

BOARD OF ZONING APPEAL  
FOR THE  
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY JANUARY 12, 2023

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

Jason Marshall

City Employees

Stephen Natola



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3 (6:06 p.m.)

4 Sitting Members: Brendan Sullivan, Andrea A. Hickey, Wendy  
5 Leiserson, Jim Monteverde, Laura Wernick,  
6 Jason Marshall, and Matina Williams

7 BRENDAN SULLIVAN: Welcome to the January 12, 2023  
8 meeting of the Cambridge Board of Zoning Appeal. My name is  
9 Brendan Sullivan, and I am Chair for tonight's meeting.

10 This meeting is being held remotely, due to the  
11 statewide emergency orders limiting the size of public  
12 gatherings in response to COVID-19, and in accordance with  
13 Governor Charles D. Baker's Executive Order of March 12,  
14 2020 temporarily amending certain requirements of the Open  
15 Meeting Law; as well as the City of Cambridge temporary  
16 emergency restrictions on city public meetings, city events,  
17 and city permitted events, due to COVID-19, dated May 27,  
18 2020.

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

22 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 may change based on the number of speakers,  
11 and at the discretion of the Chair.

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

14 STEPHEN NATOLA: Jim Monteverde?

15 JIM MONTEVERDE: Present.

16 STEVE NORTON: Matina Williams?

17 MATINA WILLIAMS: Present.

18 STEPHEN NATOLA: Wendy Leiserson?

19 WENDY LEISERSON: Present.

20 STEPHEN NATOLA: Laura Wernick? Laura Wernick?

21 BRENDAN SULLIVAN: Laura?

22 LAURA WERNICK: Yes.

1 BRENDAN SULLIVAN: Okay.

2 LAURA WERNICK: I'm here. Sorry. I was having  
3 trouble.

4 STEPHEN NATOLA: Andrea Hickey?

5 ANDREA HICKEY: Present.

6 STEPHEN NATOLA: Jason Marshall?

7 JASON MARSHALL: Here.

8 STEPHEN NATOLA: Brendan Sullivan?

9 BRENDAN SULLIVAN: Here.

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2 (6:09 p.m.)

3 Sitting Members: Brendan Sullivan, Andrea A. Hickey, Wendy  
4 Leiserson, Jim Monteverde, Slater  
5 Anderson, Laura Wernick, Jason Marshall,  
6 and Matina Williams

7 BRENDAN SULLIVAN: First order of business is the  
8 election of the Chair and Vice-Chair for the ensuing year.  
9 I will open it to nominations for anybody who wishes to be  
10 Chair, or anybody who wishes to nominate somebody for Chair  
11 for the ensuing year.

12 Do I hear any nominations?

13 JIM MONTEVERDE: Well, Brendan, just to end the  
14 silence, if you would deign to do this one more year, I  
15 would nominate you.

16 BRENDAN SULLIVAN: I will avail myself to be yes,  
17 one more year. If anybody would like to be Chair, I would  
18 surely, gladly pass it on to the next person. In the  
19 absence of that, I will -- I feel fortunate to be associated  
20 with you people, and I will feel blessed to be Chair. So be  
21 it.

22 Any other nominations for Chair? There being one

1 person, seems like democracy in action here. For the office  
2 of Chair for the ensuing year: Brendan Sullivan, Jim  
3 Monteverde?

4 JIM MONTEVERDE: Yes, in favor.

5 BRENDAN SULLIVAN: Matina Williams?

6 MATINA WILLIAMS: In favor.

7 BRENDAN SULLIVAN: Wendy Leiserson?

8 WENDY LEISERSON: Yes, in favor.

9 BRENDAN SULLIVAN: Laura Wernick?

10 LAURA WERNICK: Yes, in favor.

11 BRENDAN SULLIVAN: Andrea Hickey?

12 ANDREA HICKEY: Yes, in favor.

13 BRENDAN SULLIVAN: Jason Marshall?

14 JASON MARSHALL: In favor.

15 BRENDAN SULLIVAN: Okay. Anybody else that I have  
16 not called, have not --

17 LAURA WERNICK: It looks like Slater is just  
18 joining us.

19 BRENDAN SULLIVAN: Slater? Slater Anderson, are  
20 you on?

21 SLATER ANDERSON: I am. I was stuck in the  
22 Gallery for a little while, but I'm -- I've now made it.

1 I've been elevated. So I enthusiastically second and  
2 support Brendan as Chair.

3 BRENDAN SULLIVAN: Well, thank you very much. So  
4 Brendan Sullivan has been elected Chair for the ensuing  
5 year. For the nominations of Vice-Chair, I would nominate  
6 Jim Monteverde to be Vice-Chair.

7 Any other nominations for Vice-Chair?

8 Hearing none, Jim Monteverde for Vice-Chair?  
9 Matina Williams, on the nomination for Jim Monteverde?

10 MATINA WILLIAMS: I support that nomination.

11 BRENDAN SULLIVAN: Wendy Leiserson?

12 WENDY LEISERSON: In favor.

13 BRENDAN SULLIVAN: Laura Wernick?

14 LAURA WERNICK: In favor.

15 BRENDAN SULLIVAN: Andrea Hickey?

16 ANDREA HICKEY: Yes, in favor.

17 BRENDAN SULLIVAN: Jason Marshall?

18 JASON MARSHALL: In favor.

19 BRENDAN SULLIVAN: Brendan Sullivan also in favor.

20 And Slater Anderson on the nomination of Jim Monteverde?

21 SLATER ANDERSON: In favor.

22 [All vote YES]

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BRENDAN SULLIVAN: Jim Monteverde has been elected  
Vice-Chair. Thank you all.

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(6:12 p.m.)

Sitting Members: Brendan Sullivan, Wendy Leiserson, Jim Monteverde, Jason Marshall, and Matina Williams

BRENDAN SULLIVAN: The next order of business is the continued cases. I will hear Case No. 1951058. Members who sat on this particular case are Jim Monteverde, Wendy Leiserson, Matina Williams, Jason Marshall and myself, Brendan Sullivan.

Is there anybody here who would like to speak on the matter Case No. 195058, 245 Hampshire Street? There is correspondence in the file to Maria Pacheco.

"Thank you for your help so far. We have decided to go in a different direction and will be withdrawing from our hearing at 245 Hampshire.

"And after speaking with our neighbors, we've decided to go ahead and apply for a second-story addition instead. This will take some prep time, and we will be coming back at a later date.

"Thank you,

"Mindy Rasken." R-a-s-k-e-n.

1           On the motion, then, to accept the withdrawal of  
2 the petition, Jim Monteverde?

3           JIM MONTEVERDE: In favor.

4           BRENDAN SULLIVAN: Wendy Leiserson?

5           WENDY LEISERSON: In favor.

6           BRENDAN SULLIVAN: Matina Williams?

7           MATINA WILLIAMS: In favor.

8           BRENDAN SULLIVAN: Jason Marshall?

9           JASON MARSHALL: In favor.

10          BRENDAN SULLIVAN: Brendan Sullivan yes.

11          [All vote YES]

12          BRENDAN SULLIVAN: On the five affirmative votes,  
13 this matter is withdrawn.

14          MATINA WILLIAMS: I think I'm done for the night,  
15 Mr. Chair.

16          BRENDAN SULLIVAN: Yes. Thank you. Thank you.

17          MATINA WILLIAMS: Goodnight.

18          JIM MONTEVERDE: Goodnight.

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(6:14 p.m.)

Sitting Members: Brendan Sullivan, Andrea A. Hickey,  
Jim Monteverde, Laura Wernick, and Jason  
Marshall

BRENDAN SULLIVAN: The next case will be 197312 -  
- 48 Fresh Pond Lane. Is the petitioner on the line? 48  
Fresh Pond Lane?

JAMES RAFFERTY: Thank you. Good evening.

BRENDAN SULLIVAN: Yes.

JAMES RAFFERTY: Good evening, Mr. Chair. It's a  
pleasure to be unmuted. For the record, my name is James  
Rafferty. I'm an attorney with offices located at 907  
Massachusetts Avenue.

I'm appearing on behalf of the applicants this  
evening, Sravya Kommineni and Prabhav Potluri.

This is a case the Board may recall was heard  
about six or eight weeks ago involving a proposed dormer to  
a single-family home in a Residence A-2 zoning district.

The property is located at 48 Fresh Pond Lane in  
the neighborhood known as The Larches, a planned community  
built into the 1920s and '30s in the Garden style. This is

1 a series of single-family homes.

2 When the Board reviewed this case at its last  
3 hearing, it understandably was challenged by the proposal,  
4 which included a request to rebuild an existing dormer that  
5 was -- that is currently at 19' of length and extend it to  
6 32' in length. And there was an extensive discussion  
7 between Board members about the extensive deviation from the  
8 Guidelines.

9 The architect, Mr. Miller, did go through a  
10 lengthy analysis of the unique characteristics of the house,  
11 the fact that an as-of-right dormer in the front of the  
12 building would in his view compromise the aesthetic of the  
13 house, particularly in the context of the surrounding  
14 structures.

15 But at the suggestion of the Board, the case was  
16 continued, and extensive effort was spent at exploring  
17 alternatives. And the alternatives up until about a week  
18 ago involved splitting that proposed dormer into two  
19 separate dormers, as was suggested by some members.

20 But at the end, it was determined that the  
21 splitting of the dormer had an adverse effect on the landing  
22 at the top of the stairs. It simply could not be

1 accomplished.

2           So tonight, what's before the Board is a revised  
3 proposal, which seeks to replace the existing 19' dormer  
4 with a dormer three feet greater in length, of 22'.

5           It is admittedly still not within the Guidelines,  
6 but I do think it's notable that in most variance cases, so  
7 I would suggest the vast majority -- in most dormer cases I  
8 should say, excuse me -- the dormer is being added as  
9 additional GFA to a house that already exceeds FAR.

10           This house is notably below the permitted 0.5 FAR  
11 in the Res A district. If the point currently has a 0.375  
12 FAR, it would go to a 0.385, a 70-square foot addition.

13           The matter is before the Board because the rear  
14 wall -- the rear wall of the house has a nonconforming rear  
15 setback.

16           So the applicant has applied under the provisions  
17 of Section 8.22.2d for a special permit that is not going to  
18 create any new nonconformities. The setback, the rear  
19 setback will remain the same, but there is an expansion of  
20 that rear wall in the form of the extended dormer.

21           So it is -- it is recognized that the Dormer  
22 Guidelines area helpful guidance to the Board in trying to

1 ensure a certain style and aesthetic for a home. Those were  
2 not ignored by the design team here, but they really  
3 represent a challenge based on the existing condition.  
4 Honestly, the current dormer exceeds those Guidelines  
5 already.

6 And what the proponent has come up with at this  
7 point is what would be I think admittedly characterized as a  
8 rather modest extension of that dormer.

9 And for the reasons contained in the application,  
10 including the fact that all other aspects of this structure  
11 are conforming -- significant, complete conformance with the  
12 Residence A-2 dimensional form, dimensional requirements, --  
13 we're asking that the Board grant the special permit for  
14 this proposed dormer notwithstanding the fact that it does  
15 not comply with the Dormer Guidelines.

16 BRENDAN SULLIVAN: Thank you. There are new  
17 submittals dated January 9, 2023. And there are the  
18 supporting statements. And there is a plan. And, however,  
19 I don't see the -- I have D-100, which is basically the  
20 demolition plan for the basement on the first floor.

21 D-101, which is the demolition for the third floor  
22 and second floor; D-102, which is the roof demolition; D-

1 200, which is -- again -- more demolition; and D-201, which  
2 -- again -- is sort of all demolition. I don't see a plan  
3 for the new dormer. Is that -- unless that's in, it didn't  
4 make it into --

5 JAMES RAFFERTY: The new elevations -- and there  
6 was, unfortunately, some confusion in the manner in which  
7 this was printed out.

8 I do know that we submitted sheets, because we --  
9 we realized after we filed on Monday when we went online, we  
10 saw that several of the sheets were not -- were not -- did  
11 not make it into the portal for the online version. So we  
12 did -- we did hand deliver additional sheets.

13 We were mindful of the fact that it was after the  
14 5:00 deadline, but we did emphasize that these were an  
15 attempt to correct what we believe was a technical computer-  
16 style glitch, since the set we had and the set we submitted  
17 was a full and complete set.

18 We did provide -- and my understanding is that it  
19 was shared as recently as today with Ms. Ratay -- an  
20 elevation, a sheet marked, "A-201," which actually shows --  
21 there we go -- this sheet here shows the change. That shows  
22 -- that's a modification to the original elevation, the

1 dormer in the continued case.

2 I asked the architect to prepare this as a visual  
3 aid, not as a new plan, but a visual aid to demonstrate the  
4 manner in which that dormer has been modified.

5 So the proposal before the Board tonight  
6 represents what's depicted in this elevation -- a dormer  
7 with a line of 22 feet.

8 BRENDAN SULLIVAN: Yeah. There's nothing here in  
9 the file. I know -- if you said that you had passed it in.  
10 Hm. There's nothing else here.

11 SLATER ANDERSON: Brendan, could I jump in for a  
12 sec?

13 BRENDAN SULLIVAN: Yeah, sure.

14 SLATER ANDERSON: I just downloaded it off the  
15 website, and page 20 of 103-page PDF does show the 22'  
16 dormer, I believe. It's A-201 dated January 9, 2023. So  
17 there -- I'm seeing it here.

18 BRENDAN SULLIVAN: On sheet A-201?

19 SLATER ANDERSON: Yes. A-201, it's sheet 20 of  
20 what I just downloaded.

21 BRENDAN SULLIVAN: All right. Stephen, I don't  
22 know are you able to pull that up? Okay, A-201.

1           JAMES RAFFERTY: Thank you, Mr. Anderson. And  
2 that is the relevant sheet. But it's also the case that the  
3 fenestration in the dormer is accurately depicted on this  
4 sheet, and that the seat that I filed today for illustrative  
5 purposes has a different -- slightly different window  
6 pattern.

7           But this A-201 is the sheet. It was an extensive  
8 file, and something did get lost in the translation. We  
9 learned about it when we -- as I said, we filed it on  
10 Monday.

11           And then when we checked the online portal, we  
12 noticed there were sheets missing. We brought them over.  
13 It was correctly noted that we were past 5:00, but we asked  
14 for it to be uploaded. And I'm pleased that Mr. Anderson is  
15 able to locate it.

16           BRENDAN SULLIVAN: All right. Let me ask other  
17 members of the Board. Are you satisfied with the  
18 presentation, or shall we go to an alternative, which would  
19 be to get actual hard copies into the file?

20           Jim Monteverde, what are your thoughts?

21           JIM MONTEVERDE: I'm fine with the presentation as  
22 it is.

1           BRENDAN SULLIVAN: All right. Laura, your  
2 thoughts on this?

3           LAURA WERNICK: I'm satisfied with this.

4           BRENDAN SULLIVAN: Okay. Andrea?

5           ANDREA HICKEY: Does anybody know when this was  
6 uploaded, so that it would have been available to the public  
7 online?

8           BRENDAN SULLIVAN: I don't know. Mr. Rafferty,  
9 when?

10          JAMES RAFFERTY: We learned on Tuesday that it was  
11 not correctly uploaded, and we requested that it be done.  
12 Candidly, I'm not sure if it happened that day or the  
13 following day, but there was a scramble to try to  
14 understand. Because we took the set that we were provided.  
15 We made a copy; we made two copies.

16          And we -- we -- the copy we delivered to the  
17 office, we discovered on Tuesday that not all the pages, the  
18 dates on the set and all that were -- they were all the same  
19 set, they all came out of the same page, the same cover  
20 sheet, and we noticed a number of sheets -- I think three or  
21 four -- that did not seem to make it to the uploading  
22 process.

1           BRENDAN SULLIVAN: Okay. Jason Marshall, your  
2 thoughts?

3           JASON MARSHALL: I'm comfortable with the  
4 presentation, Mr. Chair.

5           BRENDAN SULLIVAN: Okay. Back to you, Andrea.  
6 Are you?

7           ANDREA HICKEY: Yes, I'm fine. Thank you.

8           BRENDAN SULLIVAN: Okay. Already. So let us,  
9 then, proceed. And then we will probably infill as we go  
10 forward. Anything else, Mr. Rafferty, at this time?

11          JAMES RAFFERTY: Nothing at this time. Thank you,  
12 Mr. Chair.

13          BRENDAN SULLIVAN: Let me open it back up to the  
14 Board. I guess my thoughts on this is that I've had a  
15 second look at the house and the original proposal, which I  
16 had some reservations to initially.

17                 But after going back to the house, walking it,  
18 noticing that there was already a fairly large dormer there  
19 to begin with, that it was heavily treed in the back with  
20 evergreens. And the only one that is even affected by the  
21 proposal -- the initial proposal and this proposal would be  
22 the abutting property to the rear.

1           And to me, yes, exceeded the Dormer Guidelines  
2 quite a bit, but the Dormer Guidelines in the sense have  
3 sort of been a little bit softened in my view lately, having  
4 to adjust to certain applications.

5           And I think that even if it had -- the original  
6 plan had come down for a 30-some-odd foot dormer, it would  
7 probably have been a nonstarter. But adding onto the  
8 original one looking at the interior floor plan and how the  
9 original proposal actually works better for circulation in  
10 the house, I would have been okay with it.

11           The fact that they have gone back to the drawing  
12 board, reduced the size of it -- apparently still works for  
13 them -- then I think I could support the new proposal also  
14 as well.

15           Jim Monteverde, any thoughts, questions at this  
16 time?

17           JIM MONTEVERDE: No questions. Thank you.

18           BRENDAN SULLIVAN: Laura Wernick, any questions at  
19 this time?

20           LAURA WERNICK: I guess my only question is to  
21 you, Mr. Chair. I mean, I feel the same way as you do about  
22 this particular instance. Do we have enough -- in the

1 future, is -- do we have enough rationale here, the unique  
2 situation here, to counter future people coming up and  
3 saying, "Oh, but you granted -- you granted the -- the  
4 larger dorm, the longer dormitory in this instance, how come  
5 you won't in my instance?" Is there a clear enough  
6 justification, I guess, for the uniqueness of this  
7 situation?

8 BRENDAN SULLIVAN: That absolutely is an excellent  
9 question, and one that has not escaped me as to, you know,  
10 how do we say no to some things and yes to other things?  
11 And I think it's probably the uniqueness of each individual  
12 case.

13 Yes, we have to -- I think -- have to be cognizant  
14 of the total picture and how we administer our -- in  
15 parentheses, justice, if you will, fairly.

16 But I think each case is a little bit different.  
17 The effect it has on abutting properties and whether or not  
18 the particular application can work with a smaller dormer  
19 than proposed, if it exceeds the Dormer Guidelines, and sort  
20 of like -- or is it an overreach by the particular  
21 applicant?

22 And I -- as a little bit of a back story, I have

1 reached out to the Planning Board to reconsider, relook at  
2 the Dormer Guidelines, and whether or not they are relevant  
3 today.

4 I remember when the Dormer Guidelines came in,  
5 1996 or so, and it was actually at the urging of the  
6 Historical Department, who then went to Community  
7 Development, and then also Planning, and hence the Dormer  
8 Guidelines came in because there were some horrendous  
9 dormers being created.

10 And they felt that they needed to pull the reins  
11 in on that and have better guidelines for the Board to value  
12 judge any application.

13 The members -- a couple members of the Planning  
14 Board -- did think that it was worthwhile to review the  
15 Dormer Guidelines in view of current societal trends and the  
16 fact that people are in the need of going down into the  
17 basement area for living space and also needing to go up the  
18 value of Cambridge real estate being what it is and trying  
19 to capture every valuable square foot.

20 And so, nothing has come of that yet. But I'm  
21 still ploughing along trying to get them to relook at it.

22 And so, getting back to your question, I think

1 that something that we wrestle with -- I wrestle with -- but  
2 I think that an individual situation, individual case can  
3 probably drive my decision one way or the other, Laura, on  
4 that, if that answers your question or not.

5 As opposed to being very draconian and saying, you  
6 know, we have 15' Dormer Guidelines and, you know, stepping  
7 over that boundary is verboten in a sense.

8 So I sometimes reluctantly would exceed that where  
9 I felt it was probably warranted and a fair and reasonable  
10 request.

11 LAURA WERNICK: I'm comfortable with that  
12 response. Thank you.

13 BRENDAN SULLIVAN: Okay. Andrea, any questions,  
14 comments at this time?

15 ANDREA HICKEY: My comment would be that I think  
16 what is presented tonight is better. It's easier for me to  
17 rationalize not sticking hard to the Guidelines with this  
18 proposal. I would not have been in favor of the original  
19 proposal. But this I can live with.

20 And I do think it will be important, Mr. Chair, in  
21 the findings to sort of give a clear rationale as to why we  
22 are departing from the Guidelines in this case, given the

1 unique request. Thank you.

2 BRENDAN SULLIVAN: All right. Thank you. Jason  
3 Marshall, any comments, questions at this time?

4 JASON MARSHALL: Yeah, just I guess briefly, Mr.  
5 Chair, first, thank you for your leadership in bringing to  
6 the Planning Board's attention the request to relook at the  
7 Dormer Guidelines. It has been many, many years since those  
8 were developed, and it is worth a relook at this point.

9 When this case was first heard, I was comfortable  
10 supporting the proposal, so I certainly am comfortable  
11 supporting this more scaled-back version.

12 I appreciate the discussion that Laura has  
13 initiated and agree with the statement that you made that  
14 really goes to how this is an intensely fact-based inquiry,  
15 and applicants will have to show why they're in a unique  
16 position here among many factors. And there may be  
17 additional elements that are important to other Board  
18 members.

19 But for me this is a dormer that's in the back.  
20 It's not in the front. The wooded area, as you noted, Mr.  
21 Chair -- and it also is, as we heard and was in the record  
22 when we first heard this case, a larger scale dormer in this

1 particular neighborhood is -- generally aligns with other  
2 dormers and adjacent properties.

3 And so, some of that goes to what the Standard is  
4 here. And here it's being heard under 8.22.2 with the  
5 Standard of not substantially more detrimental than existing  
6 nonconforming use. And I'd have a hard time finding that  
7 this doesn't meet that Standard, given the size of similar  
8 dormers in neighboring properties.

9 So I'll stop there.

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

14 If you're calling in by phone, you can raise your  
15 hand by pressing \*9 and unmute or mute by pressing \*6.

16 [Pause]

17 There appears to be nobody calling in. We have no  
18 receipt of any corres -- I'm sorry, there is one person  
19 calling in.

20 SAMUEL RIBNICK: Hi. I just wanted to double  
21 check, are we on 47 Eighth Street now?

22 BRENDAN SULLIVAN: No, we're on Fresh Pond

1 Parkway.

2 SAMUEL RIBNICK: Oh, I'm sorry. I thought we had  
3 just switched.

4 BRENDAN SULLIVAN: I'm sorry. We're on Fresh Pond  
5 Lane. Sorry.

6 SAMUEL RIBNICK: Sorry. I'll wait for the next  
7 one.

8 BRENDAN SULLIVAN: Yeah. Okay.

9 STEPHEN NATOLA: Marilee Meyer?

10 MARILEE MEYER: Hi. Marilee Meyer, 10 Dana  
11 Street. I do not have a dog in this particular issue. And  
12 I came in late, so I apologize.

13 However, just following up on a statement that the  
14 previous caller had said that they're basing the dormer on  
15 other dormers around there, so therefore it might be  
16 compliant or contextual.

17 But I just want to remind people that sometimes,  
18 what has been built before was a mistake and is not  
19 necessarily the precedent for what you're dealing with now.

20 So when I -- I hear, "Well other people did it" I  
21 always like to make sure that it's still contextual and it  
22 still complies. Thank you.

1           BRENDAN SULLIVAN: Thank you, Marilee. That's the  
2 end of the comments. I will close public comments and back  
3 to Mr. Rafferty for any parting comments.

4           JAMES RAFFERTY: Thank you, Mr. Chair. Just  
5 briefly, I would offer for the Board's consideration on the  
6 question of why this case should not be relied as precedent,  
7 perhaps in other dormer cases there are a couple of  
8 conditions here that I think are unique.

9           The existing dormer was not planted by a variance;  
10 it was part of the original construction of the house when  
11 it was built. So this is not a case of simply making bad  
12 worse.

13           It's also the case that -- and I think it's highly  
14 relevant -- that there's ample opportunities for additional  
15 further additions to this house, which the property owners  
16 feel would really detract from its appeal, including dormers  
17 on the front or putting additions on top of the one-story  
18 elements on either side of the house. That would be far  
19 more impactful to the scale of the house and the surrounding  
20 neighborhood.

21           So -- so my suggestion would be the Board might  
22 also take recognition of the fact that this is a -- this is

1 a dormer that was an original construction of the house,  
2 existing dormer, and what's being proposed here represents  
3 only a three-foot extension beyond that, and it doesn't  
4 require additional GFA.

5 This is not a case where the Board is being asked  
6 to grant GFA to accommodate a dormer that doesn't meet the  
7 Guidelines. Thank you.

8 BRENDAN SULLIVAN: Thank you, Mr. Rafferty. Any  
9 comments by other members of the Board? Are we ready for a  
10 vote?

11 JASON MARSHALL: Mr. Chair -- Jason Marshall --  
12 just --

13 BRENDAN SULLIVAN: Yes.

14 JASON MARSHALL: -- there was a helpful public  
15 comment, and I want to use to clarify the statement I made,  
16 which is the fact that there are other dormers of a similar  
17 size nearby is not dispositive.

18 I was -- what I was trying to articulate it's this  
19 one factor among many factors, and Mr. Rafferty just  
20 provided some additional comments that go to the uniqueness  
21 of this.

22 So it's really a totality of factors, which is why

1 I'm not concerned about an adverse precedent set here. So  
2 just wanted to clarify that.

3 BRENDAN SULLIVAN: Great. Thank you. Thank you,  
4 Jason. Ready for a vote? A motion?

5 JIM MONTEVERDE: Ready.

6 BRENDAN SULLIVAN: All right. Let me make one.  
7 Let me make a motion, then, to grant the special permit as  
8 per the application and the revised drawings that are dated  
9 January 9, 2023 initialed by the Chair. And they request  
10 also that the additional documents be incorporated by  
11 reference, as has been pulled up on the screen as part of  
12 this case, and also the new supporting statements.

13 The Board of Appeal in all districts may grant a  
14 special permit for the alteration or enlargement of a  
15 preexisting dimensionally nonconforming, detached single-  
16 family dwelling or two-family not otherwise permitted in  
17 Section 8.22.1 above, but not the alteration or enlargement  
18 of a preexisting, nonconforming use.

19 Provided that there is no change in use, and that  
20 any enlargement or alteration of such preexisting,  
21 nonconforming detached single-family dwelling or two-family  
22 dwelling may only increase a preexisting dimensional

1 nonconformity but does not create a new dimensional  
2 nonconformity.

3 In order to grant the special permit, the Board of  
4 Zoning Appeal is required to find -- and does make such  
5 finding -- that the alteration or enlargement shall not be  
6 substantially more detrimental than the existing  
7 nonconforming structure to the neighborhood, and that the  
8 alteration or enlargement satisfies the criteria in 10.43.

9 Under 10.43, the Board may grant a special permit  
10 where it finds that the requirements of the ordinance can be  
11 met, that traffic generated, or patterns of access or egress  
12 would not cause congestion, hazard, or substantial change in  
13 the established neighborhood character.

14 The Board finds that the 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.

18 That there would not be any nuisance or hazard  
19 created to the detriment of the health, safety and/or  
20 welfare of the occupants of the proposed use; in fact the  
21 proposal is an added benefit to anyone who occupies the  
22 house with better flow of room layout in the third floor.

1 That makes the house far more livable and increases the  
2 safety factor on the third floor.

3 The Board finds that the proposed use would not  
4 impair the integrity of the district or adjoining district,  
5 or otherwise derogate from the intent and purpose of the  
6 ordinance to allow homeowners to upgrade, potentially expand  
7 their existing residence to accommodate growing families or  
8 the need for additional space.

9 The Board also notes that the petitioner could  
10 employ other additions to this house, which could be subject  
11 to a special permit that may have a different effect on what  
12 is proposed tonight.

13 That the proposal is an expansion of an existing  
14 dormer, which was built with the structure, which predates  
15 the existing ordinance, and is encumbered by the existing  
16 ordinance, but the Board finds that the granting of this  
17 special permit is a fair and reasonable use to allow the  
18 homeowner the enjoyment of their property.

19 On the motion, then, Andrea to -- have I covered,  
20 you think, the salient points?

21 ANDREA HICKEY: Yes. Very well done. Thank you,  
22 Mr. Chair.

1           BRENDAN SULLIVAN: On the motion, then, to grant  
2 the special permit as per the application, Jim Monteverde?

3           JIM MONTEVERDE: In favor.

4           BRENDAN SULLIVAN: Laura Wernick?

5           LAURA WERNICK: In favor.

6           BRENDAN SULLIVAN: Andrea Hickey?

7           ANDREA HICKEY: Yes, in favor.

8           BRENDAN SULLIVAN: Jason Marshall?

9           JASON MARSHALL: In favor.

10          BRENDAN SULLIVAN: Brendan Sullivan yes.

11          [All vote YES]

12          BRENDAN SULLIVAN: Five affirmative votes; the  
13 special permit is granted.

14          JAMES RAFFERTY: Thank you, Mr. Chair.

15          BRENDAN SULLIVAN: Thank you.

16          JAMES RAFFERTY: And members of the Board. It's -  
17 - with a motion as comprehensive as that, it's easy to see  
18 why such a landslide election occurred, really.

19          BRENDAN SULLIVAN: [Laughter] Thank you.

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(6:42 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Laura Wernick, and Wendy Leiserson

BRENDAN SULLIVAN: The Board will now hear Case No. 197887 -- 47 Eighth Street. Just so I can get the lineup card straight, so it's myself, Jim Monteverde sitting for the rest of the evening.

Laura, you're sitting?

LAURA WERNICK: Yes.

BRENDAN SULLIVAN: Jason? No.

JASON MARSHALL: I am not.

BRENDAN SULLIVAN: You are not?

WENDY LEISERSON: Wendy Leiserson is sitting.

BRENDAN SULLIVAN: Wendy. Wendy. So I have myself, Jim Monteverde and Slater?

SLATER ANDERSON: I'm here. I'm going to -- I'm going to sign off. Have a good night.

WENDY LEISERSON: Goodnight.

ANDREA HICKEY: Andrea Hickey signing off as well.  
Thank you.

BRENDAN SULLIVAN: Thank you.

1           ANDREA HICKEY: Goodnight.

2           BRENDAN SULLIVAN: Goodnight.

3           BRENDAN SULLIVAN: The Board will hear Case No.  
4 197887 -- 47 Eighth Street. Mr. Rafferty?

5           JAMES RAFFERTY: Thank you. Good evening, Mr.  
6 Chair, members of the Board. Again, for the record, James  
7 Rafferty on behalf of the applicants with offices addressed  
8 at 907 Massachusetts Avenue in Cambridge.

9           I'm appearing this evening on behalf of property  
10 owners who are present. Stephen Brown and Michelle --  
11 Michelle, or Michelle Jodrey, J-o-d-r-e-y.

12           Mr. Brown and Ms. Jodrey have called this property  
13 their home for the past 11 years. We also have on the call  
14 the Project Architect Paul Fiore.

15           This is a proposal I'm sure the Board has been  
16 able to ascertain. It involves a small house in the rear of  
17 the lot at this address on Eighth Street. In the existing  
18 house, the applicants' original intention was to renovate  
19 the house.

20           The house is old. It is really in need of  
21 significant renovation. And as the applicants explored that  
22 process with Mr. Fiore, it became increasingly apparent that

1 structural conditions of the house were such that the type  
2 of renovation work required would really be so overwhelming  
3 that there would not be much remaining of the existing  
4 house.

5 So the applicants spoke with the Historical  
6 Commission and the Executive Director viewed the home. And  
7 he made a determination that the home did not meet the  
8 significant threshold that would warrant a public hearing.

9 As Board members probably know, the city's  
10 Demolition Delay Ordinance has property owners first seek a  
11 determination by the Historical Commission whether a  
12 property is significant. If the Executive Director makes a  
13 preliminary determination, the matter is referred for a  
14 public hearing.

15 In this case, the Executive Director determined  
16 that the house was not significant unless a public hearing  
17 was not needed.

18 So what's proposed here is a house that very much  
19 follows the footprint of the existing home. And Mr. Fiore  
20 can go through those plans with you.

21 But after the plans were filed, the applicants did  
22 hear from a rear abutter, who expressed concerns about

1 privacy impacts that were created because this home,  
2 although the rear setback is unchanged, actually, currently  
3 has a blank wall facing the rear abutter.

4           The rear abutter's home appears to be about 50  
5 feet into their lot, but nonetheless there were concerns  
6 expressed about the amount of fenestration which candidly  
7 was considerable.

8           So the applicants and their architects went back  
9 to the drawing board. They invited that abutter to  
10 participate in that process -- Mr. Fiore's office is in the  
11 East Cambridge neighborhood -- but the abutter wasn't able  
12 to do so.

13           But the plan that's before the Board tonight  
14 reflects a significant reduction, a 50 percent reduction in  
15 the amount of fenestration. So we do recognize that that  
16 abutter -- my understanding is that abutter continues to  
17 express concern.

18           But creating a home and a living situation with a  
19 blank wall really is far less than ideal. So the proposal  
20 has been designed in a way to actually meet the 3' setback  
21 requirement for the building code to allow for operable  
22 windows.

1           If the Board would like, I could have Mr. Fiore go  
2 through the changes to the windows, but it's worth noting  
3 that the house is -- the application seeks a variance  
4 because the new house, like its predecessor, does not comply  
5 with the setbacks.

6           And there is one image, or one sheet that I might  
7 ask the Board -- that's exactly it. Thank you.  
8 Clairvoyant.

9           This -- this -- this site plan shows the  
10 difference between existing footprint and the proposed  
11 footprint. And what's most notable in terms of the massing  
12 and organization of the house, you'll see, is the house  
13 currently has a detached garage.

14           Where we're seeing a lot of the added GFA in the  
15 new house is that detached garage is now an ex-garage. And  
16 the area between the current garage and the current home is  
17 now occupied with GFA.

18           And the garage has been brought forward for a  
19 number of reasons, including the fact that the current  
20 garage is at a 0 setback. This garage is brought forward.  
21 There are no windows on the rear wall of the garage.

22           But the application seeks a variance because of

1 the setback issues created, and also because of the increase  
2 in square footage, the application seeks to -- an additional  
3 600 square feet over what the current FAR allows.

4 It's a case where the lot is extremely small. The  
5 -- the house itself has suffered due to its cramped size and  
6 its small conditions. In many ways, the reorganization of  
7 the house in this form actually creates a separation at  
8 least between the rear abutter.

9 And Mr. Fiore would point out at the second floor  
10 of the house, you'll notice -- if we can go to that  
11 elevation -- you'll notice that the massing on the second  
12 floor steps back and so the -- it's only the first floor  
13 that is at the closest adjacency to the rear. The second  
14 floor and the third floors are pulled back considerably.

15 So, as I said, Mr. Fiore is on the call. I'm  
16 happy to respond to any questions or comments about the  
17 plans as submitted.

18 BRENDAN SULLIVAN: Okay. Let me open it up to the  
19 Board. Jim, do you have any questions?

20 JIM MONTEVERDE: I just had one. I think Mr.  
21 Rafferty touched on it. I was trying to understand where  
22 all the added square footage came from, or where it is. I

1 understand the garage comment that accommodates the bulk of  
2 it.

3 JAMES RAFFERTY: Right. So far --

4 JIM MONTEVERDE: Can you walk me through? It's  
5 about -- it looks like it's about 900 some-odd square feet?

6 JAMES RAFFERTY: You're absolutely correct. And  
7 the -- the increases are on the first floor; I prepared this  
8 analysis in anticipation of this question -- the existing  
9 first floor is about 760 square feet. The proposed is  
10 nearly 1000. It's 999. So that's the first tronche, at  
11 about 250 square feet.

12 Where the most additional GFA is occurs on the  
13 second floor. It goes from 760 to 1217. Maybe, would it  
14 be possible maybe to get the floor plan to look at the  
15 second floor, and maybe Mr. Fiore is probably better skilled  
16 to kind of address this. Are you in a position to comment,  
17 Paul?

18 PAUL FIORE: Can I -- can people hear me?

19 JAMES RAFFERTY: Yes. You should give your -- you  
20 give your name for the record, please?

21 PAUL FIORE: My name is Paul Fiore. And --

22 JAMES RAFFERTY: Right. And I'm just going to

1 finish up with the -- in response to Mr. Monteverde's  
2 question. And then the final, the third floor, the attic  
3 floor, went from 212 to 430 square feet.

4 But I think you could perhaps give a more  
5 comprehensive assessment of where this additional GFA is  
6 occurring in the building, as opposed to the existing  
7 structure.

8 PAUL FIORE: Right. So on the first floor, as Mr.  
9 Rafferty said, it's mostly the infill between the existing  
10 house and the garage, because the footprint -- the outline  
11 of the footprint really didn't change.

12 The second floor, because we're building over the  
13 -- we're -- we're requesting to build over the garage, all  
14 of the area over the garage is now -- now occupiable, where  
15 it wasn't previously when it was just a one-story garage  
16 structure. So that's why the second floor has the most  
17 added space.

18 JIM MONTEVERDE: Okay. Thank you.

19 BRENDAN SULLIVAN: Laura, any questions of the  
20 petitioner at this time? Comments?

21 LAURA WERNICK: The amount of windows seems  
22 relatively small. And you do have that balcony with a large

1 opening, sliding door there, I assume?

2 Can you kind of go through the exercise that you  
3 went -- how much, how much glazing, how much window area was  
4 reduced from your original?

5 PAUL FIORE: Yeah. If you'd like, I could bring  
6 up -- well, actually, you have it all in the -- you have the  
7 3D of the back elevation. I'll tell you when to stop. This  
8 is what's -- oh, go back. Oh, no, that's the elevation.  
9 Okay. So that's -- sorry. One more back.

10 That is the -- right there. That's what we're  
11 proposing now. The original rear elevation, if you scroll  
12 all the way down, our original submission you can see the --  
13 oh, is it -- yeah, keep moving -- yeah, keep going. It  
14 should --

15 LAURA WERNICK: Think you have to keep going.

16 JAMES RAFFERTY: It's an elevation, not a photo.  
17 Yeah. Keep going.

18 PAUL FIORE: Yeah. Is that the end?

19 PAUL FIORE: Yes. That's the end. Okay.

20 JAMES RAFFERTY: We, must have gone past the other  
21 -- it's the rear elevation of the original application.

22 LAURA WERNICK: Right in there.

1 JAMES RAFFERTY: Yeah, that's not it.

2 BRENDAN SULLIVAN: That's the front.

3 JAMES RAFFERTY: That -- that -- that's -- that's  
4 the current proposal, what's before the Board tonight. But  
5 to the question being asked about -- whoop, that's not it,  
6 either. What was the -- what has been the change in the  
7 original submission to this submission?

8 PAUL FIORE: Is there a way to share my screen  
9 that I can -- I have it right up on it now. And when I  
10 looked at the submission online, it was included, the  
11 original submission was included with the proposed or the --

12 JAMES RAFFERTY: Yeah.

13 PAUL FIORE: -- amended solution.

14 JAMES RAFFERTY: Right. So the -- yeah. So the  
15 original application, of course, was uploaded at the time of  
16 filing. So that is -- that is present. That's -- that's  
17 the existing condition in the photo. I'm trying to find --

18 BRENDAN SULLIVAN: Is that the west elevation,  
19 then?

20 JAMES RAFFERTY: I believe it is.

21 PAUL FIORE: It is, yes.

22 BRENDAN SULLIVAN: The sheets here are not

1 numbered, so. Well --

2 JIM MONTEVERDE: Yeah. I have a sheet -- I have  
3 it as from the -- what's in the public file.

4 BRENDAN SULLIVAN: Yeah, there's --

5 JIM MONTEVERDE: Sheet 33 of 54.

6 BRENDAN SULLIVAN: Oh, okay.

7 JIM MONTEVERDE: For the elevations. 33, 34.

8 JAMES RAFFERTY: And that's from the original  
9 application?

10 JIM MONTEVERDE: Yeah. It's dated October 1.

11 JAMES RAFFERTY: Exactly.

12 JIM MONTEVERDE: October 17.

13 JAMES RAFFERTY: Right. That's -- that -- the,  
14 comparing that elevation with tonight's will -- will explain  
15 the response and accommodation that was made. So is that  
16 not available for viewing by the Board?

17 SLATER ANDERSON: It should be Sheet 35.

18 PAUL FIORE: I would make one correction. We  
19 actually reduced the windows on that façade from seven  
20 double-hung windows to three. So it's more than a 50  
21 percent reduction. And if we could pull that up, you would  
22 be able to see them.

1           LAURA WERNICK: Yeah. I'm looking at them now.

2           BRENDAN SULLIVAN: And it was discussions with Ms.  
3 Joanne Nelson, is that correct?

4           JAMES RAFFERTY: No. It was -- it was discussions  
5 with Mr. Ribnick, I believe -- the gentleman who appeared on  
6 the prior case mistakenly.

7           BRENDAN SULLIVAN: Okay. Joanne Nelson -- well,  
8 writes, "I should be able to attend, but my only concern is  
9 if the owners decided to put lights of the house, they  
10 either point them down or put a cover on them so they don't  
11 blind me.

12           "I live in 58 Fulkerson Street. My bedroom and  
13 kitchen face the back of their house. They used to have a  
14 very bright light on the second-floor back deck. I couldn't  
15 sit out on the deck at night and had to buy room-darkening  
16 shades to alleviate."

17           But I don't know, did you have any discussions  
18 with Ms. Nelson at all? She obviously is in the back at  
19 Fulkerson Street.

20           JAMES RAFFERTY: Stephen, could you address the  
21 Chair whether you've had any discussions? Stephen or  
22 Michelle, could you -- can you address the question about

1 communication with that abutter?

2 MICHELLE JODREY: Hello?

3 STEPHEN BROWN: Hi, there. This is Stephen Brown

4 --

5 BRENDAN SULLIVAN: Yes.

6 STEPHEN BROWN: -- and Michelle Jodrey. We did  
7 not -- we weren't exposed to that question. But to respond  
8 to that, we --

9 MICHELLE JODREY: We're happy to make whatever  
10 accommodations. We don't -- we didn't even know that there  
11 was a porch light that was bothering her. And actually, we  
12 wish she would have said something. So --

13 STEPHEN BROWN: It may have been before we bought  
14 this place.

15 MICHELLE JODREY: Yeah.

16 STEPHEN BROWN: Regardless --

17 MICHELLE JODREY: We would have changed it.

18 JOANNE NELSON: Hi. Can you hear me at all?

19 MICHELLE JODREY: Hi.

20 STEPHEN BROWN: Yes.

21 JOANNE NELSON: Hi. I'm sorry -- hi, this is  
22 Joanne.

1           STEPHEN BROWN: Hi, Joanne.

2           MICHELLE JODREY: Hi, Joanne.

3           JOANNE NELSON: Hi. Hi. First, I want to say  
4 your house is going to be beautiful when it's finished.

5           STEPHEN BROWN: Oh.

6           MICHELLE JODREY: Oh, thank you.

7           JOANNE NELSON: I mean, I applaud you. Great job.

8           BRENDAN SULLIVAN: Maybe what I'll do, Joanne, is  
9 if you could just stand by --

10          JOANNE NELSON: Okay.

11          BRENDAN SULLIVAN: -- just a brief question, but  
12 when I open it to public comment, maybe you could chime in  
13 then.

14          JOANNE NELSON: Oh, all right. I'm sorry.

15          BRENDAN SULLIVAN: Yeah, no, no.

16          JOANNE NELSON: I didn't know the procedure.

17          BRENDAN SULLIVAN: That's fine. That's fine.

18          JOANNE NELSON: Okay.

19          BRENDAN SULLIVAN: Just trying to keep some -- a  
20 little bit of law and order and decorum here, anyhow. So  
21 anyhow, regarding the back of the house, which was -- was it  
22 sheet 33? Are we trying to --

1 JAMES RAFFERTY: It was 35.

2 BRENDAN SULLIVAN: 35? That --

3 JAMES RAFFERTY: There you go. There you go.

4 There you go. So that's -- that's the -- that's the October  
5 submission, as noted by Mr. Fiore, a reduction from seven  
6 double-hung windows to three, in direct response to the rear  
7 abutter, Mr. Ribnick, who contacted the owners and expressed  
8 serious reservation about the fact that the -- he much  
9 prefers the blank wall that he looks at now apparently than  
10 any glazing on this wall.

11 So as I noted, Mr. Fiore could walk you through  
12 the changes he made, but this -- the glazing that's being  
13 provided here would be one room in a kit -- one window in a  
14 kitchen, one window in a dining room downstairs, and now one  
15 window in an upstairs bedroom.

16 BRENDAN SULLIVAN: Okay. That's the west  
17 elevation? I don't know if you can pull that one up.

18 LAURA WERNICK: East.

19 JAMES RAFFERTY: It seems to be east, I apologize,  
20 if the marking is correct. The sheet says east.

21 PAUL FIORE: Yeah, it is -- it is the west  
22 elevation. My apologies. I think that sheet is mislabeled.

1 JAMES RAFFERTY: Did they --

2 BRENDAN SULLIVAN: I don't know, Stephen, if we  
3 could pull that one up somewhere, wherever that is?

4 JAMES RAFFERTY: -- the following as well, where  
5 the upper --

6 BRENDAN SULLIVAN: No.

7 JAMES RAFFERTY: Where the upper story --

8 BRENDAN SULLIVAN: Okay. All right.

9 JAMES RAFFERTY: -- of the second floor --

10 BRENDAN SULLIVAN: So that's -- that's what's  
11 proposed now?

12 PAUL FIORE: Correct.

13 BRENDAN SULLIVAN: Okay.

14 JIM MONTEVERDE: Correct.

15 BRENDAN SULLIVAN: But there's an axonometric or  
16 3D image a little further back that shows the shifting mass  
17 at the second and third -- thank you, right there, yeah.

18 So you see the -- a portion of the second floor  
19 steps back, and the third floor is back about an additional  
20 25 feet, Paul, about, recalling correctly?

21 PAUL FIORE: Yes. The back -- the setback is in  
22 the same place as the original volume of the house, which is

1 about 20 feet back, I believe.

2 LAURA WERNICK: 18?

3 PAUL FIORE: Yeah. It's about 18 feet back.

4 JAMES RAFFERTY: Thank you.

5 BRENDAN SULLIVAN: Okay. The original question  
6 was from Laura? Was it your question that --

7 LAURA WERNICK: Yes, that's right.

8 BRENDAN SULLIVAN: Yeah, okay.

9 LAURA WERNICK: And I've had my question answered.  
10 Thank you.

11 BRENDAN SULLIVAN: Okay. Wendy Leiserson, any  
12 questions, comments at this time?

13 WENDY LEISERSON: I do have some questions just  
14 regarding the application form. I'm not sure how  
15 dispositive they are, but I just want some clarity on them.  
16 One is the proposal says it's seeking to place a two-family  
17 home with a two-family home.

18 And I -- I'm not sure where the two-family piece  
19 is in this new proposal. Is that accurate, or is that  
20 erroneous?

21 JAMES RAFFERTY: No, it is correct. It is a two,  
22 and the rebuilt structure will be a two. There's an

1 apartment in the lower level.

2 WENDY LEISERSON: Okay. I didn't see it. You  
3 know, when I'm looking at these things online, it's harder  
4 to --

5 JAMES RAFFERTY: Yeah, I think --

6 WENDY LEISERSON: -- analyze.

7 JAMES RAFFERTY: -- I'm guessing, I'm guessing --

8 WENDY LEISERSON: But I don't see the -- is there  
9 a kitchen in the basement?

10 JAMES RAFFERTY: Yeah. There's a -- there's a  
11 floor plan. Paul, can you direct the sheet number on the  
12 basement floor plan, the lower --

13 LAURA WERNICK: There you go, there you go.

14 JIM MONTEVERDE: There you go.

15 PAUL FIORE: Stephen -- I think Stephen's trying  
16 to explain right now. But I -- the -- it's a two-family  
17 house floor through. So the first floor is one family, and  
18 the second floor is another family presently.

19 JAMES RAFFERTY: Right.

20 PAUL FIORE: Does that answer the question?

21 JAMES RAFFERTY: No, I think the question is --

22 JIM MONTEVERDE: No.

1           JAMES RAFFERTY:  -- where is the -- where is the  
2 kitchen --

3           JIM MONTEVERDE:  Where's the kitchen?

4           JAMES RAFFERTY:  -- in the lower-level apartment?

5           MICHELLE JODREY:  Right side.

6           PAUL FIORE:  There is no kitchen in the lower-  
7 level apartment.  The apartments are not -- they're now not  
8 floor-through units.  They are actually duplexes, side-by-  
9 side.  If -- if you want to --

10          JAMES RAFFERTY:  Yeah, maybe -- maybe you -- maybe  
11 you --

12          PAUL FIORE:  I can maybe just go through the plan?

13          JAMES RAFFERTY:  Yeah, why don't you -- maybe you  
14 could walk the Board through the floor plans?

15          PAUL FIORE:  Sure.  Sure.  Go to the first.  So in  
16 the lower level, there was no kitchen.  These are just  
17 bedrooms.  But if you go to the first floor, it's easier to  
18 see the division of the units.  So the front --

19          WENDY LEISERSON:  Oh, I see it now.  Yes.  Okay.

20          PAUL FIORE:  Okay.

21          WENDY LEISERSON:  Okay.  Got it.  Thank you.

22          Sorry.

1 PAUL FIORE: Oh, no -- no worries.

2 WENDY LEISERSON: I think I need to get a mega TV  
3 for my reviewing of these documents. Okay. Got it. And  
4 then it also says that you're reducing the number of parking  
5 spaces from two to one the application form, but then in the  
6 table it only says -- it says there's no change in the  
7 parking. Is there a change in the parking or not?

8 JAMES RAFFERTY: No, there really isn't. I mean,  
9 it depends how you count. So the existing parking is two  
10 because there's a garage containing one space, and then  
11 there's the driveway behind the garage.

12 And historically, they have parked in that  
13 driveway. It is technically a tandem space meaning that the  
14 car in the garage can't move without the car in the driveway  
15 being moved over. But that's -- that's the reference to  
16 parking: One space in the garage, one space on the surface.

17 WENDY LEISERSON: Okay. So it's -- you're not  
18 seeking any kind of permission to reduce the parking as  
19 written on the form, then?

20 JAMES RAFFERTY: No. In fact --

21 WENDY LEISERSON: Okay.

22 JAMES RAFFERTY: -- the -- in fact, we -- there

1 might have been a point in time when we were, but then the  
2 City Council obviated that need with an amendment not that  
3 long ago that no longer has minimum parking requirements or  
4 -- in the zoning ordinance. So a two-family house may not  
5 have any parking space.

6 WENDY LEISERSON: Okay. Great. And then the  
7 table is missing the open space data. Is it true to say  
8 that -- I mean, is there a change in it at all? Your  
9 revised form is not showing any open space data change. Or  
10 is it? No, sorry --

11 PAUL FIORE: It is.

12 WENDY LEISERSON: -- your revised, it's showing a  
13 change, but not the ordinance requirements, which are 30  
14 percent, right?

15 JIM MONTEVERDE: That's -- I'm just noticing that  
16 omission as well, yes.

17 WENDY LEISERSON: Yeah. But it's already been  
18 nonconforming, correct? It was at 15 percent, according to  
19 the original filing? I just want to double check that with  
20 you.

21 PAUL FIORE: No. Well, this dimensional form  
22 today, or maybe Paul could speak to it, says that the

1 existing open space ratio is at 28 percent. And we're --

2 WENDY LEISERSON: Right.

3 PAUL FIORE: -- going to be reducing it to 25.

4 WENDY LEISERSON: Okay. So just ignore the first  
5 one. All right. And then let me just see. Okay. So the  
6 only thing I would say, I think it's a little misleading to  
7 say that it's comparable in mass when you are adding almost  
8 1000 square feet.

9 Not that that's going to affect whether I -- but  
10 in future, I would like to see sort of more transparency in  
11 terms of the comparability of mass on an application.

12 JAMES RAFFERTY: I accept that. I misspoke. I  
13 was more focused on the footprint impact, but I agree, bulk  
14 and mass are expressed differently. So --

15 WENDY LEISERSON: Thank you.

16 JAMES RAFFERTY: Yes. I apologize if that was  
17 seen as imprecise.

18 WENDY LEISERSON: Thank you.

19 PAUL FIORE: If I may comment on that?

20 WENDY LEISERSON: Yep.

21 PAUL FIORE: We did -- we did make a serious  
22 attempt to do it because -- for that reason, because there's

1 more square footage to keep the back of the front apartments  
2 while -- pretty much in the same place where it is.

3 And in reality, it's actually -- the rear part of  
4 the house on that side is actually lower now, because if you  
5 scroll through those photographs, you can see there's a two  
6 and a half story picture there, two and a half story  
7 addition in the back, which now has a flatter roof on it and  
8 makes the volume slightly less.

9 So, you know, we did make attempts -- there it is.  
10 That one really shows the back presently.

11 WENDY LEISERSON: Mm-hm.

12 PAUL FIORE: And now it's about 80 feet lower than  
13 that in the back.

14 WENDY LEISERSON: Okay. Thank you. I don't think  
15 I have any other questions.

16 BRENDAN SULLIVAN: Okay. Slater Anderson, any  
17 questions, comments at this time?

18 SLATER ANDERSON: No questions or comments, thank  
19 you.

20 BRENDAN SULLIVAN: Okay. Let me open it to public  
21 comment. Any member of the public who wishes to comment --

22 JOANNE NELSON: Oh, hi. This is --

1           BRENDAN SULLIVAN:  -- should now click the button  
2 that says, "Participants," and then click the button that  
3 says, "Raise hand."

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

7           JOANNE NELSON:  Hi.  This is Joanne, can you hear  
8 me?

9           BRENDAN SULLIVAN:  Yes.

10          JOANNE NELSON:  Oh, okay.  Hi.  I know we were  
11 starting to talk earlier about the lights.

12          BRENDAN SULLIVAN:  Yes.

13          JOANNE NELSON:  But I would just ask if you decide  
14 to put lights, which I'm sure you are on the deck in the  
15 back if you can angle them down or put a shield on the back?

16                 Because the current light that's out there now --  
17 I know I didn't say anything in the past, but it is like a  
18 direct -- hard to explain, but it's horizontal right into my  
19 bedroom and kitchen.

20                 And part of the reason I didn't say anything,  
21 because the light seems to burn out all the time.  I figured  
22 I was in luck.  I thought maybe --

1 COLLECTIVE: [Laughter]

2 JOANNE NELSON: -- I thought maybe you took it  
3 out? And then all of a sudden, I said, "Oh my God, there it  
4 is again." So my husband and I went out and bought --

5 MICHELLE JODREY: Oh.

6 JOANNE NELSON: -- room-darkening shades. But, as  
7 you know, sometimes they don't stick to the window, if you  
8 will, and all the light still comes in on the side and I  
9 can't sleep.

10 MICHELLE JODREY: I'm sorry.

11 JOANNE NELSON: And I saw your drawing and I'm  
12 like, "Oh my God, how many lights are going to be out there  
13 now?" So.

14 MICHELLE JODREY: Oh my God.

15 JOANNE NELSON: Like, point them down or --

16 MICHELLE JODREY: No problem. No problem.

17 STEVE NORTON: If you could tell us where they are  
18 --

19 JAMES RAFFERTY: Excuse me, Steve and Michelle,  
20 with all due respect, the Chair -- all comments need to go  
21 through the Chair, and you have to wait until the Chair  
22 recognizes you.

1 MICHELLE JODREY: Sorry.

2 JOANNE NELSON: Oh, okay.

3 BRENDAN SULLIVAN: Okay. Only because we're  
4 making a transcript, and the dear lady who is doing this at  
5 the other end is having fits. She -- her hands or her  
6 fingers can't move that quickly.

7 So when she's trying -- she's being very, very  
8 attentive to an accurate record. So we have to be sensitive  
9 to that. So anyhow, Joanne anything else to add?

10 JOANNE NELSON: Yeah. I just had another question  
11 too. The extra room on the garage, is that for, like, a  
12 rental or an Airbnb? I was just curious what that was for?  
13 Because I don't think it was in the original house, right?

14 MICHELLE JODREY: No.

15 JOANNE NELSON: You said it was another apartment  
16 above the garage?

17 PAUL FIORE: The above the garage is just part of  
18 the rear unit's square footage. So there's a bedroom.  
19 That's the plan right there. So the rear unit, Joanne, is  
20 -- the whole back of the house is now one unit, and the  
21 whole back of the house is the other unit. So --

22 JOANNE NELSON: Okay.

1 PAUL FIORE: -- that's the change.

2 JOANNE NELSON: Okay. All right. So there's  
3 three floors now, then, basically, as opposed to two?

4 PAUL FIORE: Only if you -- no, it's still two  
5 floors, but the basement is now livable, or it will be  
6 livable where it isn't presently.

7 JOANNE NELSON: Okay. Well, thank you. I  
8 appreciate it.

9 BRENDAN SULLIVAN: Okay. Anybody else wish to  
10 comment?

11 SAMUEL RIBNICK: Yes. This is Sam Ribnick, the  
12 abutter to the rear.

13 BRENDAN SULLIVAN: Yes, Sam. Yep?

14 SAMUEL RIBNICK: Hi. Thank you. So I just wanted  
15 to comment that my wife and I live on the property to the  
16 rear. We have three young kids.

17 Overall, we support the idea of the project. We  
18 are very happy to see that they are taking this opportunity  
19 to improve the house and add space.

20 But as mentioned earlier, we don't support the  
21 addition of windows on the back wall, which is currently  
22 blank.

1           As you saw in some of the existing pictures, the  
2 house currently has windows that face sort of onto their own  
3 property. But as they're filling that space in to add  
4 square footage, they're now moving those windows to face  
5 back onto our property in a very small setback.

6           One of the big things for us is that I reached out  
7 to them when I go to the zoning notice. And I had a phone  
8 call with them. In that conversation, I understood that  
9 they plan to live in the front unit, which means that the  
10 rear unit, which is just feet from our yard would presumably  
11 be renters or even Airbnb short-term tenants.

12           And, you know, for us we really sought out a house  
13 with a yard in this neighborhood. We have young kids. We  
14 make good use of that yard and our rear deck.

15           And given that the rear unit as I understand would  
16 be occupied by unknown renters or Airbnbers and we just  
17 don't know who those would be, or what behavior that might  
18 bring, we feel that the windows on the currently blank wall  
19 and built in the setback and just feet of our yard would  
20 have a negative impact.

21           You know, I think I would be more supportive if,  
22 you know, the whole property were their home, and I would

1 want to make sure that they could get enjoyment of their  
2 home.

3 But given that it's for -- you know, unknown  
4 renters and given that they, you know, currently have  
5 windows that face onto their property and they're just  
6 shifting them around to be, you know, sort of feet from our  
7 property as they fill in the space, where things stand now,  
8 we support the overall idea of the project, but we do not  
9 support the special permit for the windows. And I just  
10 wanted to share that view.

11 BRENDAN SULLIVAN: Thank you. Anybody else wish  
12 to comment?

13 JOANNE NELSON: Hi. This is Joanne. Can you hear  
14 me again?

15 BRENDAN SULLIVAN: Yes.

16 JOANNE NELSON: This is Joanne Nelson. Yes. I  
17 was just going to say I support Sam and Caroline 100  
18 percent. Because I had heard it was an Airbnb too, but Sam  
19 kind of elaborated a little bit more. So I can agree with  
20 what he is saying as well.

21 BRENDAN SULLIVAN: Okay. Thank you.

22 STEVE NORTON: Seth Diamond?

1           SETH DIAMOND: Yes, hi. This is Seth Diamond at  
2 126 Gore Street, Apartment 2. Can everybody hear me okay?

3           BRENDAN SULLIVAN: Yes.

4           SETH DIAMOND: Oh, fantastic. Thank you so much  
5 for your time, Mr. Chair and the members of the Board. I --  
6 I basically just wanted to very briefly speak up here, you  
7 know, in support of Steve and Michelle.

8           Aside from the fact that they're, you know, dear  
9 friends of mine, I live literally just right around the  
10 corner, you know, a couple -- a couple blocks away.

11           And I am very, very, you know, concerned about  
12 overdevelopment in our neighborhood. And this is the exact  
13 opposite. When you're thinking of major development, you're  
14 thinking of Cambridge Crossing, you know, the rehabilitation  
15 of the courthouse.

16           And I'm used to city living. My wife and I have  
17 been here in the neighborhood for over 20 years. And  
18 windows are something, you know, that we're used to seeing  
19 staring across at other windows that are right across from  
20 us. That's what city living is about.

21           And frankly, in this age of, shall we say, climate  
22 change or whatnot, natural light is really key. You know,

1 this way you can, you know, decrease your energy costs --  
2 things like that.

3           You know, when you have something like saying,  
4 hey, you know, asking for a neighbor, you know, to -- you  
5 know -- turn a porch light down or whatnot, that's being  
6 reasonable. These structures will probably outlast many of  
7 us and these decisions for let's say, you know, putting in  
8 windows, things like that, have a longer-term impact than we  
9 realize.

10           So I'm very much in support of, if anything, the  
11 idea that it was very reasonable, shall we say, for  
12 fenestration to drop it over 50 percent.

13           Frankly, I think it should be -- they should put  
14 in as many windows as they like and let in as much light.  
15 There's a reason they get curtains and drapes, you know,  
16 things like that.

17           Again, I want to thank you all for your time.

18 Thanks.

19           BRENDAN SULLIVAN: Thank you for calling in.

20           STEVE NORTON: Stephen Payne?

21           STEPHEN PAYNE: Hi, can you hear me?

22           BRENDAN SULLIVAN: Yes.

1           STEPHEN PAYNE: Yes. I'm a longtime resident --  
2 10 years -- at 6 Bristol Street a few blocks away, and also  
3 a great, great friend of Steve and Michelle's. And I mean  
4 Steve's -- Steve's a veteran. Michelle is a nurse,  
5 frontline worker. I don't know how you could hassle  
6 somebody about windows.

7           I mean, a whole, whole side of your house can't  
8 have any windows; I thought this was the United States of  
9 America where you're allowed to do what you want in terms of  
10 windows, especially in a city environment, as the previous  
11 caller said.

12           So just wanted that to be on the record.

13           BRENDAN SULLIVAN: Great. Thank you. There  
14 appears to be nobody else calling in. We are in receipt of  
15 correspondence from Michelle Rosenbloom (phonetic) and  
16 Graciella Moreno (phonetic), who are in support; Michael  
17 Monahan (phonetic) at 32 Fulkerson Street, who is writing in  
18 support of the project.

19           There is correspondence -- well, Mr. Payne had  
20 written a letter; Carl Fantasia from New Deal Fish Market,  
21 who is writing in support.

22           There is correspondence from Dr. George W. Ni, N-

1 i, who is a neighbor and is in support; Diane Ballestas --  
2 B-a-l-l-e-s-t-a-s, who is in favor.

3 There was also correspondence from Mr. Adam Bryant  
4 (phonetic).

5 "I am writing to object to BZA-197887 at 47 Eighth  
6 Street. The applicants seem like worthy community members,  
7 and relief to allow them to renovate their home is worth  
8 consideration if it is necessary.

9 "However, petitioners are making an all-face grab  
10 for GFA in proposing a new home that is far in excess of the  
11 existing home size, a 50 percent increase for what is  
12 permitted in the C-1 zone, violating the max GFA by over 27  
13 percent.

14 "They have presented no evidence for why they face  
15 a hardship that would justify building a home that expands  
16 the size of the current building, much less one that  
17 violates GFA limits.

18 "It's also troubling that their attorney's  
19 narrative makes no mention of the excessive GFA, instead  
20 highlighting the difficulty of renovation on a tight lot,  
21 ignoring the FAR elephant in the room while seeking to draw  
22 attention to other considerations -- misleading at best and

1 undermines the applicants' credibility.

2 "The BZA should consider conditioning relief on  
3 GFA staying at the same current level. Just because a party  
4 needs a variance to renovate existing living space, it does  
5 not logically follow that the variance should also extend to  
6 allowing them to max out their GFA or violate GFA limits  
7 altogether.

8 "Inability to max out GFA is not a hardship. It  
9 would be a minimum -- any relief should be conditioned on  
10 GFA not exceeding the maximum 0.75 FAR.

11 "Thank you.

12 "Adam Bryant, 71 Fulkerson Street." That is --

13 STEPHEN PAYNE: Could I add one comment on that?

14 BRENDAN SULLIVAN: Yeah, well, that's the lone  
15 letter of opposition. I will close public comment part of  
16 the proceedings, and I'll turn it back to the applicant. I  
17 guess Mr. Bryant obviously raises a salient point.

18 And I think the other in the public comment was  
19 Mr. Ribnick, who spoke on the amount of windows in the rear  
20 elevation and the effect that it would have on his adjoining  
21 property, even though cognizant of the fact also that  
22 building code requires a certain amount of windows, light

1 and fenestration for any particular room.

2 So there are, I think, significant opposition and  
3 some issues that have been raised by at least those two  
4 people. So let me turn it back again either to Mr. Rafferty  
5 or to Mr. Fiore for comment.

6 [Pause]

7 Either one?

8 JAMES RAFFERTY: I'm sorry, I was muted. I  
9 apologize. With regard to the issue involving the setback,  
10 I was able to review the files of the BZA in a case in June  
11 of 2021 where Mr. Ribnick applied for a variance to put a  
12 rear addition onto his home, which was granted, and the  
13 dimensional form submitted there indicate that there's a 43-  
14 foot setback between Mr. Ribnick's home and the rear  
15 property line.

16 That's a wonderful amenity for Mr. Ribnick, but I  
17 do think it's relevant when the Board assesses the primary  
18 impact of these windows, admittedly on a nonconforming wall.

19 But I also would caution the Board not to adopt a  
20 suggestion that we have a separate standard for light and  
21 air for tenants than we would have for property owners.

22 I have no understanding of the relevance of the

1 comment that because this is a rental apartment as opposed  
2 to owner-occupied, the Board should take a different view on  
3 the issue presented involving the windows.

4 As for the GFA, it's quite correct. It does  
5 represent an increase. And the hardship requirements are  
6 directly related to the size of the lot, the very small size  
7 of the lot, and the fact that the layout of the home as  
8 proposed by the architect creates opportunities for  
9 efficiency, particularly with regard to the second floor  
10 over the garage. That, as noted by Mr. Fiore, represents a  
11 portion of the GFA.

12 And in the area between the garage and the home  
13 now is really not benefitting anyone. It's less than is  
14 really not benefitting anyone. It's less than the 10-foot  
15 minimum requested, and --

16 UNIDENTIFIED: Can you follow, can I need to know  
17 if they're going to get it?

18 THE REPORTER: I'm sorry, whoever's running this,  
19 could they mute the speakers please?

20 BRENDAN SULLIVAN: I'm sorry. Somebody  
21 interjected there, Mr. Rafferty?

22 JAMES RAFFERTY: Yeah. I don't know. I stopped

1 speaking when I heard comments that were not coming from me.

2 So --

3 BRENDAN SULLIVAN: Okay.

4 JAMES RAFFERTY: I think -- I think people were  
5 being asked to mute or perhaps not -- mute themselves, I  
6 guess. Oh, that would be my response to the two issues.

7 There is a -- there is a -- there is a significant  
8 setback, as I noted, a wonderful amenity for Mr. Ribnick and  
9 his family. It's hard to envision how these three windows  
10 at a distance of more than 40 feet could seriously impact  
11 the privacy of the property owner in the rear.

12 Having said that, I want to make clear that the  
13 record should show that the applicants were quite responsive  
14 when they received the concerns expressed by Mr. Ribnick,  
15 including inviting him to participate at Mr. Fiore's office  
16 to see if we could -- they could come up with an -- a window  
17 alignment that would have not much impact on him.

18 He chose not to participate, but the invitation  
19 still stands in terms of is there something more that can be  
20 done by way of window treatments or other types of measures  
21 that would ensure a reduced privacy impact on the rear  
22 abutter, which seems to be the principal purpose of the

1 objection.

2 BRENDAN SULLIVAN: Okay, great. Thank you. Let  
3 me turn it back to the Board. Jim Monteverde, any questions  
4 or comments at this time?

5 JIM MONTEVERDE: My only comment is I -- one of the  
6 letters that you read, Mr. Chair, talked about the FAR and  
7 then I don't know what the other topic was.

8 But it's the FAR that has troubled me at, you  
9 know, an increase of what looks like 50 percent. I see  
10 where it is, and I got the description of how it all adds  
11 up. But I am troubled that it's so far above the ordinance  
12 requirement.

13 BRENDAN SULLIVAN: Okay. Laura, any comments,  
14 questions?

15 LAURA WERNICK: Just to respond to the GFA  
16 question, I mean it is a concern, certainly, but it's also  
17 making use of unused space now. It's not impacting the --  
18 the rear abutter's concern about windows, except for one  
19 very small bathroom window that's way up high.

20 So I'm -- and the space that's been connected,  
21 that connects the garage to the main building I think it's  
22 very useful and efficient space. So I'm -- I'm less

1 concerned about the GFA, I think. That's my only comment at  
2 this point.

3 BRENDAN SULLIVAN: Okay. Wendy? Comments,  
4 questions?

5 WENDY LEISERSON: Yes. Thank you, Mr. Chair. So  
6 with regard to -- first, I'm going to take the privacy and  
7 use and enjoyment of the abutters' property issue -- which  
8 is a consideration that we have to -- just to address one of  
9 the public commenters -- the use and enjoyment of adjacent  
10 property is something that we do need to -- we're required  
11 to consider.

12 And, however, I take Mr. Rafferty's point about  
13 the windows in a rental apartment, and as a renter, I  
14 appreciate that there are amenities in my apartment like  
15 windows and sunlight.

16 So I do think there should not be a double  
17 standard in that regard, to Mr. Rafferty's point.

18 And I do wonder why landscaping, or some other  
19 kind of solution could not be explored between the neighbors  
20 if there really is, you know, a legitimate concern about the  
21 privacy.

22 And I think the other piece that that -- the

1 abutter raised was about the possibility of short-term  
2 rentals. And I can understand being more comfortable with  
3 renters who are, you know, part of the community -- a stable  
4 part of the community, people you get to know as your  
5 neighbors.

6 So I also wonder about the possibility of having  
7 a condition added to our decision with regard to short-term  
8 rentals to satisfy that issue.

9 The other issue is on the GFA. And here I,  
10 frankly, feel a little bit tied. And I'd love to hear from  
11 my fellow Board members as Laura just tried to -- to  
12 explore, which is, you know, we are -- I see that this is a  
13 small property, a small lot, and it's not like they're --  
14 they're asking for a bedroom.

15 It's not like they're asking for something  
16 outrageous about the -- the, you know, purpose in expansion.

17 But, nevertheless, the ordinance is the ordinance,  
18 and we're going from a conforming GFA to a significantly  
19 nonconforming GFA, and I'm not sure how the criteria that  
20 we're bound to follow, which is namely finding a hardship,  
21 is created such that we can improve that GFA, especially  
22 when this is a rental apartment and not -- there's no

1 hardship to the family who's going to be occupying this  
2 house, per se.

3 So I'd like to hear some comments from my fellow  
4 Board members regarding that.

5 BRENDAN SULLIVAN: Great. Thank you. Slater?  
6 Any comments, questions?

7 SLATER ANDERSON: I guess I'll make a comment.  
8 You know, the GFA is -- on the face to me was/is a  
9 substantial ask. The ordinance would allow 2082 according  
10 to the form I'm looking at here on the screen. You know, it  
11 was 1700 square feet. So for me it's like the 2082 up to  
12 2648 is a big jump.

13 But the commentary I'm hearing and the concerns  
14 from the neighbors isn't -- isn't as much about the GFA as  
15 it is about the windows. And I think if we said, "Well  
16 scale it back," I don't think that solves the window  
17 problem.

18 So I'm not as hung up on, I think, the GFA as I  
19 was initially looking at this, you know, having heard the  
20 neighbors. So that's what my, you know, thinking is. I  
21 agree the hardship piece.

22 I mean, it's -- that East Cambridge neighborhood

1 is always -- all those houses are irregular in tight lots  
2 and it's tough over there to do much in a conformity way  
3 that's practical. So I sort of sense a neighborhood hardship  
4 in a lot of those lots over there.

5 So I don't know what -- I don't see going back on  
6 the GFA is going to solve what seems to be the main problem,  
7 which is the window problem. So that's my comment.

8 BRENDAN SULLIVAN: All right. Well, my thoughts  
9 on this -- and I don't know if I can answer all of the  
10 concerns -- is that I guess my first take on this was that I  
11 thought it was a nice proposal, nice use of the land.

12 The existing house, obviously, is in total  
13 disrepair. And it is beyond salvageable, and that a new  
14 building is probably warranted; has all of the benefits of  
15 mechanical systems up to date, energy efficiency, and just a  
16 nice building to live in for homeowners and renters.

17 The uptake in the GFA is significant, and so, then  
18 what comes to the fore is okay, what if they scale it back,  
19 and then where do they scale it back?

20 Well, I guess the first logic is over the garage  
21 area, because there is none there now, and there is some  
22 proposed. But then you look at the floor plan, and you see

1 how that second floor flows and how it really becomes a very  
2 nice, livable unit.

3           The basement area, the first-floor, second floor,  
4 third all seem to work well. Not overly generous, but  
5 comfortable in sort of each one of those rooms, and they  
6 flow well, and it works well.

7           As far as the rental unit, I think Mr. Rafferty  
8 very adeptly answered the concern regarding the windows and  
9 there cannot be a distinction between whether it be a  
10 homeowner or a rental unit; it is people that are living it  
11 that particular space, and they should be afforded the same  
12 amenities, whether they be minimal or maximal -- if that's  
13 such a word -- that could be afforded to if it was a  
14 homeowner.

15           And possibly homeowners could switch into the  
16 smaller unit and rent the bigger unit or something or vice  
17 versa. So.

18           And as far as the short-term rental, I get a  
19 little bit nervous on that, because the ordinance passed by  
20 the City Council allows for short-term rentals, provided  
21 that the structure meet certain criteria.

22           So it seems a little bit draconian on my part to

1 say you can't have short-term rentals when in fact the city  
2 allows it and there is an ordinance which allows it and also  
3 protects the abutters from any deviation from the ordinance.

4 So I'm not sure, Wendy, if that sort of answers  
5 the question. Sometimes what we have done is asked the  
6 petitioners if they would offer that their intent is not to  
7 have short-term rentals -- Airbnb, whatever -- and they have  
8 readily agreed to it, because it's not their intention.

9 We could ask the same question here but on the  
10 same token, I'd be a little bit nervous about taking away a  
11 right that a homeowner has. So, and, you know, there's to  
12 be honest with you short-term rentals and Airbnb around my  
13 neighborhood, and some people come in and, you know, they  
14 stay for a year and move on.

15 Some people come in and you never see them again.  
16 So it's just sort of change that's going on in the  
17 neighborhood, and I adjust and they're nice people and I  
18 move on.

19 So I guess the concern -- and I think Slater, you  
20 touched on that -- is that the real concern is possibly  
21 focused on the back of the building, I think that they have  
22 tried to address that and as well as possible scaling back

1 the amount of light coming out of it and any possible  
2 intrusion in the rear properties.

3 And I think that Council obviously addressed the  
4 distance between the proposed structure and the abutter in  
5 the rear. And that potentially ameliorates that immediate  
6 concern.

7 So I guess on balance, my thought would be that  
8 even though it is an uptick, and I think that without doing  
9 a total forensics of the entire neighborhood and what the  
10 GFA is for each and every structure, albeit I would think  
11 that it's probably over that this would not be out of  
12 character, out of norm for the neighborhood.

13 And I think that the new structure has tremendous  
14 benefits to the neighborhood, to the streetscape, and also  
15 to any person who occupies the structure. So I would be  
16 supportive of the proposal that is before us.

17 So anybody else wish to comment back again? Jim,  
18 Laura, Wendy, Slater, anything else to add?

19 JIM MONTEVERDE: This is -- this is Jim. Sorry,  
20 Laura, are you done?

21 LAURA WERNICK: Yes.

22 JIM MONTEVERDE: Yeah. This is Jim. I'm still

1 stuck on the -- on the FAR. I -- I get the point about, and  
2 just looking at the plan, and it's really the bedroom suite  
3 that's over the garage I think that kicks it up to the 50  
4 percent add.

5 The link between the existing house or the new  
6 house and the garage, I can see, because that's where the  
7 staircase is that serves the rear apartment.

8 But I don't -- I don't see the, what's the word  
9 I'm searching for, the "hardship" -- in needing, requiring  
10 that rear unit be a three-bedroom unit, where if they didn't  
11 build over the garage and lessen the FAR, it would be a two-  
12 bedroom unit, which would still be desirable, I would think.

13 So I'm not -- I'm not favoring it at the moment,  
14 based on the FAR. I think there's -- there's just more  
15 building here than, again, by the ordinance is allowed. And  
16 I don't see the hardship.

17 BRENDAN SULLIVAN: Is there anybody else who  
18 shares Jim's view?

19 And I -- the reason I raise that question is we'll  
20 follow up with a suggestion to the petitioner that they  
21 potentially go back, and view comments made by the Board and  
22 see if they can come back with an alternative that might be

1 more acceptable to the Board.

2 Laura, do you feel that that would be worthwhile,  
3 or something that you would be -- well, let me --

4 LAURA WERNICK: I think when you think of the  
5 quality of that unit, it does enhance that unit  
6 significantly. And I think part of the Board's  
7 responsibility is trying to create high-quality housing in  
8 an appropriate manner within these communities.

9 So I currently -- I mean, I certainly don't object  
10 to going back, but I kind of like the plan the way it is,  
11 even with the GFA excess.

12 BRENDAN SULLIVAN: Okay. I guess my question is  
13 anybody else of the mind of thinking of Jim that it would be  
14 fatal for you supporting the proposal -- the proposal that  
15 is before us?

16 WENDY LEISERSON: This is Wendy Leiserson.

17 BRENDAN SULLIVAN: Yes.

18 WENDY LEISERSON: Like Laura, I really like this  
19 proposal. I'm going to be honest. Like, I would like to  
20 say yes to it.

21 And I just -- as a matter of law, I just feel  
22 constrained by the relationship between hardship and that

1 amount of, you know, overage of the allowable FAR.

2 And I mean I do see that things like open space,  
3 that's below the minimum. Perhaps, you know, that's an  
4 opportunity to make a rooftop garden or something like that,  
5 you know? I'm -- I'm not saying that that's what the  
6 homeowners want, but I'm just saying there are other ways to  
7 use that space, even though I also like the fact that it is  
8 adding a three-family -- a three-bedroom unit to the rental  
9 market, which is needed too.

10 So -- but I just feel I can't honestly apply the  
11 legal criteria to get over that --

12 BRENDAN SULLIVAN: All right.

13 WENDY LEISERSON: FAR.

14 BRENDAN SULLIVAN: That's fine. Slater, any  
15 additional thoughts?

16 SLATER ANDERSON: Yeah. I mean, I totally respect  
17 Wendy's perspective on that. I mean, it's -- the hardship's  
18 not crystal clear.

19 I mean, it's a good plan. It's a good layout, it  
20 makes sense. But it is a big increase in mass in the  
21 neighborhood. Not that that seems to be, you know, the  
22 issue with the neighbors, back to my point about the

1 windows, you know? So, I don't know. I'm on the fence.

2 BRENDAN SULLIVAN: Okay. Mr. Rafferty? Think you  
3 can read the tea leaves?

4 JAMES RAFFERTY: Well, thank you. I think I  
5 discern a little happen here. So yes, on behalf of the  
6 applicants, we would request the opportunity to review the  
7 plan further and come back to the Board before final vote is  
8 taken.

9 BRENDAN SULLIVAN: Available date would be  
10 February 23. Does that work for you, Mr. Rafferty, Mr.  
11 Fiore, your petitioners? And let me ask the same question  
12 to Jim, Laura, Wendy, Slater. Are you available on February  
13 23?

14 JIM MONTEVERDE: This is Jim.

15 BRENDAN SULLIVAN: Who is not available?

16 JIM MONTEVERDE: Yeah. Right.

17 BRENDAN SULLIVAN: May be the easier way.

18 WENDY LEISERSON: I believe that falls during  
19 school vacation week, so I would not be available. So I  
20 would not be available.

21 BRENDAN SULLIVAN: Okay. The next date after that  
22 is -- our next, well January 26 is totally full. February

1 9, we have a full agenda. The twenty-third is open, but  
2 Wendy, you're not available. March 9?

3 LAURA WERNICK: I'm available on the ninth.

4 BRENDAN SULLIVAN: Okay. Jim, March 9?

5 JIM MONTEVERDE: Yep. Works for me.

6 BRENDAN SULLIVAN: Wendy, you're available.

7 WENDY LEISERSON: Yes.

8 BRENDAN SULLIVAN: Laura, you're available.

9 Slater, March 9?

10 SLATER ANDERSON: Yes. I'm good on March 9.

11 BRENDAN SULLIVAN: Okay. And I'm not going  
12 anywhere. So, Mr. Rafferty, are you, Mr. Fiore or client  
13 available on March 9?

14 JAMES RAFFERTY: I will make myself available.

15 Thank you, Mr. Chair. I assume Mr. Fiore and --

16 PAUL FIORE: Yes, I can be available as well.

17 BRENDAN SULLIVAN: Okay. Let me make a motion,  
18 then, to continue this matter to June 9 -- I'm sorry, March  
19 9, 2023 on the condition that the petitioner sign a waiver  
20 of time for the statutory requirement of a hearing and a  
21 decision to be rendered thereof, but I believe that is also  
22 in the file.

1           That the petitioner change the posting sign and  
2 maintain it for at least 14 days prior to the March 9  
3 hearing, change the date to March 9, 2023 and the time at  
4 6:00 p.m.

5           That any new submittals not currently in the file  
6 pertaining to plans, supporting statements, dimensional  
7 forms be in the file by 5:00 p.m. on the Monday prior to the  
8 March 9, 2023 hearing.

9           On the motion, then, to continue this matter to  
10 March 9, 2023, Jim Monteverde?

11           JIM MONTEVERDE: In favor.

12           BRENDAN SULLIVAN: Laura Wernick?

13           LAURA WERNICK: In favor.

14           BRENDAN SULLIVAN: Wendy Leiserson?

15           WENDY LEISERSON: In favor.

16           BRENDAN SULLIVAN: Slater Anderson?

17           SLATER ANDERSON: In favor.

18           BRENDAN SULLIVAN: Brendan Sullivan yes.

19           [All vote YES]

20           BRENDAN SULLIVAN: On the five affirmative votes,  
21 this matter is continued to March 9, 2023 at 6:00 p.m. on  
22 thank you.

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JAMES RAFFERTY: Thank you very much. Have a good evening.

1 \* \* \* \* \*

2 (7:44 p.m.)

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

6 BRENDAN SULLIVAN: Now to the regular agenda. Is  
7 it 6:30 yet? Yes, it is. The Board will hear Case No.  
8 202530 -- 13 Harrington Road. Lisa Peterson and Ramon  
9 Raagas?

10 [Pause]

11 Lisa?

12 LISA PETERSON: Hello. This is Lisa Peterson  
13 here. I'm the -- can you hear me?

14 BRENDAN SULLIVAN: Yes, Lisa, yeah.

15 LISA PETERSON: Yes, hi, Mr. Chair and members of  
16 the Board. Lisa Peterson and my husband, Ramon Raagas. We  
17 own 13 Harrington Road, which is a Workers Cottage in North  
18 Cambridge built in 1891. We've lived here since the mid  
19 '90s and we've made modest improvements, but we are doing  
20 some significant renovations to kitchen and bathroom  
21 improvements.

22 And that requires us -- we're not adding any FAR

1 or making any exterior changes other than that we are  
2 changing out some windows and adding some windows, closing  
3 some and adding others. So we need relief for our windows  
4 in the setback.

5 So we need a special permit, and we need --  
6 because we're in a nonconforming structure, we need relief  
7 for the windows.

8 There are two sides. The -- let me just look at  
9 this real quick. The right side of the house, we are  
10 changing out windows, but there's only one small change on  
11 the right side of the house -- I think you can go -- yeah,  
12 there, that one's good, on the right -- and you can see that  
13 in the upper right-hand side, there is a -- there was a  
14 small, there's a bathroom there.

15 There's a small bathroom window that's being  
16 closed, and then another one that is being added next to it.  
17 It's just being changed -- moved inches actually, and it  
18 will be a smaller window. So that's the only change on that  
19 side. And the abutter on that side has no objection to  
20 that.

21 And then on the rear, which you can see on the  
22 bottom particularly on the -- on the left, we are closing

1 three windows, and then we are adding all the way on the  
2 right, that's a bathroom there, we're adding a smaller  
3 windows there that is being changed a little bit. I'm  
4 sorry, it's on the -- it's on the left side picture, but  
5 it's -- yeah, it's on the right.

6 And then -- and then in the kitchen we're closing  
7 two -- one window and adding two.

8 And then on the second floor, we are closing one  
9 large window and adding three casement windows. So those  
10 windows on the top are really -- I mean really all these  
11 windows are really to improve energy efficiency to bring in  
12 more natural light and to improve an older structure,  
13 honestly.

14 The windows that are on the top floor there, we  
15 will not be able to look into anybody's yard from that.  
16 Those are really just for light. And the windows in the  
17 kitchen down there, there already is a window there, we're  
18 just adding an additional one.

19 BRENDAN SULLIVAN: Great. It looks like you're  
20 rearranging the deck chairs there somewhat, and need to --

21 LISA PETERSON: Yeah.

22 BRENDAN SULLIVAN: -- adjust the windows

1 accordingly.

2 LISA PETERSON: Yeah. That's it.

3 BRENDAN SULLIVAN: Great. Let me open it to the  
4 Board. Jim Monteverde, any questions?

5 JIM MONTEVERDE: No questions, thank you.

6 BRENDAN SULLIVAN: Laura, any questions at this  
7 time?

8 LAURA WERNICK: No questions.

9 BRENDAN SULLIVAN: Wendy?

10 WENDY LEISERSON: No questions.

11 BRENDAN SULLIVAN: Slater Anderson?

12 SLATER ANDERSON: No questions.

13 BRENDAN SULLIVAN: Let me open it to public  
14 comment. Any members of the public who wishes to speak  
15 should now click the button that says, "Participants," and  
16 then click the button that says, "Raise hand."

17 If you're calling in by phone, you can raise your  
18 hand by pressing \*9 and unmute or mute by pressing \*6, and  
19 you'll have up to three minutes to comment.

20 [Pause]

21 Nobody is calling in. There is no correspondence.

22 So I will close the public comment part. I guess there's

1 nothing to refute, Lisa. So let me ask the Board, ready for  
2 a motion? Seems pretty straightforward.

3 JIM MONTEVERDE: Ready.

4 BRENDAN SULLIVAN: Okay. Let me make a motion,  
5 then, to grant the relief requested as per the drawings,  
6 supporting statements and dimensional form, drawings  
7 entitled, "Alteration to the Peterson-Raagas residence, 13  
8 Harrington Road" initialed by the Chair on the condition  
9 that the work be in accordance with the drawings as  
10 submitted seeking relief under Section 8.22d.

11 And let me make a motion that the Board may grant  
12 a special grant for the alteration or enlargement of a  
13 preexisting dimensionally nonconforming, detached single-  
14 family dwelling or two-family dwelling not otherwise  
15 permitted in 8.22.1 above, but not the alteration or  
16 enlargement of a preexisting, nonconforming use.

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

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

8           Under 10.43, the Board finds that it appears that  
9 the requirements of the ordinance can be met.

10           The Board finds that traffic generated, or  
11 patterns of access or egress would not cause congestion,  
12 hazard, or substantial change in the established  
13 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.

18           The Board incorporates by reference comments by  
19 the petitioner as spoken to the abutting properties affected  
20 by the changes in the windows and they have expressed no  
21 objection.

22           The Board finds that there would not be any

1 nuisance or hazard created to the detriment of the health,  
2 safety and/or welfare of the occupants of the proposed use,  
3 in fact it would be greatly enhanced by greater air, light  
4 coming into the structure and a realignment of the pattern  
5 of windows to better align with the operation of the  
6 interior of the structure.

7           The Board finds that the proposed use would not  
8 impair the integrity of the district or adjoining districts,  
9 or otherwise derogate from the intent and purpose of the  
10 ordinance to allow homeowners to improve, update their  
11 structure to make it more energy-efficient and as such, that  
12 any requirement of special permit to facilitate the same  
13 would be a fair and reasonable requirement and a grant by  
14 the Board.

15           On the motion, then, to grant the special permit  
16 as per the application, Jim Monteverde?

17           JIM MONTEVERDE: In favor.

18           BRENDAN SULLIVAN: Laura Wernick?

19           LAURA WERNICK: In favor.

20           BRENDAN SULLIVAN: Wendy Leiserson?

21           WENDY LEISERSON: In favor.

22           BRENDAN SULLIVAN: Slater Anderson?

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SLATER ANDERSON: In favor.

BRENDAN SULLIVAN: Brendan Sullivan in favor.

[All vote YES]

BRENDAN SULLIVAN: Five affirmative votes; the special permit is granted. Good luck Peter, Lisa.

LISA PETERSON: Yep. Thank you so much.

BRENDAN SULLIVAN: Yep.

1 \* \* \* \* \*

2 (7:52 p.m.)

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

6 BRENDAN SULLIVAN: The Board will now hear Case  
7 No. 201979 -- 11 Dana Street.

8 [Pause]

9 11 Dana?

10 [Pause]

11 11 Dana Street?

12 JOHN CHAN-TSE: Can you hear me?

13 BRENDAN SULLIVAN: Yes.

14 JOHN CHAN-TSE: Hi there. Sorry about that. Good  
15 evening, Mr. Chair, members of the Board. This is John  
16 Chan-Tse with Gold Beech Construction representing Brad  
17 Feldman and Elizabeth Graham at 11 Dana Street, Unit 6.  
18 We're seeking a variance for the expansion of the rear deck.

19 The existing property is built in 1980. It's a  
20 rowhouse with eight units. The decks that are original to  
21 the property are nonconforming, as they impeach on -- or  
22 impede on the setbacks on both the left and right as well as

1 the rear. And we're seeking to enlarge the deck to promote  
2 safety, as well as usage for the occupants.

3 If you're able to go to the pictures of the  
4 existing conditions, so this is the current existing  
5 conditions right now. There are many code violations with  
6 the deck and the stairs themselves. It would be the  
7 secondary means of egress for the occupants of this unit.  
8 So this is very important for us that we're maintaining a  
9 safe living environment.

10 The stairs themselves are less than 36 inches  
11 wide. If you scroll down, there's actually a measurement.  
12 I believe it's going to be two photos down. Oop, might have  
13 passed it.

14 Nope, sorry. I have a -- I have a different set,  
15 it seems. But the width of the stairs are 29.5 inches.

16 And the other major issue is that the tread depth  
17 and the rise very significantly from step to step, there are  
18 some steps that are 11.5 inches of tread depth with a six-  
19 inch rise, then the next step down we have a 10-inch rise  
20 and a 9.75" tread depth.

21 So our clients have safety concerns with egress,  
22 whether it's firefighters going in or in the event of

1 emergency then having to exit the building. And on top of  
2 it, if we were to rebuild the deck with the existing  
3 conditions, they would also be facing a hardship with the  
4 use of the deck itself.

5 And some of the pictures you can see that right  
6 now they're only able to afford space for two lawn chairs on  
7 the deck, and those are still impacting some of the exit  
8 area. So by expanding the deck, we're hoping to also  
9 increase the useability of the space in there.

10 BRENDAN SULLIVAN: Okay. That's my first comment  
11 when I saw the case and when I actually visited to the site  
12 is how this ever got approved. Because it is so out of  
13 code, and I accept your description that it is quite  
14 dangerous.

15 So I think what is before us is a good way of  
16 correcting really a very dangerous situation. But see what  
17 the Board -- Jim, do you have any questions or comments at  
18 this time?

19 [Pause]

20 Jim Monteverde?

21 JIM MONTEVERDE: Sorry. I was on mute. No  
22 questions.

1           BRENDAN SULLIVAN: Laura Wernick, any questions or  
2 comments at this time?

3           LAURA WERNICK: No questions.

4           BRENDAN SULLIVAN: Wendy?

5           WENDY LEISERSON: No questions.

6           BRENDAN SULLIVAN: Slater?

7           SLATER ANDERSON: No questions.

8           BRENDAN SULLIVAN: All right. Let me open it to  
9 public comment. Any members of the public who wishes to  
10 speak should now click the button that says, "Participants,"  
11 and 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'll have up to three minutes to comment.

15           MARILEE MEYER: Marilee Meyer.

16           BRENDAN SULLIVAN: Marilee Meyer?

17           MARILEE MEYER: Oh, okay. Sorry about that. I  
18 just got bumped into a different category. Marilee Meyer,  
19 10 Dana Street. And I live right across the street from the  
20 rowhouses. And I believe you're going to get another case  
21 from one of these units coming up in a wheelchair.

22           My just simple question is how much bigger is the

1 deck going to be beyond the window? And what is the  
2 footprint now?

3 BRENDAN SULLIVAN: Well, the existing -- well, let  
4 me see. The existing deck right now is -- comes out six  
5 feet, and it's eight feet wide. And the proposed deck --

6 JOHN CHAN-TSE: This is John, again.

7 BRENDAN SULLIVAN: John, yeah, if you want to  
8 answer that, that's fine.

9 JOHN CHAN-TSE: Yep. It's going to be roughly 11'  
10 x 11'.

11 MARILEE MEYER: Okay. All right. Thank you.

12 BRENDAN SULLIVAN: Thank you, Marilee. There's  
13 nobody else calling in. We are in receipt of correspondence  
14 from Audrey Chen.

15 "To Maria Pacheco, we are writing to support the  
16 requested variance BZA-205777. We live directly -- and  
17 201979. We live directly between these two residences at 11  
18 Dana Street. Our family lives in Unit 7. It is in Unit No.  
19 8, Case No. 20219 -- is in Unit No. 6.

20 "We have reviewed the plans, and they do not  
21 create any logistical or even visual issues for us, nor do  
22 they impede any passageways. And we unequivocally support

1 them. Thank you for allowing us to provide input."

2 There is correspondence from Tom Snow.

3 "I am writing in support of the petition of  
4 variance 201979 filed by Brad Feldman. My wife and I are  
5 the current owners and residents of the adjacent townhouse  
6 Unit 5.

7 "The units at 11 were built in 1980, and the  
8 original construction is often not in compliance with  
9 current building code.

10 "In particular, the original rear decks present  
11 significant safety risks due to noncompliance with code, as  
12 outlined in Mr. Feldman's petition. Rebuilding and  
13 expanding the deck behind Unit 6 would improve safety, and  
14 would not create any visual, logistic or other issues for  
15 us.

16 "It would also be aesthetically pleasing and would  
17 positively contribute to the social and neighborly  
18 atmosphere we share at 11 Dana Street.

19 "Thank you for your consideration.

20 "Tom Snow."

21 And that is the sum and substance of any  
22 correspondence. We are in receipt of Mid-Cambridge

1 Neighborhood Conservation District regarding 11 Dana Street  
2 Unit 6.

3 "The Mid-Cambridge Neighborhood Conservation  
4 District pursuant to Chapter 278 of the Code of the City of  
5 Cambridge and the order establishing said district -- that  
6 the work described below does not involve any activity  
7 requiring issuance of a Certificate of Appropriateness of  
8 hardship to extend the rear deck not visible from the public  
9 right of way, Permit No. 198516. Date of Certificate:  
10 10/18/2022."

11 And that is the total of any correspondence. I  
12 will close public comment part. Any questions by members of  
13 the Board, or are you ready for a motion?

14 JIM MONTEVERDE: Ready.

15 LAURA WERNICK: Ready.

16 BRENDAN SULLIVAN: Okay. They are seeking relief  
17 on a variance to rebuild and enlarge rear decks in the rear  
18 setback, which also increases the floor area ratio. Let me  
19 make a motion, then, to grant the relief requested as per  
20 the drawings submitted entitled, "Feldman Residence, 7 Dana  
21 Street, Cambridge, Massachusetts" dated 11/09/2022,  
22 initialed by the Chair.

1           The Board is granting the variance provided that  
2 the work comply with the drawings, as previously noted,  
3 supporting statements and dimensional form.

4           The Board finds that a literal enforcement of the  
5 provisions of the ordinance would involve a substantial  
6 hardship to the petitioner, because it would preclude the  
7 petitioner to adequately build code-compliant stairs without  
8 an -- increasing any floor area ratio and hence triggering a  
9 new nonconformity, and, hence requiring a variance.

10           The Board finds that the existing stairs built  
11 back in 1980 would not comply with the current building code  
12 and as such it is both dangerous and creates a hazard to  
13 anybody who is using those stairs for entry or exit from the  
14 structure.

15           That the unevenness also makes any transgressing  
16 over those stairs to be a potential hazard, and that this  
17 petition will correct that deformity in the structure.

18           The Board finds that the hardship is owing to  
19 shape of the lot, the siting of the townhouses on the lot,  
20 and the fact that the existing structures -- albeit the deck  
21 and the stairs -- were built intentionally to comply with  
22 the code then.

1           They have over time become quite hazardous. And  
2 as such, this petition is to correct that hazardous  
3 condition.

4           The Board finds that desirable relief may be  
5 granted without substantial detriment to the public good,  
6 and in fact the proposal before us, an expanded deck and a  
7 code-compliant stairway, would be a boon to the public good,  
8 and anyone who occupies or uses the property.

9           The Board finds that desirable relief may be  
10 granted without nullifying or substantially derogating from  
11 the intent and purpose of the ordinance to allow the  
12 homeowners to upgrade their properties to allow homeowners  
13 to build safe entryways, exit stairways for their property  
14 for both their use and any visitors to the site, especially  
15 first responders.

16           The Board finds that the existing structure is  
17 nonconforming, and that any work of this nature would  
18 require some relief from this Board.

19           On the motion, then, to grant the relief  
20 requested, Jim Monteverde?

21           JIM MONTEVERDE: In favor.

22           BRENDAN SULLIVAN: Laura Wernick?

1 LAURA WERNICK: In favor.

2 BRENDAN SULLIVAN: Wendy Leiserson?

3 WENDY LEISERSON: In favor.

4 BRENDAN SULLIVAN: Slater Anderson?

5 SLATER ANDERSON: In favor.

6 BRENDAN SULLIVAN: And Brendan Sullivan yes.

7 [All vote YES]

8 BRENDAN SULLIVAN: On the five affirmative votes,  
9 the variance is granted. Good luck!

10 JOHN CHAN-TSE: Thank you for your time.

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2 (8:05 p.m.)

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

6 BRENDAN SULLIVAN: The Board will hear Case No.  
7 203056 -- 358 Broadway, Unit 2.

8 [Pause]

9 BRENDAN SULLIVAN: 358 Broadway? Michael Witt?

10 MICHAEL WITT: Hello. This is Mike Witt. Can you  
11 hear me?

12 BRENDAN SULLIVAN: Yes.

13 MICHAEL WITT: Hi. My name is Mike Witt. I'm  
14 here with Jim Messineo. And we are owners of Unit 2 at 358  
15 Broadway.

16 We are looking to convert an existing commercial  
17 condo unit into a residential apartment. And are looking  
18 for relief of dimensional requirements in nonconforming  
19 structure.

20 The changes we are proposing are to solely to the  
21 interior. We are not making any physical changes that would  
22 impact how the building has existed for more than 100 years.

1 The relationship of the building to its surrounding  
2 neighbors has no impact. And granting this variance would  
3 not I would say affect the lives of the immediate  
4 neighborhood or the surrounding greater neighborhood and  
5 adds housing to Cambridge.

6 BRENDAN SULLIVAN: Okay. Right now it is a -- is  
7 it rented as a commercial space rental, or?

8 MICHAEL WITT: Yes.

9 BRENDAN SULLIVAN: It is. Okay.

10 MICHAEL WITT: It's a small office space.

11 BRENDAN SULLIVAN: All right. All right. Let me  
12 open it up to the Board. Jim, any questions at this time?

13 JIM MONTEVERDE: No questions, thank you.

14 BRENDAN SULLIVAN: Laura, any questions, comments?

15 LAURA WERNICK: No, I have no questions either.

16 BRENDAN SULLIVAN: Wendy Leiserson?

17 WENDY LEISERSON: My question, again, goes to the  
18 hardship piece. And I would like to just to hear a little  
19 bit more about how the hardship needed to change this is  
20 related to the conditions of the property and the soil  
21 conditions, et cetera, the second criteria that we have to  
22 consider.

1 BRENDAN SULLIVAN: Okay.

2 MICHAEL WITT: Speaking to the hardship part is  
3 that since we purchased this in 2017 and since COVID, the  
4 amount we're getting for rent, there is little demand for  
5 this type of commercial space. And we've had to reduce the  
6 rent and it doesn't keep up with paying that part of the  
7 mortgage.

8 WENDY LEISERSON: And is it your argument that you  
9 need relief because there's no -- is it my understanding  
10 that you're saying that to meet the requirements for this to  
11 be residential space is not possible because of the  
12 structure itself, is that correct?

13 MICHAEL WITT: Yes. So I'm looking -- because the  
14 way the structure -- I'm not quite sure I understand your  
15 question, sorry.

16 WENDY LEISERSON: No, I'm sorry. What I'm trying  
17 to ask, and this may be that my fellow Board members will  
18 respond to it in their comments, it's a legal question I'm  
19 asking, which is how -- so we, when you have filled out your  
20 application form for the variance, you'll see that the --  
21 you know, Part A asked for what is the hardship to you? And  
22 you answered that as the financial hardship.

1           And Part B asks is the hardship owing to the soil  
2           condition, shape or topography of the land or structures?

3           And I just wanted clarity on that legal piece.

4           MICHAEL WITT: Well --

5           WENDY LEISERSON: Because as a matter of  
6           principle, I don't have any objection to your proposal, just  
7           so I say that there. I just want to know that the ordinance  
8           allows us to find that based on the -- the parameters of the  
9           ordinance for our decision-making.

10          MICHAEL WITT: Okay. So the changes we're making  
11          does not change the square footage at all. It's a  
12          nonconforming building because of when it was built almost  
13          100 years ago. It was built out to, you know, there's no  
14          setbacks in the front, it sits right on Broadway. There's  
15          no setbacks.

16          It adjoins -- it's attached to the three on one  
17          side, and on the other side there's no -- it absolutely goes  
18          to the plot line of the -- and the same is true on the back.

19          So -- and it's an L-shaped lot, so that it sits on  
20          the narrowest part of the lot, which it totally fills up.  
21          So there's no way that it could meet those requirements now.  
22          And -- but again, we are not effecting any increase in

1 square footage.

2 WENDY LEISERSON: Okay. thank you.

3 BRENDAN SULLIVAN: You always ask good questions,  
4 Wendy. Not easy answers. Slater, any questions, comments  
5 at this time?

6 SLATER ANDERSON: No questions. Thank you.

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

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

15 HEATHER HOFFMAN: Hello. Heather Hoffman, 213  
16 Hurley Street. And I should have asked this question on the  
17 last case we heard. This is a condo.

18 So I'm just wondering if there are any -- any  
19 requirements that for example does this violate the master  
20 deed or something like that?

21 But do you have the permission to the extent it's  
22 required of the other unit owners?

1 BRENDAN SULLIVAN: Yeah, Heather, that --

2 HEATHER HOFFMAN: So I have --

3 BRENDAN SULLIVAN: -- yeah, Heather, thank you.

4 That escaped me. I would -- back to the petitioner, is this  
5 a condo part of this building, or is it --

6 MICHAEL WITT: It is. And --

7 BRENDAN SULLIVAN: It is.

8 JAMES WILLIAMSON: -- the -- it's separately  
9 deeded already. So it -- and the other member of the condo  
10 association has written in favor of this change.

11 BRENDAN SULLIVAN: All right. Do we have that in  
12 the record?

13 MICHAEL WITT: Yes. Unfortunately, I realized I  
14 didn't put it in the proper folder. But there is -- it is  
15 in the submission from Mori Tzelnic.

16 BRENDAN SULLIVAN: And the person's name?

17 MICHAEL WITT: Mori Tzelnic.

18 BRENDAN SULLIVAN: Well, there's -- oh, Tzelnic.  
19 Yes. Okay.

20 MICHAEL WITT: Yes.

21 BRENDAN SULLIVAN: We have a -- we -- we, okay, we  
22 do have it here. Heather, anyhow to answer your question,

1 if it is a condo, then the other condo trustees would have  
2 to write in letters of support in order for us to proceed  
3 with the case. Is Heather still on the line?

4 HEATHER HOFFMAN: Yes.

5 BRENDAN SULLIVAN: Yes, okay.

6 HEATHER HOFFMAN: Yes, I am.

7 BRENDAN SULLIVAN: So -- yes, you raise a salient  
8 point, and to answer your question, yes. If it is a condo,  
9 then the other members of the condominium trustee  
10 association have to write in letters of support. And  
11 apparently, we have one on this particular one.

12 HEATHER HOFFMAN: The -- yeah, I -- as I said, I  
13 should have said something on the other property, but it --  
14 on the agenda it didn't show up at the condo. It wasn't  
15 until I heard someone else commenting. So --

16 BRENDAN SULLIVAN: Yeah. The day --

17 HEATHER HOFFMAN: -- that's -- and I have no idea,  
18 does it matter to the BZA whether the Master Deed, that's  
19 particular use? I understand that's not a zoning matter,  
20 but it is certainly a matter of whether you're allowing them  
21 to do something that they might not have permission to do  
22 without amending the Master Deed.

1           BRENDAN SULLIVAN: Well, yeah. I did have a go-  
2 around on this, some other cases, and I wanted to understand  
3 that whole relationship. And if it is in conflict with the  
4 Master Deed, then those Trustees would write in a letter of  
5 nonsupport for the application.

6           So the zoning as far as we're concerned, the other  
7 members of the condominium trustee association would have to  
8 voice their support of the, or their objection. We would  
9 weigh that. But chances are they would need unanimous  
10 support from the trustees.

11           Now, if what they are doing is in conflict with  
12 the Master Deed, then the trustees handle that issue  
13 differently than the zoning aspect of it.

14           So they would either have to change the -- from  
15 what I understand the Master Deed to allow such a project or  
16 tell the person that they cannot proceed with it because  
17 they will not change the Master Deed, and it's in conflict  
18 with one of the requirements. So.

19           HEATHER HOFFMAN: Thank you. I keep wondering and  
20 I keep not asking so that I can make my comments to the  
21 point of things you have to care about. Thank you. I'm  
22 done.

1           BRENDAN SULLIVAN: You're always on point. Thank  
2 you, Heather. Anybody else? No. All right. There is  
3 correspondence from Mori Tzelnic.

4           "To whom it may concern,

5           "I am Mori Tzelnic, and I own the top floor  
6 apartment at 358 Broadway. I have known Mike and Jim since  
7 they purchased in 2017. They are great neighbors, usually  
8 taking care of most of the issues that may arise at the  
9 building.

10           "I give my wholehearted support for their project  
11 to improve the property and create a new residence on the  
12 second floor."

13           There is correspondence from the Mid-Cambridge  
14 Neighborhood Conservation District regarding 358 Broadway  
15 Unit 2, applicant is Mike Witt.

16           "The Mid-Cambridge Neighborhood Conservation  
17 District hereby certifies pursuant to Chapter 2.78 of the  
18 code of the City of Cambridge in the order establishing said  
19 districts that the work prescribed below does not involve  
20 any activity requiring issuance of a Certificate of  
21 Appropriateness or Hardship.

22           "Interior renovation replacing nonoriginal windows

1 and trim, Permit No. 203056. Date of Certificate:

2 11/28/2022."

3 Correspondence from the Planning Board dated  
4 January 11:

5 "At its regular meeting on 1/10/2023, the Planning  
6 Board discussed this proposal and voted to forward a  
7 favorable recommendation to the BZA on the variance request  
8 for this project as it promotes creation of additional  
9 housing opportunities in the city."

10 That is the sum and substance of any  
11 correspondence. I will close the public comment portion and  
12 trying to answer Wendy's question. They're seeking relief  
13 for a variance under 8.223. Under 8.223, any alteration or  
14 enlargement of a nonconforming structure or of a  
15 nonconforming use not otherwise permitted in 8.22.1, 8.222  
16 (sic) above shall be a variance.

17 And I think Wendy this is probably what they're  
18 asking for, because it's in a Business District, is a --  
19 really akin to a use variance.

20 And my feeling on a use variance is that if they  
21 are changing a particular use, what are they bounded by?  
22 And to create a residential unit there sets into a bunch of

1 criteria which are not allowed presently -- not available, I  
2 shouldn't say "allowed," not available presently in the  
3 existing structure, because of the dimensional requirements.  
4 Hence, under 8.221, they are required to get a variance -- a  
5 use variance, different -- I mean changing use from  
6 commercial to residential.

7 My thought on that, and I think that the courts  
8 have found -- is has the existing use become really not  
9 viable anymore? And that because of changing -- societal  
10 trends changing, neighborhood trends changing, neighborhood  
11 blocks -- and I think that the petitioner has stated that  
12 the use of it as an office space, which is compliant because  
13 it is in a business district, has become not viable anymore  
14 for a variety of reasons -- COVID and the small space that  
15 it is just doesn't make it viable for anybody to rent at the  
16 current economics of it all.

17 And that in order to have an a fair and reasonable  
18 use of the property, that the option that they wish to  
19 employ would be to change it into a residential unit.

20 Obviously, it garners some more additional funds, but also  
21 is more compliant with the surrounding neighborhood also, as  
22 per what the Planning Board sort of chimes in on is it makes

1 another unit available.

2           So I don't know if that answers the question your  
3 concern, Wendy, or not? And --

4           WENDY LEISERSON: Yes, yes it does. Thank you so  
5 much, Mr. Chair.

6           BRENDAN SULLIVAN: And as far as -- again, soil,  
7 shape or topography, it can also potentially be that the  
8 existing structure has a number of encumbrances on the  
9 potential use of the property, not that they are trying to  
10 maximize the property, I think they are just trying to make  
11 it viable, which has a particular benefit to adjoining units  
12 and adjoining properties. So.

13           Let me turn it back to the Board. Jim Monteverde,  
14 any questions at this time?

15           JIM MONTEVERDE: No questions. Thank you.

16           BRENDAN SULLIVAN: Laura, any questions, concerns?

17           LAURA WERNICK: No.

18           BRENDAN SULLIVAN: Okay. Wendy, I think we've  
19 answered --

20           WENDY LEISERSON: Yes, yes.

21           BRENDAN SULLIVAN: -- your concern?

22           WENDY LEISERSON: Thank you.

1           BRENDAN SULLIVAN: Slater, any comments?

2           SLATER ANDERSON: No comments.

3           BRENDAN SULLIVAN: Let me make a motion, then, to  
4 grant the relief requested, which is to convert an existing  
5 second-floor commercial office space in a mixed-use building  
6 to a residential apartment.

7           The Board -- let me make a motion, then, to grant  
8 the relief requested on the condition that the work comply  
9 with the drawings -- let me get my pen here -- on the  
10 condition that the work comply with the drawings submitted,  
11 the supporting statements and the dimensional form entitled,  
12 "358 Broadway" and assigned by the Chair.

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 the existing structure has  
17 certain limitations and encumbers the potential use of this  
18 property that are somewhat onerous to the current owner,  
19 that the changing of the neighborhood and the requirements  
20 of office space has changed dramatically so that this  
21 particular unit is less desirable and economically not  
22 feasible anymore.

1           That it would be a benefit to the adjoining  
2 properties and other condominium owners to have a viable  
3 entity contained within the structure, and it would also be  
4 an asset to the community and the changing of potential  
5 windows, become far more energy-efficient, and again is a  
6 benefit to the adjoining properties.

7           And the Board notes the letter from -- support  
8 from the Planning Board, which adds the potential  
9 availability of another rental unit in that area, which is  
10 very desirable.

11           The Board finds that the hardship is owing to the  
12 shape of the lot, the siting of the building, the size and  
13 siting of the building on the lot, which then encumbers the  
14 ability to comply with the current zoning ordinance  
15 regarding creation of residential units.

16           The Board finds that desirable relief may be  
17 granted without substantial detriment to the public good,  
18 that there would be a public benefit to providing a  
19 residential unit for rent or sale, as opposed to an  
20 unoccupied and not usable space.

21           Desirable relief may be granted without nullifying  
22 or substantially derogating from the intent and purpose of

1 the ordinance to allow property owners to a fair and  
2 reasonable use of the property and to allow the property  
3 owners to -- and as it is in this case, to create a viable  
4 unit that has a public benefit to the citizens of the city.  
5 On the motion, then, to grant the requested relief, Jim  
6 Monteverde?

7 JIM MONTEVERDE: In favor.

8 BRENDAN SULLIVAN: Laura Wernick?

9 LAURA WERNICK: In favor.

10 BRENDAN SULLIVAN: Wendy Leiserson?

11 WENDY LEISERSON: In favor.

12 BRENDAN SULLIVAN: Slater Anderson

13 SLATER ANDERSON: In favor.

14 BRENDAN SULLIVAN: And Brendan Sullivan yes.

15 [All vote YES]

16 BRENDAN SULLIVAN: On the five affirmative votes,  
17 the variance has been granted. Good luck, Mr. Witt.

18 MICHAEL WITT: Thank you very much.

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2 (8:25 p.m.)

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

6 BRENDAN SULLIVAN: The Board will hear Case No.  
7 203395 -- 63 Chilton Street. Mr. Rafferty?

8 [Pause]

9 63 Chilton Street?

10 JAMES RAFFERTY: I'm sorry. Good evening, Mr.  
11 Chair. Can you hear me now?

12 BRENDAN SULLIVAN: Yes.

13 JAMES RAFFERTY: Thank you. James Rafferty for  
14 the record, on behalf of the applicant, Vikas Saini and  
15 Julia Croston. Dr. Saini and Ms. Croston are also present  
16 on the call.

17 Board members I'm sure have noted in the  
18 application this is a request being filed by the applicant  
19 because variance that was granted by the Board in September  
20 of 2021 has lapsed without the applicant's obtaining a  
21 building permit within the one year of the issuance of the  
22 variance.

1           Had they made a more timely request, I'm sure as  
2 Board members know, if the request had been made before a  
3 year, a six-month extension could have been allowed by the  
4 board.

5           But unfortunately, I think it's fair to say that  
6 there was a mistake in understanding on the part of the  
7 contractor that asbestos remediation work that was being  
8 performed at the property would be sufficient to satisfy the  
9 commencement of work requirement within the one-year period.

10           We reviewed the matter with the Building  
11 Commissioner, and they concluded that there was not evidence  
12 -- there was not a building permit issued within the one-  
13 year period.

14           So we are back before the Board with the very same  
15 application. As I'm sure most Board members are aware,  
16 variances are good for one year and special permits are good  
17 for two years.

18           The decision in this case involved both a variance  
19 and a special permit. The special permit is still in effect  
20 and has not lapsed, but the variances, I noted, has.

21           The case should be familiar to both Mr. Sullivan  
22 and Ms. Leiserson, who sat on the case. The case received

1 unanimous approval from the Board. It involves the  
2 construction of an addition to the home that Dr. Saini and  
3 Ms. Croston live in on Chilton Street. And the addition was  
4 -- is going to be to allow an accessory unit to be created.

5 So the hardships are set forth in the decision  
6 itself from a year ago, which I've included with the  
7 application.

8 I would respectfully suggest for efficiency's sake  
9 that the Board could review the findings in that case and  
10 find that they were equally applicable at this time, as they  
11 were when the decision was approved.

12 BRENDAN SULLIVAN: Thank you. Jim Monteverde, any  
13 questions, comments at this time?

14 JIM MONTEVERDE: No questions. Thank you.

15 BRENDAN SULLIVAN: Laura Wernick, any questions,  
16 comments?

17 [Pause]

18 BRENDAN SULLIVAN: Laura?

19 LAURA WERNICK: No questions. Sorry, I was on  
20 mute.

21 BRENDAN SULLIVAN: Wendy, do you recall any  
22 questions and comments further?

1           WENDY LEISERSON: I think, Mr. Rafferty, you  
2 represented that there are absolutely no changes in the  
3 plans as we approved the prior, is that correct?

4           JAMES RAFFERTY: That is correct. They are the  
5 exact same plans.

6           WENDY LEISERSON: Then I have no objections.

7           BRENDAN SULLIVAN: Okay. Slater Anderson, any  
8 questions?

9           SLATER ANDERSON: No questions.

10          BRENDAN SULLIVAN: And I have no questions or  
11 comments either. Let me open it to public comment. Any  
12 members of the public who wish to speak should now click the  
13 button that says, "Participants," and then click the button  
14 that says, "Raise hand."

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

18                 [Pause]

19                 There appears to be nobody calling in. I will  
20 close the public comment portion of the hearing. Let me  
21 just go back to the original decision that at that time, the  
22 original hearing, neighbors spoke and wrote in support of

1 the proposal, and they addressed concerns regarding the  
2 limitations on rentals.

3 The Board moved at that time with regard to the  
4 requested variance that the Board make the following  
5 findings, based upon the application materials submitted and  
6 all the evidence before the Board, and that based upon the  
7 findings the Board grant the requested relief as described  
8 in the petitioner's submitted materials and the evidence  
9 before the Board.

10 That the Board find that any literal enforcement  
11 of the provisions of the ordinance would involve a  
12 substantial hardship, that the Board find that the hardship  
13 relates to the need for additional living space.

14 That the Board find that the need for more living  
15 space existed for the current occupants as well as any  
16 future occupants.

17 And that the Board finds that the hardship is owed  
18 to the shape and the topography of the lot. That the Board  
19 finds that relief could be granted without substantial  
20 detriment to the public good or nullify or substantially  
21 derogate from the intent and purpose of the ordinance.

22 The Board further moves that the Chair at the time

1 further move that the Board specifically find that based  
2 upon all the information presented, that there are  
3 circumstances involving a substantial hardship related to  
4 this property within the meaning of Massachusetts General  
5 Law Chapter 70 Chapter 10, Chapter 10, Section 10.

6 And that the Board grant the variance based on the  
7 further finding that a literal enforcement of the provisions  
8 of the ordinance would involve a substantial hardship, on  
9 the condition that the work proceed in accordance with the  
10 plans prepared by Marker & Associates dated June 24, 2021.

11 The -- I am going to sign and initial the plans  
12 that are submitted with this application, which are  
13 identical to the ones that were submitted also then. And  
14 that the special permit that was granted at the time is not  
15 part of this application because it has no lapsed.

16 So that was the findings on the original Board. I  
17 would make a motion, with the Board's indulgence, that we  
18 incorporate those findings from the original decision into  
19 this particular application and make it part of the decision  
20 by reference for this case.

21 Jim Monteverde, on the motion to grant the  
22 variance?

1 JIM MONTEVERDE: In favor.

2 BRENDAN SULLIVAN: Laura Wernick?

3 LAURA WERNICK: In favor.

4 BRENDAN SULLIVAN: Wendy Leiserson?

5 WENDY LEISERSON: In favor.

6 BRENDAN SULLIVAN: Slater Anderson?

7 SLATER ANDERSON: In favor.

8 BRENDAN SULLIVAN: Yes.

9 [All vote YES]

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

12 JAMES RAFFERTY: Thank you, Mr. Chair. Thank you,  
13 members. Have a good evening.

14 BRENDAN SULLIVAN: I think that was the original  
15 one, right? Yeah. Okay.

16 UNIDENTIFIED: Thank you.

17 BRENDAN SULLIVAN: Goodnight.

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(8:33 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Laura Wernick, Slater Anderson, and Wendy Leiserson

BRENDAN SULLIVAN: The Board will now hear Case No. 203612 -- 18 Clinton Street.

SARAH RHATIGAN: Good evening.

BRENDAN SULLIVAN: Hi, Sarah.

SARAH RHATIGAN: Hi, how are you? This is Sarah Rhatigan, Trilogy Law, LLC, 12 Marshall Street in Boston. I am here representing the owner of this property, which is 18 Clinton LP Asha Daniere.

Asha, are you online? Yep. I see you. If you don't mind, if you could just turn your camera on so the Board members can see you?

BRENDAN SULLIVAN: Now --

SARAH RHATIGAN: So --

BRENDAN SULLIVAN: -- there were some further discussions regarding the application? And --

SARAH RHATIGAN: Yes. Yep.

BRENDAN SULLIVAN: Okay. And if you will just

1 give the Board the update on that?

2 SARAH RHATIGAN: Sure. Yes. I'm happy -- happy  
3 to do that. And also just for the record, from -- you can  
4 see the folks in the -- in the screen together from Sam  
5 Kachmar Associates. It's Steve Hoheb, Axel, and Sam.

6 So thank you, Mr. Chairman. I understand that you  
7 had posed a question to the Commissioner and Staff about the  
8 legal basis for the application. And there was some  
9 discussion that happened when I was actually out of town.

10 But I understand that the Commissioner had  
11 recommended -- and actually let me back up. Would it be  
12 helpful for me to just present the basic bare bones of the -  
13 - of the case and what we've requested for relief?

14 BRENDAN SULLIVAN: Well, no. I would actually --  
15 if we open it up to merits, then we have to assemble the  
16 five.

17 LAURA WERNICK: I see. Yep.

18 BRENDAN SULLIVAN: -- and --

19 LAURA WERNICK: I see --

20 BRENDAN SULLIVAN: So I don't want to do that if -

21 -

22 LAURA WERNICK: -- I'll just answer, yeah, I'll

1 answer your question. I'm sorry. I understand what you're  
2 saying. So we had further discussion.

3 And the Commissioner had recommended that we could  
4 submit an application to the Building Department to  
5 effectuate the conversion of the property from the existing  
6 six units to two units.

7 And my client was happy to do so, although a  
8 little concerned about the legal implications because she's  
9 got -- you know, it's currently a six-unit being used for  
10 six units, and she's got six sets of tenants in the  
11 property.

12 And then there was also just the question of  
13 timing of whether or not the application could actually be  
14 submitted in time for the hearing this evening.

15 And so, we decided collectively that we would come  
16 to you first this evening and ask if the board felt that by  
17 submitting an application for the conversion, if that was  
18 going to change your perspective on whether or not this case  
19 can be heard as a special permit?

20 I have some arguments for why I think it could be  
21 heard as a special permit, regardless of whether we've  
22 actually submitted a building permit application, which I'd

1 be happy to discuss.

2 But I understand the desire not to have this case  
3 formally opened and heard this evening if -- if in fact  
4 we're not going to do the -- you know, if we'd prefer not to  
5 do that.

6 BRENDAN SULLIVAN: Right. The question that I --  
7 in reviewing it, I questioned the relief under 8.222d.

8 SARAH RHATIGAN: Mm-hm.

9 BRENDAN SULLIVAN: And in further review, the  
10 Commissioner got back to me, and he said that I -- my  
11 concern was probably correct, and that they would probably  
12 need a variance.

13 And so, with that in mind -- again, one option  
14 would be to continue this particular matter as still alive,  
15 but that do file for your building permit, go through that,  
16 but then also that regarding this particular application,  
17 that potentially a variance is the route that would have to  
18 -- you'd have to go.

19 SARAH RHATIGAN: Mm-hm.

20 BRENDAN SULLIVAN: Is that correct?

21 SARAH RHATIGAN: That is. I think that if it's  
22 unlikely that the application for the building permit is

1 going to change your -- Mr. Chair, your opinion on whether  
2 this -- this is adequately a special permit, then I think  
3 that the -- the approach will be for us to seek a  
4 continuance of the special permit for, you know, perhaps  
5 several months. And we will go ahead and file a variance  
6 application and ask to be heard on the variance prior --

7 BRENDAN SULLIVAN: Yeah.

8 SARAH RHATIGAN: -- to having any special permit.  
9 Or actually --

10 BRENDAN SULLIVAN: All right.

11 SARAH RHATIGAN: -- let me clarify. There's --  
12 there's -- special permit relief requested for window  
13 changes. And those we would probably ask to have heard the  
14 same night as the variance.

15 BRENDAN SULLIVAN: Yeah. Well, it can be  
16 incorporated --

17 SARAH RHATIGAN: Yes.

18 BRENDAN SULLIVAN: -- as part of that.

19 SARAH RHATIGAN: Yeah. Mm-hm.

20 BRENDAN SULLIVAN: So rather than bifurcate them,  
21 you know --

22 SARAH RHATIGAN: I see.

1 BRENDAN SULLIVAN: -- bring it all in together.

2 So --

3 SARAH RHATIGAN: Yep.

4 BRENDAN SULLIVAN: With that being said, how far  
5 out do you want to continue this particular one? So here we  
6 are in January, and did you want to kick this out until the  
7 end of April, the first part of May or something? Or --

8 SARAH RHATIGAN: I think that that's a good idea.  
9 I'm not sure when the next hearings are that are open for  
10 new cases. Is -- is Olivia on the line? Does she --

11 BRENDAN SULLIVAN: Well --

12 SARAH RHATIGAN: -- happen to know when those may  
13 be --

14 BRENDAN SULLIVAN: -- February 23 --

15 SARAH RHATIGAN: Uh-huh.

16 BRENDAN SULLIVAN: -- if we want to get something  
17 in quickly, the next one is March 9 is somewhat open.

18 SARAH RHATIGAN: Mm-hm.

19 BRENDAN SULLIVAN: And March 23 has --

20 SARAH RHATIGAN: Okay.

21 BRENDAN SULLIVAN: -- absolutely no cases at this  
22 point.

1 SARAH RHATIGAN: Okay.

2 BRENDAN SULLIVAN: So we go from February 23 to  
3 March 9 to March 23, we'd probably do your variance  
4 application.

5 SARAH RHATIGAN: Okay. Great.

6 BRENDAN SULLIVAN: So with that being said --

7 SARAH RHATIGAN: So with that being said, yeah, so  
8 I would say that an April continuance --

9 BRENDAN SULLIVAN: -- so April 27?

10 SARAH RHATIGAN: -- would work for the --

11 BRENDAN SULLIVAN: April 27, we'll mark this  
12 particular case up for, and it may go away.

13 SARAH RHATIGAN: And -- and if you don't mind, I  
14 apologize, Mr. Chairman, as we're remote, I do want to just  
15 make sure I'm on a text communication with my client and the  
16 --

17 BRENDAN SULLIVAN: Yep.

18 SARAH RHATIGAN: -- SKA team. So if you don't  
19 mind, just bear with me for one moment.

20 BRENDAN SULLIVAN: No, no, that's alright. No,  
21 take -- sure.

22 [Pause]

1           BRENDAN SULLIVAN: April 27. Yeah. There's  
2 nothing right now, so.

3           SARAH RHATIGAN: Okay. Just one moment. Just  
4 checking something here. March 23. Okay, yes. So -- so  
5 the date that you had for the April continuance, I apologize  
6 was -- was what again?

7           BRENDAN SULLIVAN: April 27.

8           SARAH RHATIGAN: April 27. So that's for the  
9 special permit if the variance --

10          BRENDAN SULLIVAN: That's --

11          SARAH RHATIGAN: -- application doesn't proceed?

12          BRENDAN SULLIVAN: That's for this particular case  
13 before us.

14          SARAH RHATIGAN: Okay. Great.

15          BRENDAN SULLIVAN: All right. Let me make a  
16 motion, then, to continue this matter to April 27, 2023 at  
17 6:00 p.m. on the condition that the petitioner sign a waiver  
18 to the statutory requirement for a hearing and a decision to  
19 be rendered thereof. Such waiver would ask that it be  
20 returned in the file by one week from tonight, be returned  
21 to Ms. Maria Pacheco or Ms. Ratay.

22                 And that the second condition is that the

1 petitioner change the posting sign to reflect the new date  
2 of April 22, 2023 at 6:00 p.m., and that such sign be  
3 maintained at least 14 days prior to the April 27 hearing.

4 Any new submittals regarding this particular  
5 application be in the file by 5:00 p.m. on the Monday prior  
6 to the 04/27/2023 hearing.

7 On the motion, then, to continue this matter, Jim  
8 Monteverde?

9 JIM MONTEVERDE: In favor of the continuance.

10 BRENDAN SULLIVAN: Laura Wernick?

11 BRENDAN SULLIVAN: Laura Wernick in favor.

12 BRENDAN SULLIVAN: Wendy Leiserson?

13 WENDY LEISERSON: In favor.

14 BRENDAN SULLIVAN: Slater Anderson?

15 SLATER ANDERSON: In favor.

16 BRENDAN SULLIVAN: And Brendan Sullivan yes.

17 [All vote YES]

18 BRENDAN SULLIVAN: Five affirmative votes; this  
19 matter is continued until 04/27/2023.

20 SARAH RHATIGAN: Thank you --

21 BRENDAN SULLIVAN: Okay. --

22 SARAH RHATIGAN: -- members of the Board.

1                   BRENDAN SULLIVAN:  Yep.

2                   SARAH RHATIGAN:  Thank you.

3                   BRENDAN SULLIVAN:  Is it 7:45 yet?  Even?  Just  
4 about, huh?

5                   JIM MONTEVERDE:  Just about.

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(8:42 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Laura Wernick, Slater Anderson, and Wendy Leiserson

BRENDAN SULLIVAN: The Board will hear Case No. 196630 -- 97 Thorndike Street.

GREGORY MCCARTHY: Hello, members of the Board. Am I live here?

BRENDAN SULLIVAN: Yes, you are. You sound live, so you must be live.

GREGORY MCCARTHY: Oh, I am. Okay. All right. Very good. Thank you. Sorry, I -- I had to start making my way home. My wife is pregnant, no excuse here but I just wanted to explain the titter tatter on the -- in the background. It's just the rain on the windows. My apologies if it makes it difficult to hear. I hope that's not the case.

Yeah, it's -- I'm sorry, 97 Thorndike Street.

BRENDAN SULLIVAN: All right. And this is Mr. McCarthy?

GREGORY MCCARTHY: Yes.

1           BRENDAN SULLIVAN: Okay. Gregory McCarthy. Okay.  
2 All right. So 93-97 Thorndike. All right. What is it you  
3 want to do?

4           GREGORY MCCARTHY: Okay. So we're here to propose  
5 both rear decks to -- what we have is a five -- a five-unit  
6 building. It's three rowhouses in a row on Thorndike  
7 Street. They are three-story buildings in the front with  
8 two stories in the rear. So it drops off from three stories  
9 to two.

10           We're proposing to put roof decks on each of the -  
11 - each of the rear roofs, which are the two-story part of  
12 the building, which I can show better when we get to the  
13 plans. And then rear balconies as well.

14           So it's entirely for exterior decks that we're  
15 here tonight.

16           BRENDAN SULLIVAN: So currently the gross floor  
17 area is -- ratio is 1.83 and you're going to a 1.85. And  
18 that has to do with --

19           GREGORY MCCARTHY: Yep.

20           BRENDAN SULLIVAN: -- the decks and the area  
21 underneath, which is creating floor area?

22           GREGORY MCCARTHY: Exactly, yes. We have

1 balconies on both first and second floor. So that small  
2 bump in floor area ratio is coming from that first-floor  
3 balcony with the covered deck above it.

4 BRENDAN SULLIVAN: And the reason for --

5 GREGORY MCCARTHY: That would be -- there's no  
6 outdoor space currently for the unit, so we're trying to  
7 provide some sort of outdoor space, whether it be limited or  
8 not, for the units for them to just be able to, you know,  
9 get fresh air and step outside, whether or not they have a  
10 full outdoor living arrangement, you know, if they -- after  
11 the last couple of years it got more important to everybody  
12 to be able to get some sort of fresh air, to have access to  
13 the outside.

14 So even though it's not, you know, the smaller  
15 balconies aren't the most luxurious decks out there it does,  
16 you know, offer a way for them to open up the door and get  
17 some fresh air and step outside, even and maybe put some  
18 furniture on the longer thin one on the side there.

19 And then as far as the roof decks go for the upper  
20 units, you know, it's going to provide a real solid outdoor  
21 space for them where they can, you know, get outside and  
22 actually be able to, you know, set up some furniture and

1 have an outdoor living area, whereas now that's -- those are  
2 just roofs at the current moment.

3 BRENDAN SULLIVAN: Greg, so this is -- you own the  
4 buildings in back too? So this is all part of sort of a  
5 Master Plan for these two buildings, is that correct, on  
6 Thorndike Street?

7 GREGORY MCCARTHY: Yep, yep. So 97.5 is the  
8 building right behind. That's going to be coming up right  
9 after this, which has --

10 BRENDAN SULLIVAN: Yep. And the proposed use of  
11 the building, are they going to be a residential units? Are  
12 they going to be condos?

13 GREGORY MCCARTHY: Yes, exactly. So there's no  
14 real change in the use currently. There are five in the  
15 front and two in the back. And that's how it's going to  
16 stay.

17 We are going to be planning to convert it into  
18 condominiums for sale at the moment. You know, that could  
19 change in the future. But that's the plan at the moment for  
20 these -- for these units here.

21 BRENDAN SULLIVAN: And the distance between the  
22 buildings, if I'm reading the drawings right, are 21'?

1 GREGORY MCCARTHY: Let me see here..

2 BRENDAN SULLIVAN: I may be catching you off guard  
3 on that one. But according to A001, it looks like --

4 GREGORY MCCARTHY: Okay, so that would be -- that  
5 would be the distance between the buildings previously, I  
6 believe.

7 BRENDAN SULLIVAN: Right. Between the front  
8 building and the rear building. Between 97 and 97.5?

9 GREGORY MCCARTHY: Yes, exactly. Yep.

10 BRENDAN SULLIVAN: Yeah.

11 GREGORY MCCARTHY: Sorry about that. Yep.

12 BRENDAN SULLIVAN: Okay. All right. Let me see  
13 if there's any questions from members of the Board. Jim  
14 Monteverde, any questions?

15 JIM MONTEVERDE: The only question I have, or concern I  
16 have: We've seen roof decks on a number of occasions. The  
17 three that are proposed are nominally 11' x 19', which makes  
18 them significant size. I can see how the size is  
19 determined, because it sits squarely on the first floor  
20 below.

21 But the concern is just with the size of the roof  
22 deck, given how we've treated other roof decks. As in,

1 smaller would be better.

2 BRENDAN SULLIVAN: As, if you could pull up --  
3 Stephen, if you could pull up A103?

4 JIM MONTEVERDE: Yep, that's what we're looking  
5 at.

6 BRENDAN SULLIVAN: Yep. Okay.

7 JIM MONTEVERDE: So it's not about the balconies.  
8 I understand that. It's just about the size of the roof  
9 decks. They're generous roof sizes.

10 LAURA WERNICK: And Jim, I know in the past -- I  
11 think what you're referring to in the past has sort of been  
12 concerns about noise, parties --

13 JIM MONTEVERDE: Correct.

14 LAURA WERNICK: -- neighborhood, neighbors  
15 complaining?

16 JIM MONTEVERDE: Yep. Yep.

17 LAURA WERNICK: And that's -- okay, I just want to  
18 make sure that was what you --

19 JIM MONTEVERDE: Sorry, yeah. That's a concern.  
20 It's really about being neighborly and the impeding someone  
21 else's enjoyment of their adjacent unit, whether it's the  
22 ones, the three in a row here or the one in the back.

1 That's my only comment or concern.

2 BRENDAN SULLIVAN: Okay, Jason. All right. Wendy  
3 Leiserson, any questions or comments at this time?

4 WENDY LEISERSON: Yep. I'm just trying to get to  
5 the right page for me to ask it. But I think --

6 BRENDAN SULLIVAN: Steve, let me ask Wendy if  
7 you're --

8 WENDY LEISERSON: Yeah. Let me -- let me pause.

9 BRENDAN SULLIVAN: -- indulge me for a minute.

10 WENDY LEISERSON: Yeah.

11 BRENDAN SULLIVAN: Steven, if you could pull up  
12 A200? Yeah. Okay. I guess there's a -- for me, Wendy, you  
13 have the floor, so why don't we --

14 WENDY LEISERSON: No, Mr. Chair, please take the  
15 floor.

16 BRENDAN SULLIVAN: Well, I guess my thought is on  
17 both of these projects that we're adding decks to the rear  
18 on one, on the front door, and then we're adding decks to  
19 the front on the rear building.

20 So we're sort of adding sort of an awful lot of  
21 potential outdoor space that may not always be of benefit,  
22 you know, conflict. I mean, I know that as far as a

1 marketing, saleable amenity, it's very beneficial.

2 But I think that we worry about people taking  
3 indoor stuff outdoors and becoming somewhat of a nuisance,  
4 and especially where you're starting to push the front to  
5 the rear and the rear to the front, they seem to come  
6 together, and it seems to be getting kind of crowded.

7 And again, it may be a fear of the unknown, but I  
8 think in the past we have always been very, very concerned  
9 and respectful of potential intrusion of privacy and noise,  
10 basically. So I guess that would be my thought. So Wendy,  
11 I took away some of your thunder, so --

12 WENDY LEISERSON: I don't think I have any thunder  
13 for this case. I think -- I think I'm struggling to pull up  
14 on my own computer the dimensional piece.

15 Can someone remind me what kind of open space is  
16 listed now on this one?

17 So no matter how we slice it is, it is not -- so I  
18 guess my -- I would welcome hearing from the Board more of  
19 their concerns regarding the countervailing variables, you  
20 know, for expanding the decks and the like. But for me, I  
21 think improving the ratio of open space at the moment  
22 outweighs those concerns, unless I hear more from the Board.

1 So.

2 BRENDAN SULLIVAN: Okay. Slater, any comments,  
3 questions at this time?

4 SLATER ANDERSON: No, other than I suppose just  
5 observing that while these are exterior spaces that are  
6 being created and can result in potentially some additional  
7 noise, nuisance, it is -- you know, the applicant is the  
8 owner of, you know, the properties that are in effect most  
9 impacted by the other property. I know it's two different  
10 cases here.

11 So, but that mitigates my concerns about the  
12 addition of the decks. So.

13 No other comment.

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

18 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'll have up to three minutes in which to comment.

21 HEATHER HOFFMAN: Hello. Heather Hoffman, 213  
22 Hurley Street. I don't have any particular opinion on this

1 specific proposal, but as a 38-year resident of East  
2 Cambridge, I just wanted to say that the concerns that Mr.  
3 Monteverde and the Chair raised about noise and what was  
4 raised on an earlier case about the close nature of the  
5 housing in East Cambridge is all true.

6           You know, I personally can deal with a fair amount  
7 of noise as long as it's from humans. It's the tons of  
8 construction noise that get me upset. But I'm not  
9 everybody.

10           And I assume that they have abutters on the side  
11 and an abutter on Otis Street. So those people might all be  
12 impacted.

13           I can say that from my own experience, you can --  
14 sound travels. I hear all kinds of sounds, and I have gone  
15 out and tried to figure out where they were coming from  
16 without finding it. So I can tell you, I don't know whether  
17 it's because there are so many buildings that it bounces off  
18 them, but sound travels in this neighborhood. Thank you.

19           BRENDAN SULLIVAN: Thanks, Heather. There's  
20 nobody else calling in. I will close public comment, and  
21 there is no correspondence submitted to the Board.

22           Heather brings up actually a good point regarding

1 East Cambridge, where we have received a number of  
2 applicants' applications to put in roof decks, and usually  
3 people are buying units that are really very close together  
4 and want to add a roof deck on the back.

5           And the neighbors -- established neighbors -- will  
6 come down and voice their opinion, either pro or con. And  
7 the concerns of most of the neighbors have been the  
8 imposition of people out on the deck being inconsiderate --  
9 obviously in the good weather -- that they, you know, talk  
10 loudly, maybe have music going, whatever it may be or maybe  
11 a little bit more of a gathering of people than there should  
12 be, and as such impose themselves on the neighbors.

13           What's different about this particular case is  
14 it's almost that -- because they own both buildings, that  
15 there was no current tenants there, no current homeowners to  
16 chime in on what they perceive would be the effect of all  
17 these roof decks. There's, like, nobody there. Nobody  
18 lives there.

19           Adjoining neighbors to the side are really quite a  
20 little bit distance down. I mean, this is quite a large  
21 build in the front and also in the back there's a little bit  
22 different flavor for me, and that it's the absence of sort

1 of more residents around the locus that somewhat bothers me  
2 as to how do we do the right thing here.

3 It seems like an awful lot of decks, even though  
4 decks -- and I'm able to supporter of decks in the current  
5 environment because of, again, the virus and the societal  
6 trends of people wanting to get outside of their homes --  
7 needing to get outside of their homes and actually have a  
8 solitary space sometimes for themselves to conduct whatever  
9 they read or sit or Zoom or whatever they may want to do and  
10 have no other options.

11 This particular locus has really no outside yard  
12 space that these people can do that.

13 And so, now we tilt the balance of justice onto  
14 are we creating a nuisance? Because rather than a solitary  
15 space, a space where an occupant, a homeowner can go out and  
16 sit and enjoy fresh air, whatever, now are we creating a  
17 gathering space which will be ae nuisance?

18 And so, that's what sort of weighs on my decision  
19 here. It's sort of the fear of the unknown as to what are  
20 we creating?

21 So those are my thoughts.

22 LAURA WERNICK: Mr. Chair?

1           BRENDAN SULLIVAN: Yes.

2           LAURA WERNICK: Is this -- because as I understand  
3 this is a condo development, can we suggest to the owner  
4 that they build into the condo documents restrictions on  
5 perhaps, you know, hours of use or hours and numbers of  
6 people using the deck?

7           It seems like there could be some way to frame it  
8 that noise after certain hours would be restricted or -- so  
9 it becomes part of the condo covenances that restrict use  
10 of the -- restrict noise, since that seems to be the  
11 concern.

12           I think we're all in favor of having so much  
13 outdoor space and encouraging that and getting the fresh  
14 air. And I think that's an important benefit.

15           But that the hazard -- the concern about noise is  
16 very real, and I would think would be in the best interest  
17 of the condo development to provide some kind of way to  
18 mitigate what could be an internal nuisance to condo owners,  
19 and in turn would reduce noise in the neighborhood. So have  
20 some kind of noise constraint in terms of the hours of use  
21 or something along those lines.

22           BRENDAN SULLIVAN: Well-meaning, Laura, and that

1 would be -- those are exactly my sentiments. However, I  
2 think that -- not speaking for Mr. McCarthy, but that this  
3 is a development to be sold as condos, and that there will  
4 have to be, obviously, a master deed drawn up.

5 I think that the master deed will be somewhat --  
6 well, and I'm sure of the property adjective or adverb here  
7 but make these saleable and not put too many restrictions on  
8 it that would turn away potential buyers, I guess.

9 And we can encourage it that the condo documents  
10 reflect that. I live in a neighborhood that has a lot of  
11 three-deckers, two-families. People use the outdoor  
12 porches.

13 And I have had to go over and bang on doors or  
14 call people at 12:30, 1:00, 1:30 in the morning in the  
15 summertime, inquired as to the somewhat ordinance in the  
16 city and it's 11:00.

17 And any excessive noise beyond that, you know,  
18 you'd have to call the police and, you know, they come down  
19 and tell people to quiet down. There is a noise ordinance,  
20 you know, 50 decibels or whatever it maybe and so on and so  
21 forth. But that does not necessarily do away with bad  
22 behavior or inconsiderate people. So.

1           LAURA WERNICK: Absolutely. I just -- it's the --  
2 and I would, as you say, you can only make it as a  
3 suggestion, but I would think that --

4           BRENDAN SULLIVAN: Yeah.

5           LAURA WERNICK: In triplicate, the condo owners  
6 would appreciate knowing that loud parties aren't allowed  
7 after 10:30 at night or whatever.

8           BRENDAN SULLIVAN: Yeah. And then, you know, the  
9 flip side of that is, you know, if it's not in there, if it  
10 becomes a nuisance, then, you know, have we done the wrong  
11 thing? We don't know that, and I guess we -- you know, and  
12 then but what is the remedy? And there is not any, other  
13 than the -- it is self-policing.

14          LAURA WERNICK: Right.

15          BRENDAN SULLIVAN: That all those people who buy  
16 these units, you know, and maybe a condo association then  
17 get together and say, "Hey, you know, you're -- you know,  
18 you've become obnoxious, or you've got to --" and then  
19 again, and then it polices itself at that point.

20                 So I guess what weighs on my mind is the benefit  
21 of having some outdoor space, is that a good thing? And  
22 yes, it is a good thing.

1           And going back to Jim's comment, I think that the  
2 decks in the back may be quite excessive. And that might  
3 push me over the edge as to not approve those decks up there  
4 at that level, because it's a bridge too far for me, anyhow.  
5 So.

6           Any other comments by members of the Board?

7           WENDY LEISERSON: Mr. Chair, this is Wendy  
8 Leiserson. I actually had the same thought as Laura, though  
9 she expressed it well. And I guess I'm not sure I  
10 understood your concerns about having a condition.

11           And this may not -- it may not bear on your  
12 feelings about the size of the deck per se, but in general  
13 I'm not sure I understand the concerns about putting a  
14 condition in the Master Deed.

15           And whether it's policed or not policed, I mean,  
16 that's going to be up to the neighbors to determine if it's  
17 not a nuisance and someone is talking on their deck at  
18 11:15, you know, it's not a nuisance, whatever. No, we're  
19 not going to come bang on the door.

20           But I don't think it would affect the salability  
21 of the property.

22           And if it's a question of having a large deck to

1 make it marketable versus having a condition which merely  
2 reiterates what the City's, you know, noise ordinance is  
3 anyway or approximates it, I'm not sure how that would  
4 impact the marketability in a negative way.

5 BRENDAN SULLIVAN: Yeah. And again, going back to  
6 the 11:00 thing, you know, people can be out there after  
7 11:00 -- you know, one or two people, three people, you  
8 know, they're quiet and what have you, whatever.

9 If they're making a noise, then the 11:00 thing is  
10 sort of a threshold that they trigger. And I guess the  
11 police could be called and say, "Hey, you know, knock it  
12 off" type thing.

13 It becomes -- the police, it's the last thing they  
14 want to do, and that becomes sort of a nuisance type of  
15 thing. So as far as imposing as a condition, I'm just not  
16 sure if that exceeds our authority to do that, where -- and  
17 I'm not sure how -- I'm just not bright enough to figure out  
18 how we would word that adequately sitting here tonight,  
19 that's all.

20 I'm not saying it's -- I wouldn't do it, I just  
21 don't know the proper language to put in there to make it  
22 worthwhile, and that it is within our authority to do it,

1 our purview to do it, to impose that condition. So that's  
2 my -- that would be my only hesitation, Wendy and Laura on  
3 that. Well-meaning. Well-meaning, absolutely, but you know  
4 --

5 WENDY LEISERSON: I wondered about our authority  
6 as well, but I was hoping you had the answer.

7 LAURA WERNICK: But just to keep on -- I'm, you  
8 know, we're kind of --

9 BRENDAN SULLIVAN: No, I don't have the answer on  
10 this one, kid.

11 LAURA WERNICK: But just to keep poking on this,  
12 there, if we just require that the owner made the City  
13 Ordinance as part of the known -- as part of the condo  
14 documents, then all we're doing is, you know, enforcing the  
15 City's requirements.

16 BRENDAN SULLIVAN: Okay. Well, that could be  
17 easily, I guess in one sentence that the granting of the  
18 decks are contingent upon the condo documents reflecting the  
19 City ordinance, the City Noise Ordinance and potential --  
20 well, that it would be reflective in language referencing  
21 the City Noise Ordinance and the use of those decks. Does  
22 that sort of do it?

1           LAURA WERNICK: For me it does. [Laughter]

2           BRENDAN SULLIVAN: Okay. All right. Well, Jim,  
3 your thoughts on the size of those decks? Is it a  
4 nonstarter? Is it fatal to your approval or --

5           JIM MONTEVERDE: It's -- yeah, I wouldn't be in  
6 favor of it as it stands now with the sizes represented,  
7 even if we get some verbiage that goes in the Master Deed or  
8 condo documents.

9           BRENDAN SULLIVAN: Okay.

10          JIM MONTEVERDE: I could see these being reduced  
11 and being reduced just to be specific, you know, they could  
12 be half, they could be -- and still be sizeable and usable  
13 by -- this is a two-floor unit, two bedrooms, three  
14 bedrooms. You know?

15          Table, chair, four chairs, a couple other chairs.  
16 I could see that. I could be in -- I could -- I could favor  
17 that. But not as -- not at the size that they're at.

18          BRENDAN SULLIVAN: Okay. Mr. McCarthy, going back  
19 to you, you've heard the comments of the Board. What are  
20 your thoughts that you digest with the Board? Saying No.  
21 1, but also specifically, Mr. Monteverde's suggestion and  
22 wish and his positive oath to a reduced roof deck on the

1 Unit [s] 1,2 and 3?

2 GREGORY MCCARTHY: Sure, yeah. No, I completely  
3 understand that. That's something we could definitely do,  
4 is reduce those down to about half the size. And I -- yeah,  
5 I agree, it would still be a good size space for those  
6 units.

7 I don't personally have any kind of issue with the  
8 City Noise Ordinance. I think it kind of falls in line with  
9 what they're meant for. I just don't know, am I sending  
10 some kind of precedent by doing that? I just don't know. I  
11 really don't know.

12 I mean, it doesn't sound like anything that I have  
13 an issue with putting in the condo docs. I just don't know  
14 if it -- I don't know what it means to do that, I guess, is  
15 my -- is what I'm saying.

16 BRENDAN SULLIVAN: Yeah. And I'm not sure if  
17 either one of us tonight -- because obviously lawyers are  
18 wonderful, but lawyers would have to chime in on this and  
19 those who are far more versed in drawing up condo documents  
20 would do the proper legalese on that.

21 I think it's the sense of the Board to have some  
22 language in there bringing that to the fore and to the

1 attention of prospective buyers, so that it's not forgotten  
2 about, and that is the responsibility of the Board to  
3 protect adjoining properties.

4 But how we arrive at that exact language to be --  
5 reflect the sense of the Board, but also be fair to you and  
6 as the developer, and also to prospective buyers, occupants  
7 of that?

8 GREGORY MCCARTHY: Absolutely.

9 BRENDAN SULLIVAN: I guess one thing that I have -  
10 - and we can sit here and doodle with, you know, numbers and  
11 so on and so forth -- Jim, would it be worthwhile, and I  
12 think it's probably necessary for Mr. McCarthy to go back,  
13 and again with both issues involved with the -- some  
14 language regarding the Noise Ordinance and the use of those  
15 decks -- and I think you'd have to consult with an attorney  
16 on that, but then also is to come back with a reduced or  
17 with a plan for the reduced size of those decks.

18 And Jim, is it really the -- on sheet A103 those  
19 two decks there? That's your main concern?

20 JIM MONTEVERDE: Let me just see what sheet I'm  
21 on. It's A103. It's the three decks shown on A103.

22 BRENDAN SULLIVAN: Yeah, right.

1 JIM MONTEVERDE: Yeah.

2 BRENDAN SULLIVAN: Okay. So I'm going to make a  
3 motion, then, that we continue this matter to allow --

4 GREGORY MCCARTHY: Is it possible -- oh, sorry  
5 about that. Can I ask a question real quick?

6 BRENDAN SULLIVAN: Yeah.

7 GREGORY MCCARTHY: Is it possible to come up with  
8 a good size proviso for approval?

9 BRENDAN SULLIVAN: Well, if we want to -- I think  
10 there's --

11 GREGORY MCCARTHY: If it's possible?

12 JIM MONTEVERDE: Yeah, if you want to step aside,  
13 come back later? I mean, you've got the next case as well.  
14 But after the 3 --

15 GREGORY MCCARTHY: Yeah.

16 JIM MONTEVERDE: -- Hancock --

17 GREGORY MCCARTHY: I mean, I'm not going to have a  
18 set of plans, of course, but maybe like the dimensions of  
19 the deck, would that be possible? Or -- if not, I don't  
20 want to request too much here. I just -- you know, I know  
21 it's valuable time for everybody.

22 BRENDAN SULLIVAN: Well, I think we'd have to

1 spend a considerable amount of time to -- unless Jim, you  
2 want to throw something out there?

3 JIM MONTEVERDE: No. I think it just personally  
4 if we came, if we agreed, either the proponent could step  
5 aside, consider the size of the decks, and come back later  
6 and just tell us the size, I think I could be comfortable  
7 with that.

8 The only issue is you can't -- we're all not in-  
9 person. So you can't sit there and mark it up, have them  
10 initial it, you initial it, so you know what we're talking  
11 about is what, you know, gets to the Building Department and  
12 gets built. Because you're going to reference a set of  
13 plans and it's going to be constructed that way. That's the  
14 only wrinkle.

15 Otherwise, I'm -- I'd be comfortable we could do  
16 this just by agreeing on what the dimensions would be.

17 LAURA WERNICK: This is all recorded, just so  
18 everybody remembers.

19 GREGORY MCCARTHY: Yep.

20 JIM MONTEVERDE: Yep.

21 LAURA WERNICK: Everything's being recorded here.

22 JIM MONTEVERDE: Yeah. Just Mr. Chair, if you

1 think that's -- you know, legal and ironclad and meets all  
2 the requirements of what we have to do?

3 BRENDAN SULLIVAN: Well, what I -- I mean, I have  
4 a hard copy in front of me, and I could obviously mark this  
5 up.

6 JIM MONTEVERDE: Yeah.

7 BRENDAN SULLIVAN: And that -- it could be  
8 forwarded to Mr. McCarthy to come back with a clean version  
9 thereof that would reflect what we said. I could initial  
10 that, and then that could be incorporated as the record, and  
11 then hand it off to the Building Department. So I mean,  
12 that could be the procedure that we could follow on that.

13 So if we go back to A103, if we want to make a  
14 stab at this, what is the size of those decks, the width and  
15 the length? If we can determine that.

16 JIM MONTEVERDE: They're approximately 11 x 19  
17 from the dimensions to the left on the plan, the second-  
18 floor plan.

19 BRENDAN SULLIVAN: Okay. Yeah. All right. So  
20 we're -- we're okay with the 11'2"?

21 JIM MONTEVERDE: Yep.

22 BRENDAN SULLIVAN: Okay. So now the question is

1 the 19'?

2 JIM MONTEVERDE: Yep. And I think the proponent  
3 had a -- I heard a suggestion in there that seemed positive.

4 BRENDAN SULLIVAN: Was it 10 feet then off the  
5 building? So we're talking --

6 JIM MONTEVERDE: Yeah, nominally. I would say cut  
7 it in half. I think that's what's reflected on the plan  
8 there. There seems to be a -- on the 103 on the third floor  
9 there seems to be a post right in the middle of that length.  
10 That would seem to be the demarcation. We'll call it 10'.  
11 That's close enough.

12 BRENDAN SULLIVAN: Mr. McCarthy, does that -- so  
13 we're talking decks that are 11' -- well, it's less than  
14 11'?

15 JIM MONTEVERDE: Yeah. Right. But it's nominally  
16 11' wide by 10' deep nominally.

17 BRENDAN SULLIVAN: 11' wide by 10' --

18 JIM MONTEVERDE: Right.

19 BRENDAN SULLIVAN: -- off the house?

20 JIM MONTEVERDE: Which looks like about half of  
21 what they are now.

22 BRENDAN SULLIVAN: Does that work for you, Mr.

1 McCarthy?

2 [Pause]

3 JIM MONTEVERDE: He's muted.

4 GREGORY MCCARTHY: Can I --

5 JIM MONTEVERDE: There we go.

6 BRENDAN SULLIVAN: Okay, so we're basically --

7 GREGORY MCCARTHY: Oh! Okay, yeah.

8 BRENDAN SULLIVAN: Oh.

9 GREGORY MCCARTHY: Yes, yes. Those dimensions  
10 work. That's exactly what I was thinking.

11 BRENDAN SULLIVAN: Okay. So the width is  
12 basically what is drawn. It's the depth of those, or the  
13 distance from off the building would -- not to exceed 10'.

14 GREGORY MCCARTHY: Yes, agree.

15 BRENDAN SULLIVAN: On -- for unit 1, unit 2 and  
16 unit 3 on sheet A103?

17 GREGORY MCCARTHY: Yeah.

18 BRENDAN SULLIVAN: Okay. All right. So I have  
19 marked that up. Any other concerns, Jim, you think? Or --

20 JIM MONTEVERDE: Nope.

21 BRENDAN SULLIVAN: Okay. And Laura, Wendy and  
22 Slater are you on board with that?

1 WENDY LEISERSON: Yeah.

2 LAURA WERNICK: I'm good.

3 SLATER ANDERSON: Yep.

4 BRENDAN SULLIVAN: Okay.

5 LAURA WERNICK: So let me just -- sorry to keep  
6 this going. We're kind of -- reducing the size of the deck  
7 and we're not worrying about the acoustic restrictions at  
8 this point?

9 BRENDAN SULLIVAN: Um --

10 LAURA WERNICK: Or are we including language  
11 suggesting --

12 BRENDAN SULLIVAN: No, no, I'm still going to --

13 LAURA WERNICK: Okay.

14 BRENDAN SULLIVAN: -- include that it be as part  
15 of the condo deeds to --

16 LAURA WERNICK: Reflect the City ordinance?

17 BRENDAN SULLIVAN: Regarding noise, right. Okay.  
18 So there will be those two things, the reduction in the size  
19 and also that as a condition of allowing these decks, that  
20 the City Ordinance regarding noise emitting from structures  
21 or the property be adhered to.

22 So -- okay. Are we ready, then, for a motion?

1                   JIM MONTEVERDE:  Yep.

2                   BRENDAN SULLIVAN:  Okay.  Let me make a motion,  
3 then, to grant the relief requested for the building of  
4 decks within a setback and additional FAR creating the  
5 necessary relief, as per the application and the drawings  
6 initialed by the Chair entitled, "Thorndike Street  
7 residence" and dated 11/05/2022 initialed by the Chair, also  
8 incorporating the supporting statements and the dimensional  
9 form.

10                   The Board grants the variance request with the  
11 following conditions:

12                   That the decks shown on sheet A103 regarding Unit  
13 1 roof deck, Unit 2 roof deck, Unit 3 roof deck be reduced  
14 in depth to 10'.  The width of the deck be as per the plan.

15                   That also as a condition of renting the decks,  
16 that the Board imposes the condition that the condo  
17 documents reflect and include language reflecting the noise  
18 ordinance and currently we in the City of Cambridge, and  
19 that it be part of the condo documents for these units.

20                   The Board finds that a literal enforcement of the  
21 provisions of the ordinance would involve a substantial  
22 hardship to the petitioner, because it would preclude the

1 petitioner from providing much-needed outdoor space.

2           The Board finds that the hardship is owing to the  
3 size of the buildings located on the lot, the shapes of the  
4 lot, which encompasses most of the lot and includes some  
5 adequate outdoor space for each one of the units.

6           The Board finds that the current COVID environment  
7 and the need for outdoor space is both an amenity that is  
8 desirable, but also needed. And that the Board finds that  
9 desirable relief may be granted without substantial  
10 detriment to the public good; in fact the providing of these  
11 decks and the providing of outdoor space is a direct benefit  
12 to the public and any occupant of the structure.

13           The Board finds that granting of this relief would  
14 not nullify or substantially derogate from the intent and  
15 purpose of the ordinance to allow the homeowners to improve  
16 their properties, provide some much-needed amenities, and  
17 also for the health and safety of the occupants of the  
18 structures.

19           The Board finds that there would be -- would be  
20 actually a substantial benefit to any occupant of the  
21 structure.

22           On the motion, then, to grant the variance

1 requested with the imposition of those two conditions, Jim  
2 Monteverde?

3 BRENDAN SULLIVAN: Laura Wernick?

4 LAURA WERNICK: In favor.

5 BRENDAN SULLIVAN: Wendy Leiserson?

6 WENDY LEISERSON: In favor.

7 BRENDAN SULLIVAN: Slater Anderson?

8 SLATER ANDERSON: In favor.

9 BRENDAN SULLIVAN: Brendan Sullivan yes.

10 [All vote YES]

11 BRENDAN SULLIVAN: On the five affirmative votes  
12 with conditions, the variance is granted for 97 Thorndike  
13 Street.

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2 (9:21 p.m.)

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

6 BRENDAN SULLIVAN: The Board will now hear Case  
7 No. 197840 -- 97.5 Thorndike Street. Mr. McCarthy?

8 [Pause]

9 BRENDAN SULLIVAN: Mr. McCarthy?

10 GREGORY MCCARTHY: Sorry. I was muted. My  
11 apologies. So 97 Rear Thorndike, or 97.5 Thorndike, is the  
12 two-family directly behind 97 Thorndike. It's about a foot  
13 and a half to two feet off the rear property line behind us.  
14 And it's about -- as we saw earlier -- about 21 feet from  
15 the bigger structure in the front, 97 Thorndike.

16 So what we're proposing here is two balconies off  
17 of the front of the building, which is -- which we -- yep,  
18 so here it is on the plan here.

19 So the proposed deck, the building kind of bumps  
20 in a little bit. So the deck comes off a little bit further  
21 on the left side than it does on the right. But it ends up  
22 being about 16 feet from the front building.

1           And we're -- the -- because one of the decks is  
2 over the other one, they're stacked above each other, we  
3 were going to be adding floor area or proposing to add floor  
4 area ratio because of that.

5           BRENDAN SULLIVAN: And the decks are -- oh, again,  
6 we're going back to the size of the decks again, which are  
7 the 33'?

8           GREGORY MCCARTHY: No, no. I'm sorry. The --  
9 that's the distance from the left.

10          BRENDAN SULLIVAN: Oh, that's from the edge of the  
11 house to the edge of the deck. Okay. So --

12          GREGORY MCCARTHY: I think it's about --

13          BRENDAN SULLIVAN: 16'. 17'?

14          GREGORY MCCARTHY: It shouldn't be that long. It  
15 should be -- let's see, 14' x what? 33' going around, it's  
16 27.1. I think it's, like, 12'. Oh no, no, I'm sorry. Yes.  
17 Exactly. 16'. Yep.

18          BRENDAN SULLIVAN: So if we go to sheet A101?

19          GREGORY MCCARTHY: Yeah.

20          BRENDAN SULLIVAN: Mr. Mayor McCarthy, if -- you  
21 know, if you're asking for decks, it would be more than  
22 helpful to have highlighted the size of those decks, I

1 guess. But --

2 GREGORY MCCARTHY: I agree.

3 JIM MONTEVERDE: Well --

4 GREGORY MCCARTHY: I agree.

5 GREGORY MCCARTHY: If you go to the structural  
6 plan --

7 BRENDAN SULLIVAN: A300?

8 JIM MONTEVERDE: -- you can do some arithmetic,  
9 yeah, you can do some arithmetic here. Right there are one,  
10 two, three, four, five, six, seven, eight, nine, 10, 11, 12,  
11 13 framing bays at "16" each.

12 BRENDAN SULLIVAN: So sort of like Where's Waldo?

13 JIM MONTEVERDE: Well, not quite. But 16'.  
14 That's 208" divided by 12', that's 17.3' divided by two is  
15 kind of 8.5' -- you know, 8'8" in width on each side, right?

16 BRENDAN SULLIVAN: Yeah.

17 JIM MONTEVERDE: Plus or minus.

18 BRENDAN SULLIVAN: Yeah. Stephen, could you pull  
19 up A101 from again? You got it there. So Jim, what I'm  
20 doing is I'm going Unit 1, Unit 2. You see where it says,  
21 8'8.75" for Unit 1, and then 8' -- I can't even read this,  
22 is it 8'8" or 8'6.75"? I guess it must -- for the second

1 unit, sort of the top half of that floor plan where it has  
2 A200 noting that. I'm just trying to determine a --

3 JIM MONTEVERDE: Yeah.

4 BRENDAN SULLIVAN: 8'8.75" for Unit 1 and 8'6.75"  
5 for Unit 2, if that accurately reflects the width of those  
6 proposed decks?

7 Mr. McCarthy, does that reflect?

8 GREGORY MCCARTHY: It does. It's a little bit  
9 longer. So I would say it's probably -- it shows in the  
10 plan as "17.3", right?

11 JIM MONTEVERDE: Yeah. That would be "17.3", right?  
12 Yep.

13 GREGORY MCCARTHY: But I think it's just a little  
14 bit wider than that. It's like 17' and 5".

15 JIM MONTEVERDE: All right.

16 GREGORY MCCARTHY: I don't know if that is  
17 relevant, but yes.

18 BRENDAN SULLIVAN: So the width of those decks is  
19 not to exceed 17'5", is that 17'6"?

20 GREGORY MCCARTHY: Yeah.

21 BRENDAN SULLIVAN: 17'5"?

22 GREGORY MCCARTHY: Yeah, yeah. That's great.

1 BRENDAN SULLIVAN: 17'5"?

2 BRENDAN SULLIVAN: All right. Now that we have  
3 determined the size of it, let me throw it back up to the  
4 Board as far as the effect of it. Jim, any other concerns,  
5 other than the size of the decking?

6 JIM MONTEVERDE: Just one question. Is -- do you  
7 intend to have a privacy screen to split this into two  
8 decks, one for each unit?

9 GREGORY MCCARTHY: Yes, yes, yeah. There's -- and  
10 the plan is bushes in between, but there could be a privacy  
11 fence or something.

12 JIM MONTEVERDE: Okay.

13 GREGORY MCCARTHY: As well. Mm-hm.

14 JIM MONTEVERDE: Thank you.

15 BRENDAN SULLIVAN: All right. Laura, any  
16 questions?

17 LAURA WERNICK: No questions. No. I'm good.

18 BRENDAN SULLIVAN: Wendy, questions, concerns?

19 WENDY LEISERSON: No questions, although I just --  
20 for the record, I think that the table is incorrect when it  
21 said that the open space, I think it was listed as square  
22 feet as opposed to a ratio, if I read it correctly? I could

1 be wrong. But it's not. It's just a technical matter, does  
2 not affect my decision.

3 BRENDAN SULLIVAN: Yeah, that number can't be  
4 correct.

5 JIM MONTEVERDE: Yeah. It can't be 90 percent.

6 GREGORY MCCARTHY: No, no.

7 BRENDAN SULLIVAN: Um --

8 GREGORY MCCARTHY: Isn't there, isn't there  
9 another, though, the ratio -- there has to be a ratio there,  
10 though, also, right? Like a percentage.

11 BRENDAN SULLIVAN: Well, the ordinance required 30  
12 percent. I don't know whether --

13 GREGORY MCCARTHY: It should -- I know it's 0.11  
14 now. Oh, okay, I guess because this -- for this building it  
15 was 0. Yeah, of course it's not 90 percent. Okay. So we  
16 can -- we can definitely correct that. Apologies. We can  
17 definitely have that corrected for the permit.

18 BRENDAN SULLIVAN: Okay. Wendy, anything else?

19 WENDY LEISERSON: No, that's all.

20 BRENDAN SULLIVAN: Slater, any questions,  
21 concerns, comments?

22 SLATER ANDERSON: No comments, thank you.

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

5           If you're calling in by phone, you can raise your  
6 hand by pressing \*9 and unmute or mute by pressing \*6, and  
7 you'll have up to three minutes in which to comment. Yes.

8           HEATHER HOFFMAN: Hello. Heather Hoffman, 213  
9 Hurley Street. I wanted to just pass on a piece of  
10 information that I hadn't known. I didn't prepare for the  
11 meeting tonight, because I thought I was going to be doing  
12 something else.

13           One of the abutters is the Putnam Apartments.  
14 That is a CHA building for elderly and disabled residents.  
15 It is currently under construction, and the CHA does not  
16 have a habit of telling the tenants when it gets notices of  
17 things like this. So even if they were living there, they  
18 probably wouldn't know about it.

19           But that is the thing to keep in mind when we're  
20 concerned about being nice to the neighbors. Thanks.

21           BRENDAN SULLIVAN: Thank you, Heather. Nobody  
22 else is calling in, and we are -- have not received any

1 other written comments. I will close public comment part of  
2 the proceedings, send it back to the Board.

3 Other than the -- are we okay with the proposal?  
4 I have made a note that the decks -- proposed decks on the  
5 front are 17'5" max and as per the depth as indicated on the  
6 drawing.

7 Is there any other conditions, other than the fact  
8 that we should impose or require a condition in the condo  
9 deeds reflecting the City Noise Ordinance? Anything else  
10 that the Board would like to chime in on?

11 JIM MONTEVERDE: Maybe a privacy screen to  
12 subdivide the balcony in half?

13 BRENDAN SULLIVAN: So noted. Anything else by the  
14 Board? Are we ready for a motion?

15 JIM MONTEVERDE: Ready.

16 BRENDAN SULLIVAN: Okay. Let me make a motion,  
17 then, to grant the relief requested, a variance to construct  
18 the decks on the front of the building, which creates  
19 additional FAR.

20 The Board grants the variance as per the  
21 application, the drawings submitted, supporting statements  
22 and dimensional forms, drawings initialed by the Chair, on

1 the condition that the work comply with the drawings  
2 entitled, "Thorndike Street residence, 97.5 Thorndike" and  
3 dated April 5, 2022.

4 The Board particularly notes the condition on  
5 sheet A 1013 requiring that the proposed decks be a maximum  
6 of 17'5" wide. That there be a privacy screening separating  
7 Unit 1 and Unit 2 deck.

8 That the Board also -- the sense of the Board is  
9 to require that the condo documents reflect the notion that  
10 the use of these decks shall comply with the City Noise  
11 Ordinance at all times.

12 The Board finds that a literal enforcement of the  
13 provisions of the ordinance would involve a substantial  
14 hardship to the petitioner, as it would preclude the  
15 petitioner from providing much-needed outdoor space.

16 The Board finds that the hardship is owing to the  
17 size of the building and the shape of the lot and the  
18 location of the building on the lot, which occupies the vast  
19 majority of the land, and as such precludes any meaningful  
20 outdoor space.

21 The Board finds that outdoor space is a quite  
22 necessary, sought-after amenity, and has a public health

1 benefit, especially in this time of COVID-19, where people  
2 require some outdoor space.

3 And this proposal before us will allow the  
4 petitioner to build these decks to provide such an amenity  
5 and a health benefit.

6 The Board finds that desirable relief may be  
7 granted without substantial detriment to the public good; in  
8 fact the decks would have a public benefit, and it would not  
9 nullify or substantially derogate from the intent and  
10 purpose of the ordinance to allow the homeowners to provide  
11 an amenity which is a benefit to the health and safety of  
12 the occupants of any structures.

13 On the motion, then, to grant the variance as per  
14 the application, and also the imposition of the two  
15 conditions, Jim Monteverde?

16 JIM MONTEVERDE: In favor.

17 BRENDAN SULLIVAN: Laura Wernick?

18 LAURA WERNICK: In favor.

19 BRENDAN SULLIVAN: Wendy Leiserson?

20 WENDY LEISERSON: In favor.

21 BRENDAN SULLIVAN: Slater Anderson?

22 SLATER ANDERSON: In favor.

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BRENDAN SULLIVAN: In favor.

[All vote YES]

BRENDAN SULLIVAN: Five affirmative votes; the variance is granted. Okay. Thank you, Mr. McCarthy.

GREGORY MCCARTHY: Thank you very much. I appreciate it. Have a great night.

BRENDAN SULLIVAN: All right. Good luck with it.

GREGORY MCCARTHY: Thank you.

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(9:35 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Laura Wernick, Slater Anderson, and Wendy Leiserson

BRENDAN SULLIVAN: The Board will hear Case No. 202568 -- 3 Hancock Place. Mr. Lodge?

[Pause]

BRENDAN SULLIVAN: John?

JOHN LODGE: Can you hear me?

BRENDAN SULLIVAN: Yes.

JOHN LODGE: Oh, great. Hi. My name is John Lodge, and I live at 56 Aberdeen Avenue. And I'm here representing Alex and Ellen and Dave Matheson, the owners of the ground-floor condominium at 3 Hancock Place.

We are coming before the Board tonight to request a variance to replace and increase the size of an existing rear deck. ISD would allow us to have the increased -- the larger deck -- as-of-right if we were to put the door out onto the deck on the rear façade of the building.

But what we'd like to do is to maintain the existing door, if you go to Z2 I think. Yeah. So if you --

1 so right now there's an existing door out onto the deck,  
2 which is off of this small hallway between the bedroom and  
3 the kitchen.

4 The problem with putting the door off the kitchen  
5 is that it takes out a lot of -- a lot of counter space in  
6 the existing kitchen, turning what could be sort of valuable  
7 kitchen space basically into circulation.

8 So what we'd like to do is to basically keep the  
9 door, replace the existing door out onto the existing  
10 landing and stairs, with a new door out onto the -- to the  
11 larger deck.

12 BRENDAN SULLIVAN: And the reason for the --  
13 probably obvious, but for the proposed deck?

14 JOHN LODGE: The reason for the proposed deck is  
15 to provide sort of more and better access to sunlight, fresh  
16 air, get the -- get some living -- some outdoor living space  
17 up off the ground and a little closer to the sky.

18 BRENDAN SULLIVAN: Okay. What is the -- I'm just  
19 looking at the drawing, John, Z3?

20 JOHN LODGE: Yeah.

21 BRENDAN SULLIVAN: The -- what is, oh we're  
22 talking -- okay, I'm sorry. I see it on Z2, actually. So

1 the proposed deck is 7'2" by 10'?

2 JOHN LODGE: Correct.

3 BRENDAN SULLIVAN: Okay.

4 JOHN LODGE: So I think it meets the criteria in  
5 the exception for setbacks, given that it's less than four  
6 feet off the ground and less than 10 feet from the  
7 foundation.

8 BRENDAN SULLIVAN: Okay. And what are you  
9 triggering that requires a variance?

10 JOHN LODGE: I think Olivia's point was that  
11 because we wanted the door off of the side elevation, it  
12 wasn't a rear deck anymore, it was a side deck.

13 BRENDAN SULLIVAN: Okay. They may be correct.  
14 They probably are. Okay. Let me open it to the members of  
15 the Board. Jim, any questions? Concerns?

16 JIM MONTEVERDE: Sorry. I was muted. I see on  
17 the survey it -- it says the owner is 3 Hancock Place  
18 Condominium?

19 JOHN LODGE: Correct.

20 JIM MONTEVERDE: Is your neighbor part of that  
21 condominium, No. 8 Hancock?

22 JOHN LODGE: No, the -- it's a two-unit

1 condominium --

2 JIM MONTEVERDE: Oh, okay.

3 JOHN LODGE: -- all in 3 Hancock Place, so --

4 JIM MONTEVERDE: Okay. And does your neighbor at  
5 No. 5 approve? Have they written in favor of what you're  
6 proposing?

7 JOHN LODGE: I believe -- so I believe there  
8 should be two letters to the file in favor.

9 BRENDAN SULLIVAN: There is.

10 JOHN LODGE: Okay.

11 JIM MONTEVERDE: Yeah, this isn't -- it's not in  
12 the electronic file, at least the one I'm looking at, but --

13 BRENDAN SULLIVAN: Yeah. It just came in this  
14 afternoon, actually.

15 JIM MONTEVERDE: That's okay. So if there is,  
16 that's fine. No. No further questions. Thank you.

17 BRENDAN SULLIVAN: Laura? Any questions,  
18 comments?

19 LAURA WERNICK: No questions. No questions.

20 BRENDAN SULLIVAN: Wendy, any comments?

21 WENDY LEISERSON: No questions.

22 BRENDAN SULLIVAN: Slater?

1 SLATER ANDERSON: No questions.

2 BRENDAN SULLIVAN: And I have no questions either.  
3 Let me open it to public comment. Any members of the public  
4 who wish to speak should now click the button that says,  
5 "Participants," and then click the button that says, "Raise  
6 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.

9 ROBERT COOPER: Hello?

10 BRENDAN SULLIVAN: Yes.

11 ROBERT COOPER: Yes. We are the abutters, the  
12 neighbors at 5 Hancock Place. We certainly didn't --

13 THE REPORTER: Could you give your name for the --

14 ROBERT COOPER: Oh, yes, I'm sorry. My name is  
15 Robert Cooper.

16 JULIA COOPER: And my name is Julia Cooper.

17 ROBERT COOPER: And we are the neighbors at 5  
18 Hancock Place. And we certainly didn't --

19 JULIA COOPER: Send in a letter of approval.

20 ROBERT COOPER: -- send in a letter. So, you  
21 know, we read the supporting statement and really were  
22 looking for some clarity, kind of I guess this goes back to

1 the size of the proposed deck is what our original, you  
2 know, question was around sort of its footprint, to make  
3 sure really that it doesn't impede access to our back door  
4 and our basement doors.

5 Again, it is a very narrow sort of way. And it's  
6 -- you know, in our -- in this sort of back area, it's the  
7 only door where we can sort of, you know, bring  
8 refrigerators and the like where the -- you know, the  
9 stairway, you know, going up is very direct.

10 But we want to -- but I guess, again, the concern,  
11 if you will, would be -- you know, what is the size of the  
12 proposed deck. Again, we read it. It said it would, you  
13 know, be enlarged.

14 We weren't so familiar with how they were going to  
15 do it. Just kind of learned about that tonight. But what  
16 -- you know, if it's -- you know, the size of what the deck  
17 is now, that's one thing. But --

18 JULIA COOPER: And also, the -- I don't know if  
19 Jed Hubbs is here; he is also the other condo owner in 5  
20 Hancock Place. But he did not tell me that he had sent a  
21 letter of approval on this. And I'd like to make sure that  
22 --

1           BRENDAN SULLIVAN: Yeah. Are there different  
2 condominium trusts in the building?

3           JULIA COOPER: No. 5 Hancock Place, we are one  
4 condominium trust. We're both -- one person from each unit  
5 is a trustee, and we're not allowed to do anything or, you  
6 know --

7           BRENDAN SULLIVAN: Okay. We have -- we have a  
8 letter, well I'll read the letter.

9           "3 Hancock Place Condominium Trust has only two  
10 units; Unit 1, owned by David Matheson, who is applying for  
11 the permit; and Unit 2, which is owned by Trisun LLC," T-r-  
12 i-s-u-n is it -- oh, LLC --

13          ROBERT COOPER: Brendan? Brendan?

14          BRENDAN SULLIVAN: -- sorry. "For whom I am the  
15 legal agent and representative. We in Unit 2 are aware of  
16 the Matheson plans for the works and give our consent to  
17 them."

18          So what the City requires is, if it's a  
19 condominium association, that the other owners of that  
20 association give their permission or comment.

21          JULIA COOPER: I see.

22          BRENDAN SULLIVAN: But I think what I'm hearing is

1 that you have a different condominium association for your  
2 particular two units?

3 ROBERT COOPER: That --

4 BRENDAN SULLIVAN: Is that?

5 ROBERT COOPER: Yes. Yes.

6 JULIA COOPER: Yeah.

7 ROBERT COOPER: I think the question was whether  
8 or not the neighbors, of which we were a neighbor -- I was  
9 addressing that we're at 5 Hancock Place. So.

10 JULIA COOPER: As a matter of fact, we have more  
11 impact because for 3 Hancock Place, I believe the upstairs  
12 doesn't really have many exclusive rights in the back.

13 BRENDAN SULLIVAN: All right. So --

14 JULIA COOPER: Whereas 5 --

15 BRENDAN SULLIVAN: -- so I guess what I'm also  
16 hearing is that you had no conversation prior regarding  
17 their proposal?

18 JULIA COOPER: No. Two years ago, we were told  
19 about many different things that they would like to do. And  
20 that was it.

21 BRENDAN SULLIVAN: All right. Well, this is --  
22 John --

1 JOHN LODGE: I'm sorry, so --

2 BRENDAN SULLIVAN: Well, let me answer you. You  
3 had raised a question. So let me answer the question and  
4 John, you can correct me if I'm wrong.

5 ROBERT COOPER: Sure.

6 BRENDAN SULLIVAN: The existing deck comes off the  
7 house at 10'5.5". And it is 3'10" wide. So it's "46' wide.

8 JULIA COOPER: Mm-hm.

9 BRENDAN SULLIVAN: -- by 10'5" coming off the  
10 house. The existing deck will come off the house --

11 ROBERT COOPER: The new deck, the new deck.

12 BRENDAN SULLIVAN: At 10'. So it's 5.5" shorter  
13 --

14 JULIA COOPER: Mm-hm.

15 BRENDAN SULLIVAN: -- but it is 7'2" wide.

16 ROBERT COOPER: Mm-hm.

17 BRENDAN SULLIVAN: So what is there now is 3'10".  
18 What is proposed is 7'2".

19 JULIA COOPER: So at least by the drawing, we  
20 would have a much-diminished access to our bulkhead door to  
21 the basement. And when I say "we" we're talking about both  
22 condominiums. We share.

1           BRENDAN SULLIVAN: Yeah, let me -- let me have  
2 Stephen pull up sheet Z2. Okay. So there if you can see  
3 the existing, if you would just -- and that, that is you at  
4 the top of that sheet?

5           JULIA COOPER: Exactly. And we don't -- it's a  
6 regular bulkhead. It's a --

7           BRENDAN SULLIVAN: Right.

8           JULIA COOPER: -- two-door, not a one-door. So  
9 I'm not quite sure --

10          BETTY SACCOCCIO: Right.

11          JULIA COOPER: -- the proportions of that.

12          BRENDAN SULLIVAN: Yep. And if you can scroll  
13 down a little, Steve, to what the existing deck is going to  
14 be? What their proposal is?

15          JULIA COOPER: Mm-hm.

16          ROBERT COOPER: So one thing to keep in mind is  
17 that it's the -- the stairs are on that side where the  
18 bulkhead is. So it's not -- the deck's not sort of full  
19 height there.

20          JULIA COOPER: Mm-hm. I understand, but it's more  
21 of -- it's more of the access.

22                 As you know, with old houses, we have a lot of

1 windy stairs, it's very hard to get -- one anecdote was that  
2 we had to buy five refrigerators, we couldn't figure out how  
3 to get one up. And the bulkhead door to the basement is the  
4 only entrance and exit to all the condos that is actually  
5 eas -- we can get, like, larger furniture and things through  
6 that.

7           BRENDAN SULLIVAN: You know, I'm going to make a  
8 suggestion, and I'll let the other members of the Board  
9 chime in. But I think that I don't want Julia to feel  
10 pressured to make a, you know, either you agree or disagree  
11 tonight.

12           I think that you really need to review this a  
13 little bit more in depth. I think that John or the  
14 petitioner needs to possibly walk you through exactly what  
15 they are proposing.

16           And I don't want to do it tonight, because I think  
17 it needs to be done in a more relaxed fashion than, you  
18 know, within the next 15-20 minutes, because it's going to  
19 dramatically, potentially, affect you or not. But I think  
20 you should be at ease about that.

21           So I would suggest that we continue this matter so  
22 that you have discussions with, you know, Mr. Matheson and

1 whomever, and show you exactly what they're doing and how it  
2 may or may not affected you.

3 Other members of the Board, does that sound  
4 prudent?

5 WENDY LEISERSON: Yes.

6 JIM MONTEVERDE: Yeah. I agree.

7 BRENDAN SULLIVAN: Okay. So --

8 LAURA WERNICK: Yes.

9 BRENDAN SULLIVAN: So what I'm saying is I would  
10 continue this matter until February 23. And Jim, are you  
11 available February?

12 JIM MONTEVERDE: Yes.

13 BRENDAN SULLIVAN: I'm going to ask all members of  
14 the Board. Who is not available on February 23?

15 WENDY LEISERSON: This is Wendy --

16 JIM MONTEVERDE: Wendy.

17 BRENDAN SULLIVAN: Wendy, you're away on vacation.  
18 You have school vacation.

19 WENDY LEISERSON: Well, I am parenting, anyway.

20 BRENDAN SULLIVAN: Well, that's okay. That's all  
21 right. So March 9? We're here for that -- for Eighth  
22 Street, anyhow. So is everybody available, Board members,

1 for March 9?

2 JIM MONTEVERDE: Yes.

3 BRENDAN SULLIVAN: Okay. So I throw it back now  
4 to John or Mr. Matheson. Are you available on March 9?

5 JOHN LODGE: I'm available.

6 BRENDAN SULLIVAN: Okay. and you can speak for  
7 Mr. Matheson? Well --

8 JOHN LODGE: I think so, yeah.

9 BRENDAN SULLIVAN: Okay. And Julia, are you  
10 available then on the ninth?

11 JULIA COOPER: Oh, yes.

12 ROBERT COOPER: Yes.

13 JULIA COOPER: Yes.

14 ROBERT COOPER: Thank you.

15 JULIA COOPER: We would be.

16 BRENDAN SULLIVAN: Okay. And does what I'm  
17 proposing sort of make sense to you?

18 JULIA COOPER: Yes. I think what we wanted was  
19 clarification and to make sure. We're not saying "Don't  
20 build a porch. It's --"

21 BRENDAN SULLIVAN: Okay. Right. All right. And  
22 I think that we step aside from tonight, you have a chance

1 to review it and think about it, and then you can make your  
2 feelings known to the Board at that time.

3 JULIA COOPER: Okay.

4 BRENDAN SULLIVAN: So let me make a motion, then,  
5 to continue this matter to 03/09/2023 at 6:00 p.m. on the  
6 condition that the petitioner sign a waiver to the statutory  
7 requirement of a hearing and a decision to be rendered  
8 thereof, and that such waiver be in the file by one week  
9 from tonight, 5:00 p.m. one week from tonight. And we would  
10 ask John to submit that to Maria? And you can get a --

11 JOHN LODGE: Sure, sure.

12 BRENDAN SULLIVAN: -- copy and send it back and  
13 forth. And that the posting sign be changed to reflect the  
14 new date of 03/09/2023, and the time of 6:00 p.m., and that  
15 such signage be maintained at least 14 days prior to the  
16 03/09 hearing.

17 Any new submittals in the file, drawings,  
18 supporting statements or dimensional form be in the file by  
19 5:00 p.m. on the Monday prior to the 03/09/2023 hearing.

20 On the motion, then, to continue this matter, Jim  
21 Monteverde?

22 JIM MONTEVERDE: In favor.

1 BRENDAN SULLIVAN: Laura Wernick?

2 LAURA WERNICK: In favor.

3 BRENDAN SULLIVAN: Wendy Leiserson?

4 WENDY LEISERSON: In favor.

5 BRENDAN SULLIVAN: Slater Anderson?

6 SLATER ANDERSON: In favor.

7 BRENDAN SULLIVAN: And Brendan Sullivan yes.

8 [All vote YES]

9 BRENDAN SULLIVAN: Five affirmative votes; this  
10 matter is continued to 03/09/2023. Okay. See you all then.

11 JIM MONTEVERDE: Thank you. Goodnight.

12 JOHN LODGE: Thank you.

13 SLATER ANDERSON: No goodnight.

14 LAURA WERNICK: Goodnight.

15 WENDY LEISERSON: Goodnight.

16 BRENDAN SULLIVAN: Goodnight. And I think that  
17 concludes tonight.

18 WENDY LEISERSON: Thank you, Mr. Chair.

19 JIM MONTEVERDE: Yep. Thank you.

20 BRENDAN SULLIVAN: All right.

21 WENDY LEISERSON: Jim, I hope you feel better.

22 BRENDAN SULLIVAN: Yes.

1 JIM MONTEVERDE: Yeah, I will. Thank you.

2 BRENDAN SULLIVAN: Jim, get better.

3 JIM MONTEVERDE: Thank you. Bye.

4 BRENDAN SULLIVAN: And we will talk. You will be  
5 all set for the next hearing?

6 JIM MONTEVERDE: Yeah.

7 BRENDAN SULLIVAN: And all set up and all? So --

8 JIM MONTEVERDE: Yep.

9 BRENDAN SULLIVAN: -- I saw the -- you will meet  
10 with Olivia, and she'll get you in. And --

11 JIM MONTEVERDE: Correct.

12 BRENDAN SULLIVAN: It'll -- it'll be flawless.

13 JIM MONTEVERDE: Yep.

14 BRENDAN SULLIVAN: Great.

15 JIM MONTEVERDE: We're good to go. All right.

16 Thank you.

17 BRENDAN SULLIVAN: Goodnight, all. Stay well.

18 JIM MONTEVERDE: Goodnight. Bye.

19 [09:52 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.

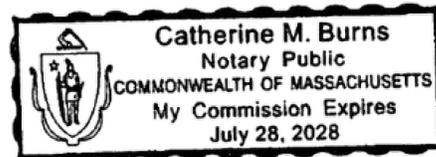
I further certify that I am neither related to nor employed by any of the parties in or counsel to this action, nor am I financially interested in the outcome of this action.

In witness whereof, I have hereunto set my hand this 20th day of January, 2023.



Notary Public

My commission expires:  
July 28, 2028



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