAN SULLIVAN: So change the posting sign,
13 reflect the new date December 15 at the time of 6:00 p.m.
14 Sign the waiver, and then we'll be good to go on the
15 fifteenth.

16 On the motion, then, to continue this matter to
17 December 15, Jim Monteverde?

18 JIM MONTEVERDE: I agree to continue.

19 BRENDAN SULLIVAN: Matina Williams?

20 MATINA WILLIAMS: I agree to continue.

21 BRENDAN SULLIVAN: Wendy Leiserson?

22 WENDY LEISERSON: I agree to continue.

1 BRENDAN SULLIVAN: Slater Anderson?

2 SLATER ANDERSON: Agree to continue.

3 BRENDAN SULLIVAN: And Brendan Sullivan agrees to
4 continue.

5 [All vote YES]

6 This matter is continued to December 15, 2022 at
7 6:00. Thank you, Ellen.

8 ELLEN FREYMAN: Thank you very much. Thanks,
9 everyone.

10 BRENDAN SULLIVAN: Yep.

11 ELLEN FREYMAN: Goodnight.

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(6:51 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Wendy
Leiserson, Matina Williams, and Slater
Anderson

BRENDAN SULLIVAN: The Board will now hear Case
No. 200775. Mr. Braillard?

Okay. We have received a request -- let me read
it into the record here. Today:

"Dear Honorable members of the Board of Zoning
Appeal, the firm represents T-Mobile Northeast in connection
with its previously submitted application for a special
permit from the City of Cambridge Board of Zoning Appeal to
modify its existing wireless telecommunication facility
located on the rooftop of the building located on the
property.

"T-Mobile has received comments from the City of
Cambridge Planning Board relating to the design of T-
Mobile's proposed modifications and is currently reviewing
these comments in an effort to redesign the proposal.

"Therefore, T-Mobile respectfully requests the
continuance of the opening of a public hearing for the

1 application to the Board's next scheduled hearing on
2 December 15, 2022.

3 "Thank you for your attention to this matter.
4 Please let me know if you have any other questions.

5 "Adam Braillard."

6 Let me make a motion, then, to continue this
7 matter to December 15, 2022 at 6:00 p.m. on the condition
8 that the petitioner change the posting sign no later than
9 tomorrow to reflect the new date of December 15 and the time
10 of 6:00 p.m.

11 Any new submittals be in the folder, in the file
12 by 5:00 p.m. on the Monday prior to the December 15 hearing.

13 That the Board is in receipt of the waiver form.
14 So we have checked that box.

15 On the motion, then, to continue this matter, Jim
16 Monteverde?

17 JIM MONTEVERDE: In favor.

18 BRENDAN SULLIVAN: Wendy Leiserson?

19 WENDY LEISERSON: In favor.

20 BRENDAN SULLIVAN: Matina Williams?

21 MATINA WILLIAMS: In favor.

22 BRENDAN SULLIVAN: Slater Anderson?

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SLATER ANDERSON: In favor.

BRENDAN SULLIVAN: And Brendan Sullivan yes.

[All vote YES]

BRENDAN SULLIVAN: On the five affirmative votes,
this matter is continued to December 15, 2022 at 6:00 p.m.

Okay, we have to wait a few minutes for 89 Third
Street. That is scheduled for 7:00 p.m.

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(7:01 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Wendy
Leiserson, Matina Williams, and Slater
Anderson

BRENDAN SULLIVAN: All right. It being 7:00, we
will return to the agenda. I will call Case No. 200776 --
89 Third Street. Petitioner?

TALANOA LESATELE: Can you hear me?

BRENDAN SULLIVAN: Yes.

TALANOA LESATALE: All right.

BRENDAN SULLIVAN: If you could introduce yourself
for the record.

TALANOA LESATELE: Mr. Chairman and members of the
Board, my name is Talanoa Lesatele. I'm the Architect for
89 Third Street.

Today I don't have much to add to our submission,
other than I just wanted to say that what we are proposing
to convert an existing, unused and underutilized roof deck
to a usable and interactive deck or terrace will definitely
enhance these rowhouses and other abutters -- not only
architecturally, but also socially, as this proposed terrace

1 will encourage interaction between our property and the
2 surrounding neighborhood.

3 Thank you.

4 BRENDAN SULLIVAN: Okay. I'm going to ask Olivia
5 if you could pull up A-101 -- I'm sorry, that's A-101; A-104
6 I guess it is? Is the deck on the -- Talanoa, what's the --
7 it's on the second floor, is it not?

8 TALANOA LESATALE: It's on the first floor above
9 the basement.

10 BRENDAN SULLIVAN: Oh, the first floor. I'm
11 sorry.

12 TALANOA LESATALE: Yeah.

13 BRENDAN SULLIVAN: That's right. So that would be
14 A-101? I'm sorry, that's correct.

15 TALANOA LESATALE: This one, yeah.

16 BRENDAN SULLIVAN: Somehow, I'm not getting it on
17 my monitor here. Yep, it's okay. All right. Let me see if
18 we have any questions from members of the Board.

19 Jim Monteverde, any questions for the petitioner?

20 JIM MONTEVERDE: All right. Just one. The --
21 from drawing A-303, the section, the -- am I correct that
22 that new deck terrace is basically higher than the fence or

1 wall that's between this property and -- I'm trying to
2 figure out what the adjacent property is. Is it -- hold on,
3 I'm going to this 91 Third Street?

4 TALANOA LESATALE: It's aligned. So this deck is
5 aligned with this coplanar with the other deck. So the --
6 it has the exact same roof size, and our deck on our
7 property, 89 Third Street, is unfinished. There's no --
8 it's just [indiscernible] finish.

9 JIM MONTEVERDE: Right. Yeah.

10 TALANOA LESATALE: Doesn't have any decking on it,
11 and there's no guardrail. So the guardrails here will match
12 the guardrails of the 91 Third Street.

13 JIM MONTEVERDE: Okay.

14 TALANOA LESATALE: In terms of height.

15 JIM MONTEVERDE: Can you just go to A-002, just so
16 I understand it? There we go. So aren't the two decks --
17 I'm sorry, I'm looking at the deck for 89 Third Street. And
18 it sits at the property line, correct, with 89 -- sorry, 91?

19 TALANOA LESATALE: Correct, yes.

20 JIM MONTEVERDE: And there's open space between it
21 and the --

22 TALANOA LESATALE: Yeah.

1 JIM MONTEVERDE: -- it looks like there's a deck
2 on 91?

3 TALANOA LESATALE: Yeah. These houses are not
4 mirrored. They're copied over.

5 JIM MONTEVERDE: Mm-hm.

6 TALANOA LESATALE: So the deck for 91 Third Street
7 is on the other property, not abutting to --

8 JIM MONTEVERDE: Right. Yeah, to your deck.
9 Okay. So your deck is higher than that fence that's at that
10 -- I guess party line or property line? Did they comment at
11 all on the deck?

12 TALANOA LESATALE: Yeah. They have a supporting
13 letter. I guess Mr. Chairman can read that.

14 BRENDAN SULLIVAN: I'll read it at public comment,
15 yes.

16 JIM MONTEVERDE: Okay. So there is. Fine. And
17 if they're okay with it, that's fine. Okay. Thank you.

18 TALANOA LESATALE: Thank you.

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

21 MATINA WILLIAMS: Not at this time.

22 BRENDAN SULLIVAN: Wendy Leiserson, any comments

1 or questions?

2 ANDREA HICKEY: I am not sure -- I have a question
3 in terms of it's being brought as a variance. And I wasn't
4 quite sure which piece of this requires the variance, as
5 opposed to seeking a special permit under the section
6 quoted.

7 BRENDAN SULLIVAN: Well, it's -- one of the
8 reasons is obviously there's a -- if you could pull up the
9 dimensional form. And it's creating a structure; I believe
10 within a side yard -- should be the left side. I'm losing
11 this again. Because of the party wall that there is no side
12 yard setback at all. And so, that --

13 ANDREA HICKEY: Oh, I see. So even though it
14 says, "No change" though, okay, in the table, right?

15 BRENDAN SULLIVAN: That's correct. Right. But
16 that triggers the variance, because --

17 ANDREA HICKEY: Okay.

18 BRENDAN SULLIVAN: -- so, as opposed to a special
19 permit.

20 ANDREA HICKEY: Okay. Thank you for clarifying
21 that.

22 BRENDAN SULLIVAN: Okay. Slater, any questions at

1 this time? Comments?

2 SLATER ANDERSON: No questions.

3 BRENDAN SULLIVAN: Okay. Let me open it to public
4 comment. Any members of the public who wish to speak should
5 now click the button that says, "Participants," and then
6 click the button that says, "Raise hand."

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

10 [Pause]

11 There appears to be nobody calling in. We are in
12 receipt of communication.

13 "To the BZA, my wife and I own the abutting
14 property at 87 Third Street. We are pleased that plans are
15 in place to renovate 89 Third Street. I don't believe that
16 granting this variance would have a substantial detrimental
17 effect on the adjoining properties or the locale more
18 broadly.

19 "In fact, I would argue that it is in keeping with
20 the majority of the other houses on this unique block that
21 already have an existing deck at the rear. We therefore
22 urge the BZA to grant this variance.

1 "However, given the unique nature of this
2 particular block, preserving the original streetscape is
3 vital. The property in question has had a front dormer
4 window added to the top floor at some point, which is
5 totally out of keeping with the rest of the building on the
6 block."

7 It goes on and basically asks if the petitioner
8 would be willing to commit to restoring the front of the top
9 floor to its original non configuration so that 89 Third
10 Street is once again in keeping with the other houses.

11 The -- my retort to that is that is not an issue
12 that is before us, and as such not one that we can discuss
13 at this time. It's not part of the application.

14 There is also correspondence dated 29 November,
15 2022 from a Geroen -- G-e-r-o-e-n Vanderlans V-a-n-d-e-r-l-
16 a-n-s and David Ellis, 93 Third Street.

17 "We are the owners of 93 Third Street, and we are
18 writing in support of the application Case No. 200776 to be
19 heard at the upcoming Zoning Board of Appeal meeting
20 December 1.

21 "Our property is situated in the row of brownstone
22 townhouses known as, "Quality Row" two doors down from 89

1 Third Street.

2 "We understand that Talanoa Lasatele plans to
3 construct a roof deck on the small room that extends out of
4 the back of his property into the back yard. This would
5 simply be about converting the existing roof to include a
6 deck on it and would therefore be similar in size and design
7 to the decks on the rear of the rowhouses at 83, 91, 93 and
8 95; the group of brownstone houses otherwise known as,
9 'Quality Row.'"

10 "Given this is in line with the other properties
11 in the row, and that there was no impact in terms of
12 increase to the existing building footprint or floor plan,
13 we believe that the application should be approved."

14 There is correspondence from Maria (sic) Elena and
15 Betty Lee Saccocoio -- S-a-c-c-o-c-o-i-o. Support for
16 variance sought by owners at 89 Third street.

17 "To the Chair and members of the Board, we have
18 reviewed the plans submitted and the request for a variance.
19 Given the unique width of these identical plots in this
20 historic rowhouse, the variance is both needed and desirable
21 from a visual perspective.

22 "Every other house in this row has a back deck. I

1 suspect justification for past variances were granted based
2 on the same criteria. We are situated within earshot and
3 eyeshot of this row and have never been bothered by noise or
4 visual intrusion.

5 "We are happy to see this home is being restored
6 and hope for an eventual viewing. We knew the prior owners
7 well and are pleased to see that the wrought iron bannisters
8 on the front of the house are being preserved, since the
9 prior owner was an ironsmith, and made those himself.

10 "Also notable, the bushes in the front yard came
11 from cuttings from an ancestral home in Italy.

12 "Sincerely,

13 "Maria Elena and Betty Lee."

14 There is also correspondence from Karen and Frank
15 Field, 91 Third Street. I'm writing to add to the record of
16 the upcoming Board of Zoning Appeal hearing to be held on
17 December 1.

18 "I and my wife Karen are the owners of 91 Third
19 Street, one of the properties immediately abutting 89 Third.
20 Roof deck plans are the subject of this hearing.

21 "Karen and have been living in 91 for over 20
22 years, and we have come to treasure the neighborhood. It is

1 my understanding that this hearing pertains to plans to
2 construct a roof deck on the roof or a small room that
3 extends out the back.

4 "As you probably know, most of the properties in
5 Quality Row have such a room, although they vary widely in
6 size across the row. We are therefore quite surprised to
7 learn that the variance would be required.

8 "While I understand the rationale for property
9 line setbacks when considering construction projects for
10 approval, the rule seems ill-suited to properties like those
11 at Quality Row."

12 And it goes on.

13 "It is also simply a case that these setbacks
14 effectively ban the construction of any kind of deck, which
15 seems a real detriment not only to 89, but also to the rest
16 of us who found our decks to be an important part of our
17 community."

18 And that is the sum and substance of the
19 correspondence. I will close the public comment part, send
20 it back to the petitioner. Anything else to add before we
21 take it to the Board?

22 Talanoa, any questions or comments at this point?

1 TALANOA LESATELE: No further comments. Thanks so
2 much.

3 BRENDAN SULLIVAN: Okay. Board members, any
4 comments or are we ready for a motion?

5 JIM MONTEVERDE: Ready.

6 BRENDAN SULLIVAN: Okay. On the motion, then, to
7 grant the relief requested as per the application entitled,
8 "Architectural Drawings, 89 Third Street" and dated
9 10/27/2022 initialed by the Chair.

10 Motion to grant as per those drawings that the
11 work be consistent with those drawings and supporting
12 statements and the dimensional form.

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

16 The Board finds that this very narrow property,
17 which is only 20 feet wide, would be quite onerous to have
18 to comply with the required side yard setbacks, knowing that
19 there is none on the adjoining property, which is common to
20 rowhouses.

21 The Board finds that this particular property is
22 encumbered by the existing ordinance, which requires a side

1 yard setback, and as such would be nearly impossible and
2 have absolutely no benefit to comply with the side yard
3 requirement regarding this application.

4 The hardship is owing to the shape of the lot,
5 which is very narrow and very long, and also having no side
6 yard setbacks with the adjoining property, and as such any
7 type of application work of this nature would require some
8 relief from the ordinance. The Board finds that the request
9 is a fair and reasonable one.

10 The Board notes the letters from abutters where
11 the addition of a safe deck with a proper railings are a
12 benefit to the occupants of the structure, and also anyone
13 who uses it.

14 The Board also notes that during this particular
15 period of COVID-19 that outdoor space has become quite
16 valuable, quite sought after, and in fact quite necessary to
17 those who wish for social distancing, and also to have any
18 outdoor space.

19 The Board finds that desirable relief may be
20 granted without substantial detriment to the public good.
21 In fact, the proposed safe deck would actually have a
22 benefit.

1 And also notes the comments from abutters saying
2 that their enjoyment would also be enhanced by a safe deck,
3 and also be consistent with the existing conditions on
4 abutting properties.

5 The Board finds that desirable relief may be
6 granted without substantial detriment to the public good or
7 nullifying or substantially derogating from the intent and
8 purpose of the ordinance to allow homeowners to improve
9 their property, to upgrade it to provide meaningful outdoor
10 space to allow for -- again social distancing when it is
11 necessary and required.

12 On the motion, then, to grant the variance as per
13 the plan's application, Jim Monteverde?

14 JIM MONTEVERDE: In favor.

15 BRENDAN SULLIVAN: Matina Williams?

16 MATINA WILLIAMS: In favor.

17 BRENDAN SULLIVAN: Wendy Leiserson?

18 WENDY LEISERSON: In favor.

19 BRENDAN SULLIVAN: Slater Anderson?

20 SLATER ANDERSON: In favor.

21 BRENDAN SULLIVAN: In favor of granting the
22 variance.

1 [All vote YES] On the five affirmative votes, the
2 variance is granted.

3 TALANOA LESATELE: Thanks so much. Have a good
4 night.

5 BRENDAN SULLIVAN: Goodnight, now.

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2 (7:18 p.m.)

3 Sitting Members: Brendan Sullivan, Jim Monteverde, Wendy
4 Leiserson, Matina Williams, and Slater
5 Anderson

6 BRENDAN SULLIVAN: The Board will now hear Case
7 No. 200398 -- 9 Kassul Park. Kamand Shaibani?

8 MICHAEL WIGGINS: Gdevmrm, can you hear me?

9 BRENDAN SULLIVAN: Yes.

10 MICHAEL WIGGINS: Michael Wiggins from the firm of
11 Weston Patrick, and I'm here representing Kamand Shaibani.
12 And with me tonight is Jared Klein of Wendel Klein Builders
13 and Wendel Klein Builders' Project Architect, Olivier Jamin
14 -- that's J-a-m-i-n.

15 This project consists of a very modest expansion
16 to a very small house. The house is about 945 square feet,
17 and the proposal is to add a small, two-story addition to
18 the rear of the house, not in public view; and also to
19 convert the garage building to an accessory dwelling unit.

20 The photos of the house and the garage and the
21 grounds are on Slide No. 9, and Olivier will walk through
22 that with you, those slides. I think you have to scroll up

1 to get to the -- up to the presentation to get to the
2 photos. There they are, right there. Thank you.

3 As expanded, the building is going to remain well
4 below the applicable FAR. This lot is a bit -- few hundred
5 feet over 5,000 square feet. And with the 600-foot
6 addition, it's still going to be way below what it could be.

7 And the purpose of this addition is to provide
8 more habitable space, provide a second floor, a more --
9 second bathroom. And also for the accessory dwelling unit
10 to provide living space on the ground-floor.

11 The applicant's parents are old, and she's
12 planning for the future when they may not be able to go
13 upstairs. They spend a lot of time with her every year,
14 including in the house.

15 I will address the hardship standards later, but I
16 would just point out to you that this is a very narrow lot,
17 and in a neighborhood in which there are many narrow lots.
18 And we'll see that this lot shares with a few other lots in
19 the immediate neighborhood the same kind of issues that
20 we're dealing with here.

21 So we're asking for a special permit to extend the
22 prior non-conforming setback on the left side of the house

1 as you're looking from the street, and on the right side a
2 variance, which will intensify slightly the non-conforming
3 distance between the existing rear of the premises and the
4 garage, which is going to be the accessory dwelling unit.

5 So at this point, I'm going to turn it over to
6 Olivier to just talk to you, walk you through the photos,
7 and then the site plan as well.

8 OLIVIER JAMIN CHANGEART: Thank you, Mike. Good
9 evening, Mr. Chairman, and members of the Board. I'm
10 Olivier Jamin Changeart, and I'm the Project Architect for
11 this case.

12 So right in front of you I want to talk about the
13 existing condition, and emphasize the fact that the house,
14 as you can see on View 1 and View 2 is surrounded by I would
15 say nature. There is a lot of vegetation and big trees
16 around the property line.

17 View 1 shows you the actual garage. And at the
18 back you see the back of the house with the uncovered porch.

19 View No. 6 shows you also how close the uncovered
20 porch is from the garage.

21 Another interesting view is the View No. 5, where
22 you see a very long driveway that can accommodate three cars

1 easily. And the garage, as I mentioned, is very small. And
2 the owner never managed to park the car into the garage,
3 because it's not practical at all.

4 So could we pull up the next slide, I think? Yes.
5 Thank you.

6 So on this slide, you see the actual site plan at
7 the top and the proposed one at the bottom. I want to
8 emphasize the fact that there is a preexisting, non-
9 conformity on the south side of the property, with the site
10 setback, which is 6.6'.

11 We are proposing to have this addition in blue at
12 the bottom of the screen slightly increasing the footprint
13 of this porch to have a new setback slightly lower than the
14 current one.

15 And as Mike mentioned as well, this addition will
16 bring this non-conformity between the distance of the garage
17 and the porch from 8' to 4'2".

18 I want to emphasize the fact that we really tried
19 to minimize the effects of the addition upon the immediate
20 abutters by providing maximum openings towards the yards.

21 So the garage, for instance, has only openings
22 inwards on the first floor, and through the dormers. That

1 will be on the top. And for the addition, we will have most
2 of the windows towards the west side of the property.

3 Now if we could go down one more, please? Yes.

4 So I think this is a very interesting view that
5 relates to what I just said about the property. There's a
6 lot of trees all around that provide a natural visual
7 barrier. So wherever you are around the property, you have
8 almost no sight of what's happening inside the property.

9 Also, as you can see -- and Mike mentioned that
10 too -- all the lots around the property are long and narrow.
11 They all have a driveway with a garage. And as you can see
12 on the picture -- I don't have a mouse to show you, but
13 right underneath the word, "ADU" you see that the structure
14 -- I think it's a garage -- is almost touching the main
15 dwelling.

16 To the right, we have a similar situation. And
17 when I'm done, I can hand it over to Jared Klein, who
18 yesterday went through the neighborhood, and he will be able
19 to give you his findings.

20 And lastly, I would like to mention that the two
21 houses, when you face the house -- so the one to the right
22 and the one to the left -- have the entire support of the

1 presentations. And these are the people who sent the
2 support letters that are within the applications.

3 Thank you.

4 JARED KLEIN: Good evening, Mr. Chair, and members
5 of the Board. Jared Klein, Builder. The property, as you
6 can see, at the top of the image on the screen are Seagrave
7 Road, which Kassul Park kind of runs perpendicular to and
8 Kamand's property kind of the back yard -- runs into the
9 back yard of these other homes.

10 On at least seven of these homes, we have the home
11 and the garage structure below 5' -- some as small as 3',
12 3.5', 4' and the majority are kind of in the 4' to 5' range
13 width. At least three of them being about 3'.

14 So I just wanted to bring that up as kind of
15 there's a precedent for small distances between structures
16 on a given lot in this neighborhood.

17 BRENDAN SULLIVAN: Well, Jared I have just sort of
18 one question. I'm concerned about the garage, the existing
19 garage is being -- asked to be, obviously, an accessory
20 building and it's going to be converted into a residence or
21 for residential purposes?

22 OLIVIER JAMIN CHARGEANT: Yes.

1 JARED KLEIN: That's correct.

2 BRENDAN SULLIVAN: Okay.

3 JARED KLEIN: Yeah.

4 BRENDAN SULLIVAN: So how does that happen with
5 the existing structure. Does it come down?

6 JARED KLEIN: No. The cost involved in taking the
7 structure down is pretty high. So we're going to approach
8 it as a -- more of a renovation. Effectively three sides of
9 it north -- as you're looking on the screen, north east and
10 west sides will remain intact.

11 The south side will have some pretty significant
12 work to it, as that's where kind of the front door will go,
13 a bunch of windows and the dormers.

14 So really, we're planning it as a renovation
15 rather than raising it and creating a new structure there
16 from scratch.

17 BRENDAN SULLIVAN: Okay. Noting that the drawings
18 are not numbered, so it's sort of trying to go back and
19 forth, and there's a little bit other than -- you know, the
20 Zoning Analysis sheet, which -- again -- is not numbered is
21 where you sort of have to pick up on some of the dimensions,
22 as opposed -- usually we like to see dimensions or proposed

1 work dimensioned on the sheet, so that we don't have to go
2 hunting for it.

3 So it's a little bit of a critique there that the
4 drawings are a little bit lacking in a lot of the
5 information that we sort of like to -- sort of like to see.
6 But anyhow.

7 All right. Is there anything else?

8 Michael, anything else or open it up to the Board
9 for questions, or?

10 MICHAEL WIGGINS: Yeah. I do have just a couple
11 of additional comments. Just to address the hardship issue,
12 it clearly arises from the narrowness of this lot, which --
13 with respect to this distance between the garage and the --
14 that's going to become an ADU in the house.

15 I came to this case a bit late, and after the
16 petition had been filed. And I think there's an argument
17 that could be made that that really is a special permit,
18 just like the left side, because it's a non -- it's a prior
19 non-conforming setback, which is going to be increased if
20 you will.

21 It's actually the distance will be reduced, but
22 the non-conformity would be increased slightly. Although

1 it's under Article 4, I would submit that it's the kind of
2 thing under the case law interpreting 40A -- Chapter 40A.6
3 would qualify as a special permit.

4 But be that as it may, I would submit that there
5 is a pretty clear hardship here that would arise and given
6 that the homeowner wants to keep it intact, not move it and
7 not raise it, it would be inordinately expensive and a
8 hardship I think to have to pick it up and move it so as to
9 conform more closely to the setback.

10 It also would adversely impact the neighbor on the
11 right side. She has a nice back yard; I've taken a look at
12 it today myself and moving that back just to satisfy a
13 requirement that obviously is not met by most of the other
14 houses, the other lots in the area that have very tight
15 spaces. I don't think it would serve the purposes of the
16 ordinance. So I would say that this could be done without
17 derogating at all from the purposes of the ordinance.

18 BRENDAN SULLIVAN: Okay.

19 MICHAEL WIGGINS: You know, with respect to the
20 special permit, the same thing: This fits right in with the
21 neighborhood; a very slight increase in the non-conformity
22 on the left side. And it has a lot to do with the

1 narrowness of the lot.

2 BRENDAN SULLIVAN: Okay. And again, going back to
3 Jared, the height of the -- what was a garage to now into a
4 residential use does not exceed 15 feet?

5 JARED KLEIN: No, I don't believe it does.

6 BRENDAN SULLIVAN: Okay. And again, that's sort
7 of where -- you know, some dimensions, some -- on the
8 drawings -- would be helpful. The last thing you really
9 want is for members of the Board to sort of not find any
10 information they're looking for quickly and have some
11 hesitation. So anyhow, we'll see how it goes.

12 Jim Monteverde, any questions or comments? At
13 this time?

14 JIM MONTEVERDE: Yeah. I have two questions. And
15 it's on -- if you go to your Slide 10 of 25 or maybe --
16 sorry, I might have a different sequence, it's the one that
17 shows the plot plan in color; the garage, the existing and
18 the proposed addition.

19 One more. There you go. Is there any exploration
20 to how to avoid the nonconformance in terms of the distance
21 between the garage and the proposed addition? I'm a little
22 concerned about the addition -- you know, an occupied

1 residence, and then the garage converted to a residential
2 use as well, being as close to each other as the 4'2". Did
3 you look at another scheme that allowed it to get at least
4 10' or better than 4'2" away?

5 OLIVIER JAMIN CHARGEANT: So as you can see on the
6 screen this dashed red circle, right? That's the 10' radius
7 from the corner of the garage.

8 So as you can see, if we want to respect that --
9 and also to respect the setback requirements on the south
10 side of the property, the additional surface would be around
11 -- I made the calculation yesterday -- around 120 square
12 feet per story, versus 350.

13 So we couldn't -- to be honest, we couldn't create
14 a livable space that required for the owner to host family
15 members.

16 JIM MONTEVERDE: Okay. And the addition couldn't
17 be either repositioned or rotated 90 degrees? You seem to
18 get away from the garage, and you get away from the south
19 property line?

20 JARED KLEIN: It becomes -- we did play around
21 with several options. It becomes a very kind of long and
22 narrow new space that we would be building. The rooms

1 become cramped; closets, hallways, bathrooms really were a
2 challenge to kind of build in that in any meaningful way.

3 At that point, it kind of seemed like what value is this
4 even serving in the way that it connected with the house?

5 So we did try. And that was actually the first
6 push. We wanted to do this without -- you know, without
7 being able to do it by right. But it just wasn't turning
8 out to be the meaningful project and addition that we were
9 going for.

10 JIM MONTEVERDE: Okay. And I assume that
11 complication happens really on the second floor, not so much
12 on the first?

13 OLIVIER JAMIN CHARGEANT: I'd say it happens
14 really more on the second floor when we get into the bedroom
15 spaces, maintaining a three-foot wide hallway and all the
16 other clearances that we needed.

17 JIM MONTEVERDE: Okay. Thank you.

18 OLIVIER JAMIN CHARGEANT: In terms of the program,
19 we -- there's no powder room; no toilet on the first floor.
20 So that was something very important for the owners. And
21 upstairs there are three bedrooms and just one bathroom. So
22 there was also a need for an additional bathroom.

1 So we really tried, like Jared said, to put
2 everything together to make an efficient layout, but
3 considering the concerns we had, there's no other option
4 than the one we are proposing tonight.

5 JIM MONTEVERDE: Okay. Thank you.

6 BRENDAN SULLIVAN: Okay. Matina Williams, any
7 comments or questions at this time?

8 MATINA WILLIAMS: I did. I had one just question.
9 When he went through the neighborhood, were there any other
10 garage conversions? I see that, you know, they said they --
11 he walked through the neighborhood.

12 JARED KLEIN: Yeah. At least one that I can
13 recall was absolutely not being used as a garage. It had
14 kind of a residential-looking door on it, and it had been
15 kind of gussied up. I did not inquire as to the ultimate
16 uses of the garages.

17 BRENDAN SULLIVAN: Okay.

18 MATINA WILLIAMS: Okay.

19 BRENDAN SULLIVAN: Anything else, Matina?

20 MATINA WILLIAMS: Thank you. No, that's it.
21 Thank you.

22 BRENDAN SULLIVAN: Wendy, any questions or

1 comments at this time?

2 WENDY LEISERSON: Yeah. I just -- can you remind
3 me what is the actual dimension of the garage?

4 OLIVIER JAMIN CHARGEANT: The garage is 18' long
5 by 10' wide.

6 WENDY LEISERSON: Okay. And what is the internal
7 plan for this? It says two stories on one of your slides.

8 OLIVIER JAMIN CHARGEANT: Oh. Are you talking
9 about the garage?

10 WENDY LEISERSON: I think so. But I'm having -- I
11 must say I'm looking at a very small screen right now. So -
12 -

13 OLIVIER JAMIN CHARGEANT: Okay.

14 WENDY LEISERSON: -- so I'm having trouble
15 following. Yeah.

16 OLIVIER JAMIN CHARGEANT: There are not two
17 stories for the garage.

18 WENDY LEISERSON: Oh, okay.

19 OLIVIER JAMIN CHARGEANT: There's the main floor
20 and mezzanine.

21 WENDY LEISERSON: Okay.

22 OLIVIER JAMIN CHARGEANT: This is why we're adding

1 a dormer on the south side of the garage.

2 WENDY LEISERSON: Got it. Okay. Thank you. And
3 I think I don't have any more questions at this time. Thank
4 you.

5 BRENDAN SULLIVAN: Slater? Any questions at this
6 time?

7 SLATER ANDERSON: No questions.

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

12 If you're calling in by phone, you can raise your
13 hand by pressing *9 and unmute or mute by pressing *6, and
14 you will have up to three minutes in which to comment.

15 OLIVIA RATAY: Amy Kipp?

16 BRENDAN SULLIVAN: Amy Kipp?

17 AMY KIPP: Hello, hi. I live at 111 Whittemore
18 Avenue, and my property abuts Kamand's property to the
19 south. And I just want to say I'm aware of what's being
20 done, and I have a copy of the plans, and I'm fully in
21 support of it.

22 BRENDAN SULLIVAN: Thank you.

1 AMY KIPP: Mm-hm.

2 BRENDAN SULLIVAN: And there appears to be nobody
3 else calling in. We are in receipt of correspondence, and
4 Kamand has sent a letter. It was sent to --

5 "Hello, Jess.

6 "I wanted to give you this letter to explain the
7 addition I want to add to my home. I'm looking to add 589
8 square feet total. From the 589 square feet, 240 square
9 feet is the conversion of the garage to a tiny home. 344
10 square feet will be an addition to the first floor, and 258
11 square feet will be added to the second floor.

12 "The addition will be where the deck is now. The
13 windows will be facing left. There will be a second-floor
14 balcony that will face your home.

15 "The garage will have the same footprint, and the
16 door and windows will be facing my back yard and not your
17 home. This should minimize impingement into your property
18 or views.

19 "Enclosed is a drawing that I will be presenting
20 to the Board for approval. I would like to discuss this
21 matter with you and have a letter for you to sign if you are
22 okay with the design I am proposing."

1 And that was dated 10-06 (sic). And the -- what
2 was received back is a checkmark.

3 "I do not object to the design addition to 9
4 Kassul Park, Cambridge."

5 And it is signed by Jessica Dausman -- D-a-u-s-m-
6 a-n, 15 Kassul Park.

7 That is the sum and substance, other than one from
8 Amy Kipp, who is excited. And she voices her -- she has no
9 questions or objections, and she had previously spoken.

10 I will close public comment part and send it back
11 to the to Michael for any -- or to any of the petitioner's
12 team that has any further comments before we take it to the
13 Board.

14 MICHAEL WIGGINS: Well, Mr. Chairman, if there is
15 any problem with -- among the members with the variance
16 aspect of this, I think that we would be -- we'd like to
17 have a sense of that, because I think there's a compelling
18 case for a special permit on that side, which was not asked
19 for. I mean I'm confident that you do have the standard --
20 you've met the standards for a hardship.

21 The other thing I wanted to point out is the to
22 the petitioner on the south side of the addition, she's

1 asked the architect, "Can I actually delete the windows on
2 the ground floor?" Because she has her own purpose for that
3 room and doesn't need the windows on the ground floor.

4 And I wanted to just bring that to the Board's
5 attention and get a little bit of guidance on what would
6 happen if this was allowed as is with those ground-floor
7 windows.

8 Can the petitioner elect to actually remove those
9 windows or reduce them, without needing to come back in
10 front of the Board later on?

11 BRENDAN SULLIVAN: Well, to answer the second
12 question first, I would be amenable to allowing the
13 petitioner -- well, to the Board approve the plan as is --
14 that to eliminate windows that are on the plan to me is
15 okay. And to reduce the size of the windows would be okay.

16 Putting in larger windows or relocating the
17 windows would then trigger probably a further review by the
18 Board.

19 So if that answers your question, if he chooses
20 not to put the windows in, he's not bound by it. My way of
21 thinking -- and if he wants to reduce the size, he can do
22 that also. It would only trigger something outside of our

1 approval to put in larger windows or relocating windows. So
2 if that's helpful?

3 MICHAEL WIGGINS: That -- that --

4 BRENDAN SULLIVAN: The other point, Michael, I
5 think on whether it's a variance or special permit -- is
6 probably the change of use from an accessory structure/
7 garage to a residential use.

8 And I think maybe you're focusing on the special
9 permit aspect because we are not creating any new violations
10 or -- regarding the dimensional form. But it's maybe
11 potentially the position of the department and ISD -- would
12 be that it's a change of use. Is that -- Olivia, is that --

13 OLIVIA RATAY: It's an accessory structure.

14 BRENDAN SULLIVAN: It's an accessory structure,
15 but as an accessory structure to a residence is okay? It's
16 just the -- okay.

17 So the -- what they're saying is that the -- in
18 violation of 4 -- well, it's article 4 -- 4.21, Accessory
19 section H that even though it's better in principle --
20 anyhow, accessory buildings shall not be relocated any
21 closer than 10 feet to the principal building. So that is
22 where the violation is. And I think that their position is

1 that it's a variance is required. So anyhow.

2 MICHAEL WIGGINS: I understand the argument, Mr.
3 Chairman. I don't want to push it. I mean, I think there
4 is an argument to be made that it's able --

5 BRENDAN SULLIVAN: Okay. Yeah.

6 MICHAEL WIGGINS: -- at any rate.

7 BRENDAN SULLIVAN: All right. We'll see where it
8 goes.

9 MICHAEL WIGGINS: Okay.

10 BRENDAN SULLIVAN: And if it becomes a point of
11 contention, then maybe we can revisit our options or
12 something.

13 All right. Let me turn it over to the Board. Jim
14 Monteverde, any questions or comments, or are you ready for
15 a motion?

16 JIM MONTEVERDE: No further questions. Thank you.

17 BRENDAN SULLIVAN: Matina Williams, anything to
18 add, or --

19 MATINA WILLIAMS: Not really. So the structure --
20 the garage is just going to be for personal use and not for,
21 like, renting, right?

22 BRENDAN SULLIVAN: I'm sorry, the principle --

1 MATINA WILLIAMS: The garage, the conversion?

2 BRENDAN SULLIVAN: Yes.

3 MATINA WILLIAMS: Is just for their --

4 BRENDAN SULLIVAN: The existing garage is going to
5 be converted into a residence, yes.

6 MATINA WILLIAMS: For their use and not for
7 renting, like potential renter, Airbnb it? Like --

8 JARED KLEIN: That is correct. The intended use
9 is for her family from out of the country to utilize that
10 space when they come to visit for -- you know, month, two-
11 month periods, which they do a couple of times a year.

12 MATINA WILLIAMS: Okay. Okay. No other
13 questions.

14 BRENDAN SULLIVAN: Okay. Thank you. Wendy
15 Leiserson?

16 WENDY LEISERSON: Just for the record, Mr. Chair
17 and fellow members, I was unaware of Attorney Wiggins'
18 involvement in this case. As he said, he came in late to
19 this process. And Mike Wiggins has represented me in
20 personal matters unrelated to zoning, and I have no interest
21 in this case.

22 And as long as you're comfortable with that, I

1 don't feel the need to recuse myself, but I wanted to put it
2 as a matter of record.

3 BRENDAN SULLIVAN: Okay. And I -- and so, you're
4 -- I'm comfortable with -- in knowing your integrity that
5 you would not be influenced one way or the other and would
6 rule on the merits. Any other member of the Board disagree
7 with that or concur that Wendy can sit on this case?

8 JIM MONTEVERDE: Concur.

9 BRENDAN SULLIVAN: Slater Anderson, any questions?

10 SLATER ANDERSON: No questions. Ready for a vote.

11 BRENDAN SULLIVAN: All right. Let me make a
12 motion, then, to -- and it's a two-part harmony here -- on
13 the variance. Let me make a motion, then, to grant the
14 variance as per the drawings submitted initialed by the
15 Chair, supporting statements and the dimensional form.

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

19 The Board finds that the existing structure --
20 accessory structure -- is already non-conforming to the
21 principal residence.

22 That the relocation of that to comply with the

1 dimensional requirement would involve a substantial
2 financial as well as a logistical problem to the petitioner
3 and also to adjoining properties.

4 The Board finds that the hardship is owing to the
5 unusual shape of the lot, it being somewhat unique to the
6 area. Also, the fact that the location of the structure on
7 said lot makes it very difficult to provide any additional
8 space to this small house without impinging on the
9 ordinance, and the fact that the existing house built prior
10 to the Res B ordinance for this district is encumbering the
11 house and makes it extremely difficult for a homeowner to
12 provide some additional space.

13 The Board finds that desirable relief may be
14 granted without substantial detriment to the public good.
15 The Board finds letters in support from abutting property
16 owners that -- who are in support of the proposal.

17 And that the addition to the house would not be
18 visible from the street. That the dormers on the garage
19 will have a minimal visual impact on any person from the
20 street, and there was no loss of parking, which would
21 impinge and be a hardship on the adjoining properties.

22 The Board finds that desirable relief may be

1 granted without substantial detriment to the public good, or
2 nullifying or substantially derogating from the intent and
3 purpose of this ordinance to be able to repurpose an
4 existing accessory structure, which has long served its
5 purpose, has fallen into disrepair, has no practical value
6 and that the addition of some residential space would have a
7 benefit to the occupant of the main structure and to anyone
8 who occupies it to allow for additional members to have a
9 safe and somewhat secluded private space, which is not
10 currently available in the current structure directly
11 related to its very minimal size.

12 On the motion, then, to grant the variance as per
13 the application, Jim Monteverde?

14 JIM MONTEVERDE: Not in favor.

15 BRENDAN SULLIVAN: Matina Williams?

16 MATINA WILLIAMS: In favor.

17 BRENDAN SULLIVAN: Wendy Leiserson?

18 WENDY LEISERSON: In favor.

19 BRENDAN SULLIVAN: Slater Anderson?

20 SLATER ANDERSON: In favor.

21 BRENDAN SULLIVAN: Brendan Sullivan yes.

22 [All vote YES]

1 BRENDAN SULLIVAN: On the five affirmative votes,
2 the variance is granted. On the special permit? And
3 Michael, if you could just touch base on the special permit,
4 which is the existing -- this is the addition to the back of
5 the house?

6 MICHAEL WIGGINS: Yeah. It's the existing non-
7 conformity of the house being slightly intensified, so that
8 if you see the left corner of the house on the south side
9 it's -- I can't read it, I think it's 6.6. So it's going to
10 be reduced to 5.3. So it's a slight, slight intensity --
11 not very much.

12 BRENDAN SULLIVAN: And we're not creating any new
13 non-conformity with that aspect?

14 MICHAEL WIGGINS: No. The height's not changing.
15 You know, there's no -- we're not violating height
16 restrictions or F-- certainly FAR. It's well under the FAR.
17 So there's no new dimensional violations.

18 BRENDAN SULLIVAN: Okay. And you're seeking
19 relief under 8.22.d, which would be --

20 MICHAEL WIGGINS: That's correct.

21 BRENDAN SULLIVAN: -- a special permit?

22 MICHAEL WIGGINS: That's correct.

1 BRENDAN SULLIVAN: All right. Let me make a
2 motion, then, to grant the special permit aspect.

3 The Board finds that under 8.22.2.d in all
4 districts, the Board of Zoning Appeal may grant a special
5 permit for the alteration or enlargement of a preexisting
6 dimensionally non-conforming, detached single-family
7 dwelling or two-family dwelling not otherwise permitted in
8 8.22.1, but not the alteration or enlargement of a
9 preexisting, non-conforming use.

10 Provided that there is no change in use, and that
11 any enlargement or alteration of such preexisting, non-
12 conforming detached single-family dwelling may only increase
13 a preexisting dimensional non-conformity but does not create
14 a new dimensional non-conformity.

15 In order to grant the special permit, the Board of
16 Zoning Appeal is required to find -- and does find -- that
17 the alteration or enlargement shall not be substantially
18 more detrimental than the existing non-conforming structure
19 to the neighborhood, and that the alteration or enlargement
20 satisfies the criteria in 10.43.

21 Under 10.43, the Board may grant a special permit,
22 where it appears that the requirements of the Ordinance can

1 be met.

2 The Board finds that traffic generated, or
3 patterns of access or egress would not cause congestion,
4 hazard, or substantial change in the established
5 neighborhood character.

6 The Board notes letters of support from adjoining
7 properties attesting to this fact. Continued operation of
8 or development of adjacent uses, as permitted in the Zoning
9 Ordinance, would not be adversely affected by the nature of
10 the proposed use.

11 There would not be any nuisance or hazard created
12 to the detriment of the health, safety, and/or welfare of
13 the occupant of the proposed use, in fact it would be
14 enhanced by the proposal.

15 And that the proposed use would not impair the
16 integrity of the district or adjoining district, or
17 otherwise derogate from the intent and purpose of the
18 ordinance to allow homeowners to improve the properties,
19 repurpose, bring their structures up to modern standards.
20 And the proposal before us achieves that purpose.

21 On the motion, then, to grant the special permit
22 aspect of this application, Jim Monteverde?

1 JIM MONTEVERDE: In favor of the special permit.

2 BRENDAN SULLIVAN: Matina Williams?

3 MATINA WILLIAMS: In favor of the special permit.

4 BRENDAN SULLIVAN: Wendy Leiserson?

5 WENDY LEISERSON: In favor of the special permit.

6 BRENDAN SULLIVAN: Slater Anderson?

7 SLATER ANDERSON: In favor of the special permit.

8 BRENDAN SULLIVAN: Brendan Sullivan in favor.

9 [All vote YES]

10 BRENDAN SULLIVAN: On the five affirmative votes,
11 the special permit is granted.

12 MICHAEL WIGGINS: Thank you, Mr. Chairman.

13 BRENDAN SULLIVAN: All right. Thank you, Michael.

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1 * * * * *

2 (7:55 p.m.)

3 Sitting Members: Brendan Sullivan, Jim Monteverde, Wendy
4 Leiserson, Matina Williams, and Slater
5 Anderson

6 BRENDAN SULLIVAN: The Board will now hear Case
7 No. 201304 -- 5 Ellsworth Avenue. Mr. Hayes?

8 MATT HAYES: Mr. Chairman and members of the
9 Board, thank you for your time this evening. I'm Matt
10 Hayes, I'm the owner of 5 Ellsworth Ave.

11 We are proposing to have a special permit to
12 change some window openings on the right side on the right
13 elevation within a setback, and to add some additions to the
14 rear of the property, as well as extending a left bump out
15 by, like, 4' -- 4.5'.

16 We've gone in front of Mid Cambridge Historic
17 Commission who approved our design, and Milton Yu with Peter
18 Quinn Architects is here with us, and he can go over the
19 architecturals. And from there I'd be happy to answer any
20 questions subsequent to that.

21 BRENDAN SULLIVAN: Okay. Let me -- I have no
22 questions. Jim Monteverde, any questions, comments?

1 JIM MONTEVERDE: Yes, two questions.

2 MATT HAYES: Sure.

3 JIM MONTEVERDE: the existing and the proposed
4 parking -- this shows up on the sheet Z-2 --

5 MATT HAYES: Mm-hm.

6 JIM MONTEVERDE: Is it -- it's parking in the
7 front yard, is it not?

8 MATT HAYES: It's exactly -- that's actually
9 exactly where it is now. So the existing parking -- the
10 existing and the proposed are the same. So we would leave
11 them the two parking spaces right there. The curb cut is
12 actually well over to the right, but yeah.

13 JIM MONTEVERDE: Understood. Yeah. And it is
14 parking in the front yard? That was the question.

15 MATT HAYES: Yeah, yeah.

16 JIM MONTEVERDE: And I assume, Mr. Chair, that's a
17 condition that's existed before and in essence it's
18 grandfathered? Is that correct?

19 BRENDAN SULLIVAN: Correct. Yes.

20 JIM MONTEVERDE: Okay. And then I was looking to
21 upstream there's a -- is there not a dormer on the rear
22 elevation? Yeah, I'm looking at the proposed elevations,

1 your sheet Z-5.

2 MATT HAYES: There's a dormer coming off the --
3 yeah.

4 JIM MONTEVERDE: And what is that that length?

5 MATT HAYES: I'm assuming less than -- Milton, are
6 you there?

7 MILTON YU: Yes, I'm here.

8 MATT HAYES: Milton, what's the dimension on that
9 dormer? I think it's --

10 MILTON YU: The width of the dormer?

11 MATT HAYES: Yeah.

12 JIM MONTEVERDE: Yep.

13 MILTON YU: Okay. One moment.

14 JIM MONTEVERDE: I'm asking because I just
15 couldn't find the dimension anywhere for it.

16 MILTON YU: Oh, yeah. It is 11.5'.

17 JIM MONTEVERDE: Okay, thank you. No further
18 questions.

19 BRENDAN SULLIVAN: Okay. Matina Williams, any
20 questions or comments at this point?

21 MATINA WILLIAMS: No questions or comments right
22 now.

1 BRENDAN SULLIVAN: Okay. Wendy, any questions or
2 comments? Wendy? Maybe on mute? Slater?

3 SLATER ANDERSON: No questions, thank you.

4 BRENDAN SULLIVAN: Okay. Back to Wendy.

5 JIM MONTEVERDE: Here you go.

6 BRENDAN SULLIVAN: Wendy?

7 WENDY LEISERSON: Hello? Can you hear me?

8 BRENDAN SULLIVAN: Yes now, yes. Any questions,
9 comments?

10 WENDY LEISERSON: Hello?

11 JIM MONTEVERDE: Yep, Wendy, can you hear us?

12 WENDY LEISERSON: Sorry, yes. I had a technical
13 glitch. Yeah. I had a question, which is the

14 recommendations that were written in the Mid Cambridge

15 Neighborhood Conservation District Commission letter. Have

16 -- are these plans reflective of those recommendations?

17 MATT HAYES: They are not. We'd submitted before
18 we'd gotten approval, I believe. But we are actually doing

19 -- we are actually following their recommendations, lowering
20 the left ridge so that there's a stepdown between the main

21 ridge and the one that's perpendicular to it on the left

22 elevation.

1 BRENDAN SULLIVAN: Okay, Matt, is that reflected
2 in the drawings that were submitted?

3 MATT HAYES: They are not, only because I believe
4 these have been developed and I think submitted prior to us
5 getting our blessing from Mid Cambridge.

6 BRENDAN SULLIVAN: Okay, yeah. The Mid Cambridge
7 was November 7, and the drawings were -- I'm not sure when
8 the drawings were submitted. All right. But your testimony
9 is in response to Wendy's is that you will comply with --

10 MATT HAYES: Yeah.

11 BRENDAN SULLIVAN: -- one, and -- well, I'll read
12 Mid Cambridge anyhow. So anyhow, okay. Wendy, any other
13 questions?

14 WENDY LEISERSON: So -- no, so I understood that
15 -- I mean yes, I understand that he was going to comply with
16 the first of the three recommendations; also the second and
17 the third?

18 MATT HAYES: Could you remind -- I'm fairly
19 certain we are, but could you remind me what those are?

20 WENDY LEISERSON: Sure. The second one was to
21 explore how to create a smooth transition at the corner of
22 the addition and primary front portion of the structure.

1 MATT HAYES: Oh. For sure. Yes, we'll definitely
2 do that.

3 WENDY LEISERSON: And the third was to consider a
4 shed dormer complying with the City's Dormer Guidelines.

5 MATT HAYES: I mean, you know, I think that was
6 Chuck who sits on the -- I think that was Chuck's
7 recommendation. And that was to consider putting a dormer
8 on the front, on the front of the gable that's perpendicular
9 -- that's parallel to the street. So the one that's being
10 extended.

11 And personally from an aesthetic and from a
12 historic -- from a historic aesthetic, I think it would like
13 just sharper if there was no dormer on the front there, and
14 we kept the dormer in the back.

15 So I think that was just something he put out
16 there as just a way of capturing more usable space up there.
17 I think it just made its way into the record as the
18 recommendation, but I think -- personally from an -- again,
19 a historic standpoint, I think it would look better without
20 the dormer.

21 WENDY LEISERSON: Okay. Thank you.

22 MATT HAYES: Yep.

1 BRENDAN SULLIVAN: Slater, any questions or
2 comments?

3 SLATER ANDERSON: No questions.

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

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

11 There appears to be nobody calling in. We are in
12 receipt of communication dated November 6 from Robert
13 Corning to Maria Pacheco.

14 "I'm writing in regards to the renovation project
15 proposed at 5 Ellsworth Avenue. I have reviewed the plans
16 with Matt Hayes, the applicant, and support the plans.

17 "I'm very familiar with his other projects on
18 Ellsworth, and find his work is quality and a benefit to the
19 nation -- to the Neighborhood." Maybe the nation, but
20 anyhow the neighborhood in general.

21 "Best regards,

22 Bob Corning."

1 There is also correspondence from Aaron Paul dated
2 November 6.

3 "My name is Aaron Hall, and I live at 11
4 Ellsworth. Matt Hayes, the applicant, designed and built
5 our home. I personally attest to his impeccable standards,
6 trusted reputation and commitment to doing what's best for
7 the neighborhood.

8 "I have reviewed his plans for 5 Ellsworth. It
9 has my full support."

10 There is correspondence from Robbe Burnstine.

11 "I am writing at the request of Matt Hayes in
12 support of his application to refurbish 5 Ellsworth Avenue.
13 My husband and I have reviewed the plans with Matt, the
14 applicant, and we support the work he plans to undertake.

15 "We appreciate Matt's willingness to engage us in
16 the process."

17 There is correspondence from Doria Allesandro.

18 "After a productive meeting with Matt Hayes,
19 during which we reviewed his original plans, he agreed to
20 address our concerns by making the changes seen in the
21 drawings attached, with the understanding that the attached
22 plans dated November 3 are the agreed upon plans for

1 landscaping and trash placement at 5 Ellsworth, and
2 supersede the drawings dated October 17.

3 "The 3 Ellsworth Ave Condominium Association
4 supports Matt Hayes unison design group plans for renovation
5 at 5 Ellsworth Avenue."

6 "We appreciate his neighborly addressing of our
7 concerns."

8 And that is the sum and substance of the
9 correspondence from the public.

10 We are in receipt of correspondence from the Mid
11 Cambridge Neighborhood Conservation District.

12 "The property at 5 Ellsworth Avenue, the owner of
13 the Butler Family Realty Trust, c/o Matt Hayes.

14 "The Mid Cambridge Neighborhood Conservation
15 District Commission hereby certifies, pursuant to Title 2,
16 Chapter 2.78, the Code of the City of Cambridge and the City
17 Council order establishing the Commission, that the
18 construction described below is not incongruous to the
19 historic aspect or architectural character of the building
20 or district:

21 To construct a dormer, raise the roof, and extend
22 the existing ell; alter fenestration; and install window

1 wells.

2 "The Commission approve the proposal as submitted
3 with the following recommendations.

4 "Lower the addition at least 6 inches below the
5 roof line of the front portion of the structure" -- which
6 the applicant has agreed to do.

7 "Explore how to create a smooth transition at the
8 corner of the addition and primary front portion of the
9 structure" -- which the applicant has stated which he will
10 do his best to address that issue.

11 "Consider a shed dormer, complying with the City's
12 dormer guidelines, to gain additional living space" -- which
13 the petitioner has stated that he feels it's not in the
14 interest of the project.

15 Matt, you can correct me later if you wish -- and
16 that he would not consider Recommendation No. 3.

17 "The certificate is granted in Case No. MC 6594,
18 and dated November 7, 2022."

19 Okay. I will close the public comment aspect of
20 the proceedings; turn it back to Matt. Did I categorize the
21 -- your thoughts on the Conservation District?

22 MATT HAYES: Yeah, you did.

1 BRENDAN SULLIVAN: -- Recommendation No. 3 --

2 MATT HAYES: You did, yeah.

3 BRENDAN SULLIVAN: -- properly?

4 MATT HAYES: Yes. Thanks.

5 BRENDAN SULLIVAN: Okay. Anything else to add or
6 are we ready for a vote, members?

7 JIM MONTEVERDE: Ready.

8 BRENDAN SULLIVAN: Okay. Seeking relief under
9 8.22.d, which is a special permit, in that work proposed is
10 not creating any new additional non-conformities, the Board
11 finds that in all districts, it may grant a special permit
12 for the alteration or enlargement of a preexisting
13 dimensionally non-conforming, detached single-family
14 dwelling or two-family dwelling not otherwise permitted in
15 Section 8.22.1 above, but not the alteration or enlargement
16 of a preexisting, non-conforming use.

17 Provided that there is no change in use, and that
18 any enlargement or alteration of such preexisting, non-
19 conforming detached single-family dwelling or two-family
20 dwelling may only increase a preexisting dimensional non-
21 conformity but does not create a new dimensional non-
22 conformity.

1 In order to grant the special permit, the Board of
2 Zoning Appeal is required -- and does find -- that the
3 alteration or enlargement shall not be substantially more
4 detrimental than the existing non-conforming structure to
5 the neighborhood, and that the alteration or enlargement
6 satisfies the criteria in Section 10.43, the granting of a
7 special permit.

8 The Board may grant the special permit based on
9 10.43, where it appears that the requirements of the
10 ordinance can be met.

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

14 The Board finds that continued operation of or
15 development of adjacent uses, as permitted in the Zoning
16 Ordinance, would not be adversely affected by the nature of
17 the proposed use. The Board references the letter of
18 support from adjoining properties attesting to their
19 approval of the application.

20 The Board finds that there would not be any
21 nuisance or hazard created to the detriment of the health,
22 safety, and/or welfare of the occupant of the proposed use

1 -- in fact it would be enhanced by the repurposing and
2 renovation of this property bringing it up to modern
3 standards or would not have any adverse effect on any
4 citizens of the city.

5 The Board finds that the proposed use would not
6 impair the integrity of the district or adjoining district,
7 or otherwise derogate from the intent and purpose of the
8 Ordinance to allow homeowners to renovate, improve and
9 potentially add to their existing structure, which is a fair
10 and reasonable request.

11 On the motion, then, to grant the special permit,
12 Jim Monteverde?

13 JIM MONTEVERDE: In favor of the special permit.

14 BRENDAN SULLIVAN: Matina Williams?

15 MATINA WILLIAMS: In favor of the special permit.

16 BRENDAN SULLIVAN: Wendy Leiserson?

17 WENDY LEISERSON: In favor.

18 BRENDAN SULLIVAN: Slater Anderson?

19 SLATER ANDERSON: In favor.

20 BRENDAN SULLIVAN: Brendan Sullivan in favor.

21 Also on the condition is that the work conform to the
22 drawings as submitted by Peter Quinn Architects, entitled,

1 "5 Ellsworth Avenue" dated November 2, 2022 initialed by the
2 Chair and incorporating the supporting statements and the
3 dimensional forms.

4 [All vote YES]

5 BRENDAN SULLIVAN: Five affirmative votes; the
6 special permit is granted.

7 MATT HAYES: Great. Thank you, members of the
8 Board.

9 BRENDAN SULLIVAN: Thanks. Goodnight, Matt.

10 MATT HAYES: Thank you.

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(8:09 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Wendy
Leiserson, Matina Williams, and Slater
Anderson

BRENDAN SULLIVAN: The Board will now hear Case
No. 199221 -- 25 Kelly Road, #3. Matthew Wallace?

[Pause]

Mr. Wallace?

MATTHEW WALLACE: Hello, hello.

BRENDAN SULLIVAN: Yes.

MATTHEW WALLACE: Mr. Chairman and members of the
Board, thank you for your time this evening. All right. So
I hope ours is fairly straightforward. We're seeking a
special permit to add a skylight in an existing roof; rather
small skylight on our third-floor condo. Really can't be
seen by anybody. So --

BRENDAN SULLIVAN: Sort of wondering why this is a
big deal, I guess.

MATTHEW WALLACE: Exactly. Well, no, not --
[laughter] -- checking the boxes off.

BRENDAN SULLIVAN: Okay. I think the submission

1 is pretty explanatory. Also, it is a -- part of a larger
2 Condominium trust -- the Whippen Manor Condominium Trust.
3 There was correspondence to Mr. Wallace.

4 "After reviewing the bathroom renovation plans you
5 provided, we found it according to the covenant, conditions
6 and restrictions. We find no harm in the architectural
7 changes you are planning to make in your home; the addition
8 of a half bath on the third floor.

9 "We would like to inform you that your neighbors
10 do not have any objection to the renovation work.
11 Therefore, Whippen Manor Condominium Trust permits you to
12 proceed with your renovation plans."

13 And it is signed by Trustee, Unit 1, Unit 2
14 Trustee and yourself, Unit 3 Trustee.

15 Okay. Any questions by members of the Board? Jim
16 Monteverde?

17 JIM MONTEVERDE: Just one question. Can the --
18 from the plans that were submitted, the ones from 1986 when
19 it was turned into -- converted to a condominium?

20 MATTHEW WALLACE: Yes.

21 JIM MONTEVERDE: And a third-floor plan, are you
22 converting the closet that's adjacent to the back stair?

1 MATTHEW WALLACE: Yes.

2 JIM MONTEVERDE: Is that where the skylight winds
3 up?

4 MATTHEW WALLACE: Yes. Correct.

5 JIM MONTEVERDE: Okay. Thank you.

6 BRENDAN SULLIVAN: Matina Williams, any questions
7 at this time? Comments?

8 MATINA WILLIAMS: No questions or comments. Thank
9 you.

10 BRENDAN SULLIVAN: Wendy Leiserson?

11 WENDY LEISERSON: No questions or comments.

12 BRENDAN SULLIVAN: Slater Anderson?

13 SLATER ANDERSON: No questions or comments.

14 BRENDAN SULLIVAN: All right. Let me open it to
15 public comment. Anybody -- any person who wishes to comment
16 at this time can now click the button that says,
17 "Participants" and then click the button that says, "Raise
18 hand." If you're calling in by phone, you can raise your
19 hand by pressing *9 and unmute or mute by pressing *6, and
20 you will have up to three minutes in which to comment.

21 [Pause]

22 There appears to be nobody calling in. I

1 reference the letter from the Condominium Trust giving their
2 approval. Also correspondence from Tuncay -- T-u-n-c-a-y
3 Gunluk -- G-u-n-l-u-k, dated November 29.

4 "Dear Cambridge BZA, my wife and I own 27 Kelly
5 Road. We are writing to confirm our full support for Case
6 No. 199221 petitioned by our next-door neighbor, Matt
7 Wallace and Erika Lawson, owners of 25 Kelly Road #3 to add
8 a new skylight in their new bathroom addition."

9 And that is the sum and substance of any
10 correspondence, other than from the Condominium Trust. Let
11 me close public comment aspect of this and come back to the
12 petitioner for anything else to add or you said it all?

13 MATTHEW WALLACE: I think that's about it, yes.

14 BRENDAN SULLIVAN: You have said it all. Okay.
15 That's fine. Any member of the Board wish to comment or
16 ready for a motion?

17 JIM MONTEVERDE: Ready.

18 BRENDAN SULLIVAN: This is a special permit to
19 install a skylight in an existing roof, as per Article
20 8.22.2.c.

21 In a residents' district, the Board of Zoning
22 Appeal may grant a special permit for the alteration or

1 enlargement of a non-conforming structure not otherwise
2 permitted in 8.22.1, but not the alteration or enlargement
3 of a non-conforming use.

4 Provided any enlargement or alteration of such
5 non-conforming structure is not further in violation of the
6 dimensional requirements of Article 5 or the off-street
7 parking or loading requirements in Article 6 in which such
8 structure is located.

9 And provided such non-conforming structure will
10 not be increased in area or volume by more than 25 percent
11 since it first began to be non-conforming. I think the only
12 difference between this criteria and the criteria for 8.22d
13 is that it is not a detached, one- to two- family house.

14 Also, we have to find the criteria for granting a
15 special permit. It appears that the requirements of the
16 ordinance can be met.

17 That traffic generated, or patterns of access or
18 egress would not cause congestion, hazard, or substantial
19 change in the established neighborhood character. The Board
20 can so state that.

21 That continued operation of or development of the
22 adjacent uses, as permitted in the Zoning Ordinance, would

1 not be adversely affected by the nature of the proposed use.
2 The Board references the letter of support from adjoining
3 property and property owners.

4 The Board finds that nuisance or hazard created to
5 the detriment of the health, safety and/or welfare of the
6 occupant of the proposed use -- in fact it would be enhanced
7 by the addition of a skylight, which will allow for air and
8 light to come in. Is it operable, Mr. Wallace, the
9 skylight?

10 MATTHEW WALLACE: Yeah. It will be -- we have
11 another skylight in another bathroom and we're going to do
12 the exact same thing, which should -- you know, open 6" or
13 so.

14 BRENDAN SULLIVAN: Great. So it would be a
15 benefit to anyone --

16 MATTHEW WALLACE: Correct.

17 BRENDAN SULLIVAN: -- who lives in the structure
18 and/or uses the room?

19 And that the proposed use would not impair the
20 integrity of the district or adjoining district, or
21 otherwise derogate from the intent and purpose of the
22 ordinance, which is to allow homeowners to improve the

1 structure, and in this particular case to allow air and
2 light into a room which is quite necessary.

3 On the motion, then, to grant the special permit
4 as per the application, and that the work complies with the
5 drawings submitted and initialed by the Chair? Jim
6 Monteverde?

7 JIM MONTEVERDE: In favor of the special permit.

8 BRENDAN SULLIVAN: Matina Williams?

9 MATINA WILLIAMS: In favor of the special permit.

10 BRENDAN SULLIVAN: Wendy Leiserson?

11 [Pause]

12 Slater Anderson?

13 SLATER ANDERSON: In favor.

14 BRENDAN SULLIVAN: Wendy Leiserson?

15 [Pause]

16 BRENDAN SULLIVAN: You're on mute again, Wendy?

17 JIM MONTEVERDE: No, she's not.

18 BRENDAN SULLIVAN: No. Technical difficulties?

19 WENDY LEISERSON: Can you hear me now?

20 COLLECTIVE: Yes.

21 WENDY LEISERSON: Okay.

22 BRENDAN SULLIVAN: On the motion?

1 WENDY LEISERSON: I'm in favor. Thank you.

2 BRENDAN SULLIVAN: On the motion to grant the
3 special permit?

4 WENDY LEISERSON: Yes. I'm in favor.

5 BRENDAN SULLIVAN: Okay. And Brendan Sullivan
6 yes.

7 [All vote YES]

8 On the five affirmative votes, the special permit
9 is granted. Good luck.

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2 (8:17 p.m.)

3 Sitting Members: Brendan Sullivan, Jim Monteverde, Wendy
4 Leiserson, Matina Williams, and Slater
5 Anderson

6 BRENDAN SULLIVAN: The Board will now hear Case
7 No. 1989282 -- Brewer Street. The applicant wishes to
8 speak. We are in receipt of correspondence from Theodore
9 Galante, G-a-l-a-n-t-e -- Theodore Galante to Ms. Maria
10 Pacheco.

11 "Dear Ms. Pacheco,

12 "Thanks for your help to date on the application
13 for a variance at 198928. I respectfully withdraw the
14 application to build a garage. Please let me know of any
15 additional information is required.

16 "Thank you."

17 On the motion, then, to accept the withdrawal of
18 the application, Jim Monteverde?

19 JIM MONTEVERDE: In favor.

20 BRENDAN SULLIVAN: Matina Williams?

21 MATINA WILLIAMS: In favor.

22 BRENDAN SULLIVAN: Wendy Leiserson?

1 WENDY LEISERSON: In favor.

2 BRENDAN SULLIVAN: Slater Anderson?

3 SLATER ANDERSON: In favor.

4 BRENDAN SULLIVAN: And Brendan Sullivan yes.

5 [All vote YES]

6 BRENDAN SULLIVAN: On the five affirmative votes
7 to accept the withdrawal, this matter is withdrawn.

8 And that concludes tonight's hearing. Thank
9 you all.

10 COLLECTIVE: Thank you.

11 [08:18 p.m. End of Proceedings]

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CERTIFICATE

Commonwealth of Massachusetts

Middlesex, ss.

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

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

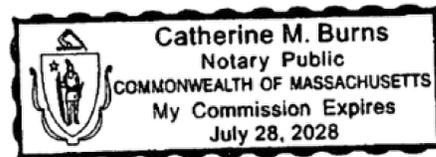
In witness whereof, I have hereunto set my hand this 19th day of December 2022.



Notary Public

My commission expires:

July 28, 2028



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