

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY APRIL 13, 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

Matina Williams

City Employees

Olivia Ratay



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P R O C E E D I N G S

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(6:00 p.m.)

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

BRENDAN SULLIVAN: Welcome to the April 13, 2023 meeting of the Board of Zoning Appeals. My name is Brendan Sullivan, and I am Chair for tonight's meeting.

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

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

There will also be a transcript of the proceedings.

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

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

8 Generally, you will have up to three minutes to
9 speak, but that might change based on the number of
10 speakers, and at the discretion of the Chair.

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

13 OLIVIA RATAY: Wendy Leiserson?

14 WENDY LEISERSON: Here.

15 OLIVIA RATAY: Andrea Hickey?

16 ANDREA HICKEY: Present.

17 OLIVIA RATAY: Laura Wernick?

18 LAURA WERNICK: Here.

19 OLIVIA RATAY: Jim Monteverde?

20 JIM MONTEVERDE: Here.

21 OLIVIA RATAY: And Brendan Sullivan?

22 BRENDAN SULLIVAN: Brendan Sullivan is here.

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2 (6:02 p.m.)

3 Sitting Members: Brendan Sullivan, Jim Monteverde, Andrea
4 Hickey, Wendy Leiserson, and Laura Wernick

5 BRENDAN SULLIVAN: First case I'm going to call
6 tonight will be Case No. 154869 on the Continued Agenda, 43
7 Reservoir Street. Anybody interested that wishes to
8 comment?

9 We are in receipt of communications from Sam
10 Kachmar, SKA Architects.

11 "I, Sam Kachmar, am writing on behalf of my client
12 Dan and Elizabeth Sterner, to request a six-month extension
13 on their special permit for the carriage house at their
14 property at 43 Reservoir Street.

15 "Our clients have not been able to start work on
16 their project due to extraneous circumstances. I
17 respectfully request this extension to allow them additional
18 time to begin construction.

19 "Thank you for your time. We are available to
20 answer any questions or concerns at your convenience.

21 "Respectfully,

22 "Sam Kachmar."

1 I'll make a motion, then, to assent to the
2 agreement to extend this for a period of six months starting
3 on May 5, 2023 and ending on November 4, 2023.

4 Jim Monteverde?

5 JIM MONTEVERDE: Yes.

6 BRENDAN SULLIVAN: Wendy Leiserson?

7 WENDY LEISERSON: Yes.

8 BRENDAN SULLIVAN: Andrea Hickey?

9 ANDREA HICKEY: Yes, in favor.

10 BRENDAN SULLIVAN: Laura Wernick?

11 LAURA WERNICK: Yes.

12 BRENDAN SULLIVAN: And Brendan Sullivan yes.

13 [All vote YES]

14 Five affirmative votes; this matter is continued,
15 extended for a period of six months and November 4, 2023.

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2 (6:03 p.m.)

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

5 BRENDAN SULLIVAN: The next case I will call is
6 BZA 168852 -- 35 Webster Avenue. Mr. Anderson?

7 DAN ANDERSON: Just a moment while I get off with
8 -- good evening, Chair. Dan Anderson, a Partner at Anderson
9 Porter Design. If I could, we are requesting a continuance
10 on BZA 208873 for Third Street.

11 We had hoped to be in front of Cambridge Historic
12 on a demolition matter for this case and are still probably
13 going back to ECPT after some City neighborhood
14 presentations. So if it so please the Board, we would like
15 to request a continuance on that.

16 And if I may, we also have another case on
17 tonight's agenda of 48 Winter Street, which also is a
18 written request for a continuance on it, if you'd like to
19 take those together.

20 BRENDAN SULLIVAN: Okay. Dan will you be -- shall
21 I just read that into the record, or will you be present for
22 the Registry continuance?

1 DAN ANDERSON: Let's see.

2 BRENDAN SULLIVAN: You don't have to be.

3 DAN ANDERSON: If you would excuse me, I would --
4 I'll stay on for a little while, but I probably won't make
5 it until that point. So --

6 BRENDAN SULLIVAN: Okay.

7 DAN ANDERSON: If you can read it into the record,
8 I'd appreciate it. Thank you.

9 BRENDAN SULLIVAN: Yeah. Okay. Fine. All right.
10 On the motion, then, to withdraw it as per the request, Jim
11 Monteverde?

12 JIM MONTEVERDE: In favor.

13 BRENDAN SULLIVAN: Andrea Hickey?

14 ANDREA HICKEY: Mr. Chair, I have a conflict in
15 this matter.

16 BRENDAN SULLIVAN: I'm sorry?

17 ANDREA HICKEY: I'm out that day.

18 BRENDAN SULLIVAN: That's all right. Laura
19 Wernick?

20 LAURA WERNICK: Yes.

21 BRENDAN SULLIVAN: Wendy Leiserson?

22 WENDY LEISERSON: Yes.

1 BRENDAN SULLIVAN: Matina Williams?

2 [Pause]

3 BRENDAN SULLIVAN: We have the four affirmative
4 votes. So Brendan Sullivan in favor.

5 [All vote YES]

6 So four affirmative votes; the motion to withdraw
7 is accepted.

8 DAN ANDERSON: Excuse me, not a withdrawal, sir?

9 BRENDAN SULLIVAN: The withdrawal, yes. It's
10 withdrawn.

11 DAN ANDERSON: Mr. Chair?

12 BRENDAN SULLIVAN: Yes.

13 DAN ANDERSON: I thought that was a request for a
14 continuance, not to withdraw?

15 BRENDAN SULLIVAN: Oh, I'm sorry. I'm sorry. I
16 got the Anderson cases all mixed up here.

17 DAN ANDERSON: I have a lot in front of me. I
18 apologize.

19 BRENDAN SULLIVAN: This says, "Third Street", I'm
20 sorry. Okay. All right.

21 DAN ANDERSON: Yeah. I'm -- and I'm -- I am --

22 BRENDAN SULLIVAN: All right. So I'm sorry. So

1 we are withdrawn -- Webster -- and I can only call Third
2 Street.

3 DAN ANDERSON: If you need me, I'm happy to stay
4 on.

5 BRENDAN SULLIVAN: Yeah. It'll be -- yeah, if you
6 could just stay on, I will do that one next --

7 WENDY LEISERSON: Mr. Chair, this is Wendy
8 Leiserson. I'm a little confused. Because the documents I
9 have say that 35 Webster is being withdrawn. But then I
10 heard Mr. Anderson say he wants a continuance.

11 Are we on the same case? Could you just read the
12 Case Number again that we're talking about?

13 BRENDAN SULLIVAN: All right. So, Dan, on Webster
14 Avenue, you are withdrawing that?

15 DAN ANDERSON: That has been officially withdrawn
16 by --

17 BRENDAN SULLIVAN: Okay.

18 DAN ANDERSON: -- by letter, yes.

19 BRENDAN SULLIVAN: All right. So that was the
20 motion that I just made. And I have four affirmative votes
21 to withdraw that. So --

22 WENDY LEISERSON: Okay. I stand by that vote,

1 thank you.

2 BRENDAN SULLIVAN: So that matter is withdrawn.

3 All right.

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(6:08 p.m.)

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

BRENDAN SULLIVAN: Now I will call the next case,
which will be 231-235 Third Street, which is a request to
continue this matter. And reading your letter, we go to
Historical after May 4. So we have May 25 that's available.
It is a case not heard.

Are you available on May 25?

DAN ANDERSON: I believe that we would like to
have a little bit longer. If we go into -- actually --

BRENDAN SULLIVAN: No.

DAN ANDERSON: No, May 25 will work.

BRENDAN SULLIVAN: Okay. All right. So on the
motion, then, to continue this matter, Case No. 208873 --
231-235 Third Street, Jim Monteverde?

JIM MONTEVERDE: Accepts.

BRENDAN SULLIVAN: Laura Wernick?

LAURA WERNICK: Yes.

BRENDAN SULLIVAN: Wendy Leiserson?

WENDY LEISERSON: Yes.

1 BRENDAN SULLIVAN: And Matina Williams?

2 [Pause]

3 Brendan Sullivan in favor of the continuance.

4 [All vote YES]

5 BRENDAN SULLIVAN: Four affirmative votes; this
6 matter is continued until May 25, 2023 at 6:00 p.m. on the
7 condition that the petitioner change the posting sign to
8 reflect the new date of May 25, 2023 and the time at 6:00
9 p.m.

10 That any further changes to the documents that are
11 in the file now be submitted and in the file be submitted by
12 5:00 p.m. on the Monday prior to the May 25, 2023 hearing.
13 Anything else, I guess? No? Okay. So --

14 LAURA WERNICK: Mr. Chair?

15 BRENDAN SULLIVAN: Yes.

16 LAURA WERNICK: I don't think I'm on any of the
17 other continuing cases, and I wasn't going to sit for -- and
18 I'm not planning -- I can't sit this evening. But I
19 understand that you have a -- you're short a member for the
20 continuing cases, at least? Should I stay on for --

21 BRENDAN SULLIVAN: Yeah. I -- are you, your
22 scheduled for the evening anyhow, Laura, are you not?

1 LAURA WERNICK: No, I'm not.

2 BRENDAN SULLIVAN: You are not?

3 LAURA WERNICK: No. Just for the continuing
4 cases. And I think -- I didn't hear any of the other -- I
5 wasn't in on any of the continuing cases, in all honesty.
6 So I really shouldn't be hearing those now.

7 BRENDAN SULLIVAN: All right. I'm having
8 difficulty understanding. What's she saying?

9 Yeah. All right. So Laura, what we have is
10 myself, Jim, Andrea, yourself, and Wendy sitting for the
11 rest of the evening. Is that --

12 LAURA WERNICK: I had said that I cannot -- I had
13 said that I could not make this evening.

14 BRENDAN SULLIVAN: Oh.

15 LAURA WERNICK: That is Jim -- be on the
16 continuing case.

17 BRENDAN SULLIVAN: Oh. We maybe have a problem.

18 WENDY LEISERSON: Yeah, Laura, you're on the 401
19 Concord, right?

20 LAURA WERNICK: The 401 Concord was the continuing
21 case that I -- I thought, yeah. I'm sorry, that's the one I
22 need to be on.

1 WENDY LEISERSON: Yeah. We're still -- all right,
2 which one are we on? We're doing this out of order. I
3 think that's what's causing the confusion; it's out of order
4 of the docket.

5 LAURA WERNICK: Yeah.

6 WENDY LEISERSON: Yeah.

7 BRENDAN SULLIVAN: All right. Let me just dispose
8 of Third Street. So having received four affirmative votes,
9 Third Street is continued until May 25, 2023.

10 LAURA WERNICK: Okay.

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(6:11 p.m.)

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

BRENDAN SULLIVAN: The next case we will hear -- and again, it's myself, Jim Monteverde, Matina, Wendy, and Andrea Hickey sitting on 130 Cushing Street, correct?

WENDY LEISERSON: That's what I've got, Mr. Chair. It's Wendy.

ANDREA HICKEY: Mr. Chair, I don't see Matina on the panel.

BRENDAN SULLIVAN: No, I -- we're trying to reach her.

ANDREA HICKEY: All of you are present for 401 Concord Avenue, however. No, Matina is on that case, I believe.

BRENDAN SULLIVAN: She's on.

WENDY LEISERSON: Oh, she's on that one too? Okay. Sorry. I'll be quiet.

BRENDAN SULLIVAN: All right. So we're going to go to Cushing Street.

1 WENDY LEISERSON: Or to -- okay. I was going to
2 say 255 Grove has not been heard yet, if you want to wait
3 for Matina.

4 ANDREA HICKEY: Right. Mr. Chair, Matina is on
5 Cushing Street. So I think we should wait to see if she can
6 be located and perhaps accept Wendy's idea that we move
7 forward --

8 BRENDAN SULLIVAN: She said she'll be on --

9 ANDREA HICKEY: -- on Grove.

10 BRENDAN SULLIVAN: All right. She's -- all right.
11 Let's go to Grove Street, then, until Matina logs in. So
12 this is a case not heard. So I have myself, Jim Monteverde,
13 Wendy, Andrea Hickey, and Laura Wernick, is that correct?
14 Laura, you're on this?

15 ANDREA HICKEY: If Laura is available.

16 BRENDAN SULLIVAN: Laura, are you available for
17 this one?

18 [Pause]

19 I think Laura -- we're very having difficulty here
20 tonight.

21 LAURA WERNICK: Yes.

22 BRENDAN SULLIVAN: Okay, Laura, you're here for --

1 on Grove Street?

2 [Pause]

3 All right. Let me call Case No. 205192 -- 255
4 Grove Street. Mr. Linn?

5 ROBERT LINN: Yes. Oh, I'm sorry. I wasn't sure
6 you were ready for me to speak. This is Robert Linn from
7 Moskow Linn Architects. And I am presenting with -- today
8 with the owner, Duncan MacArthur.

9 We actually started this project back in 2021, and
10 we designed a conforming accessory unit that we -- that was
11 going to be used as a multipurpose flex room that was
12 positioned to the north of the house in the yard but was --
13 it met all of the requirements of the -- of the zoning
14 bylaws, and we were permitted for that project in the early
15 part of 2021.

16 Prior to building, Duncan had some interactions
17 with his neighbors, who were very concerned -- their
18 neighbors to the left at 265 Grove -- that the structure
19 that we were planning to build was going to be blocking the
20 view.

21 And as I'm sure those of you who know Grove
22 Street, it's a very unusual street in that, you know, it's

1 against a busy road, which is right on the edge of
2 Cambridge. But the street has beautiful views out to the
3 pond and over the golf course. So the view is really one of
4 the things that make it very special.

5 So, Duncan being sensitive to that actually asked
6 us then to go back to the drawing board and try to design
7 something that would satisfy the needs that he was looking
8 for to have his house have this multipurpose space and
9 office space, but that would also preserve the views for his
10 neighbors and in that case, the neighbors on both sides and
11 his own view, for that matter.

12 So we tried many, many options that were expanding
13 out into the yard. And it's a -- in this particular
14 district, we have an FAR of 0.5. So it's not -- FAR is not
15 a problem. The yards are all over 10,000 square feet. So
16 there's no issue with open space.

17 But the -- you know, the obvious answer would be
18 to build something in the back yard, but anything that we
19 came up with was -- that was going to expand it that would
20 be conforming was in some ways interfering with the view
21 plane of either the neighbors at 265 or 245.

22 So the project that we have before you shows an

1 addition of this multipurpose room, a single-story
2 multipurpose room on the right side, which is pulled back to
3 allow for no obstruction of views from either the
4 MacArthurs' house or from 245 on the right. But it does
5 impose significantly on the setback on the rights.

6 So it's -- you're asking for, you know, the
7 ordinance requires minimum 10, sum of 25; we're asking for I
8 believe it's 1.7 on that side.

9 And then in kind of working through this with the
10 neighbors, we submitted several weeks ago and we -- as the
11 Board knows, we've asked for multiple continuances, because
12 we've been trying to work with the neighbors to understand
13 kind of how to modify this to work for everyone.

14 In the original submission, we had a pool that was
15 -- by right -- that was on the right, that was going to be
16 on the right side, which in the newer submission we've
17 removed per their request.

18 And then on the left side, we've added a little
19 bit of a bump-out that also imposes on the setback that goes
20 into nine feet, at 265, on 265 Grove side.

21 And Duncan had multiple conversations with those
22 neighbors. And I believe they've submitted, recently, a

1 letter of support in that what we're showing now is pulled
2 back enough that it doesn't impose on their view and doesn't
3 impose on this marginal tree that's kind of straddling
4 between their two properties.

5 So long and the short of it is we've -- we're
6 before the Board because we're asking to have a variance to
7 allow us to build in the setbacks, but we're doing so to not
8 sort of diminish the wonderful quality of Grove Street for
9 all of the people, the MacArthurs included, blocking their
10 views out to the golf course into Fresh Pond.

11 And finally, on both sides, the house on the right
12 side has a garage that's adjacent to the 1' or 1.7' setback,
13 and on the left side it's facing their garage as well.

14 So being so close to the property lines is not
15 going to be imposing on any of their, like, privacy issues.
16 Because it's just abutting or close to what is really their
17 garage space.

18 So that is the -- that is what's before you today.

19 BRENDAN SULLIVAN: Okay. My first glance at this
20 is that the -- that 1.7' setback is I think -- to me it's a
21 little bit extreme ask, because, you know, what if the
22 neighbor on the right wanted to put a two-car garage in?

1 Does that mean that the -- you know, then we've got to
2 really reduce the amount of space between structures? But
3 anyhow, we'll see how it goes.

4 Jim Monteverde, any questions or comments at this
5 time?

6 JIM MONTEVERDE: No questions. Comments: I've
7 just been looking at the plans I wasn't comfortable with,
8 and I think that the orientation is right, but facing the
9 house and the setback to the right, the one that Mr.
10 Sullivan just discussed: I similarly am uncomfortable with
11 that, cutting that down to that one-foot-seven dimension, or
12 1.7' dimension.

13 BRENDAN SULLIVAN: Andrea Hickey, any questions,
14 comments of the petitioner?

15 ANDREA HICKEY: Yes. So I would applaud the
16 petitioner and his representative for making concessions and
17 efforts with the neighbors, with respect to their concerns
18 about view. But I remain concerned with the 1.7' setback on
19 the side, as shown.

20 So I share your comments, Mr. Chair, as well as
21 that of Mr. Monteverde.

22 BRENDAN SULLIVAN: Okay.

1 ANDREA HICKEY: That's all I have.

2 BRENDAN SULLIVAN: Wendy Leiserson, any questions
3 or comments at this time?

4 WENDY LEISERSON: No further comments, thank you.

5 BRENDAN SULLIVAN: Okay. Laura Wernick, any?

6 WENDY LEISERSON: No. No further comments. I
7 would agree with my colleagues about the concerns that have
8 been expressed. So.

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

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

16 OLIVIA RATAY: Andrew Plumb?

17 ANDREW PLUMB: I did not have a comment for this.
18 You can -- sorry about that.

19 BRENDAN SULLIVAN: There seems to be nobody else
20 calling in. We are in receipt of communication from Eduardo
21 Berlin.

22 "I support Mr. MacArthur's application for the

1 renovation of his home at Grove Street. I live two doors
2 from him at 267 Grove Street and have reviewed the proposed
3 project sent to me months ago by the applicant.

4 "Kind regards,

5 "Eduardo."

6 There is communication from Amy Nadel -- N-a-d-e-
7 l. "We are writing regarding the variance, Case No. 205192
8 requested by our neighbors, Duncan and Diana MacArthur at
9 255 Grove Street.

10 "They shared their plans with us some weeks ago,
11 and they have responded positively and expeditiously to our
12 questions and concerns, including our concern about the
13 large maple, which will straddle both of our properties. We
14 have no opposition to their plans.

15 "Ben Wilson and Amy Nadel."

16 And that is the sum and substance of any
17 correspondence. All right. So I will close the public
18 comment part. Rob, any comments --

19 ROBERT LINN: No.

20 BRENDAN SULLIVAN: -- regarding what the Board may
21 have said, or --

22 ROBERT LINN: Yes. I mean, I do understand that

1 is a very -- that's a very significant decrease in the
2 setback to the right.

3 But because the -- because the garage I think,
4 right, currently is a detached garage and is only five feet
5 from the property line on that side, it seems unlikely that
6 they would ever -- I mean, they couldn't expect -- if they
7 were to make it a two-car garage, they'd have to attach it
8 to the house so it would be building -- you know, away from
9 our -- from 255's property.

10 They have looked at the this, and the significant
11 comment in their concern was the pool, not the -- the
12 setback was never the concern that I understood, and from my
13 -- from what I was told.

14 BRENDAN SULLIVAN: Okay. And, you know, what
15 about the precedent -- you know, up and down Grove Street?
16 That's only one side of Grove Street; the other side is
17 Belmont, but if -- you know, other people wanted to expand
18 and go to, you know, less than two feet from their property
19 line and then the -- keeps sort of pointing towards 255
20 Grove Street if, you know, the Board granted that and the
21 legal hurdle that we felt they crossed and met, you know,
22 that sort of weighs in some of our decision too is precedent

1 up and down that street.

2 So it's a big ask from that, and I don't know how
3 else they can be -- I think you've been wrestling with this
4 probably for months.

5 ROBERT LINN: Yes.

6 BRENDAN SULLIVAN: And, as Andrea said, you know,
7 you have been accommodating to other comments by abutting
8 properties. Maybe have accommodated it to a certain extent,
9 but it's a big ask, I think, to this Board.

10 DUNCAN MACARTHUR: Can I make a comment as the
11 owner?

12 BRENDAN SULLIVAN: Sure. Yeah. If you introduce
13 yourself for the record.

14 DUNCAN MACARTHUR: Hi. I'm Duncan MacArthur. I'm
15 the owner at 255 Grove Street, and I live on Grove Street in
16 one of two houses since 2006.

17 I would actually say that pretty much everyone
18 along Grove Street would rather have people develop the
19 properties wide as opposed to deep, because of the view
20 situation that Robert brought up earlier.

21 So, you know, I think that, you know, if we don't
22 get this, then we're going to be pushing something further

1 out and it's going to sort of not be as pleasant for the
2 neighbors in 245. Because now, especially the way that
3 house is built, we're going to sort of be more in their
4 sight line.

5 So I guess I would say if you -- I think if you
6 went up and down and asked the owners of people who live in
7 Grove Street, they would -- I wouldn't say applaud, but they
8 would approve this precedent, because I think they'd prefer
9 to have that situation if someone were to be building next
10 to them.

11 BRENDAN SULLIVAN: So what you're saying is that
12 they would probably prefer everything could be front-loaded
13 toward Grove Street, and maintain the existing sight lines
14 toward the golf course?

15 DUNCAN MACARTHUR: Correct. Because a lot of --

16 BRENDAN SULLIVAN: Which I think -- which they
17 probably feel is an enormous amenity to any of those
18 property owners?

19 DUNCAN MACARTHUR: Correct. And I guess it drives
20 people to actually purchase them to begin with. And then
21 the lots are deeper than they are wide, so, you know, and
22 they are 10,000 square foot lots in which you can build up

1 to 50 percent FAR.

2 You know, our house is only like 2500 square feet
3 as it is so, you know, if the precedent is that we're going
4 to stay within current zoning and we're going to build these
5 things out to the max and people do that, then they're going
6 to be pushing out towards the back. And I think that would
7 be unfortunate.

8 BRENDAN SULLIVAN: Okay. Let me send it back to
9 the Board again for any additional comments or vote. Jim,
10 what is your --

11 JIM MONTEVERDE: No further comments; I'm ready
12 for a vote.

13 BRENDAN SULLIVAN: All right. Andrea, any
14 comments or --

15 ANDREA HICKEY: No. Again, I mean the fact that
16 all of the current neighbors or future neighbors may prefer
17 this design over other designs that block views, I hear
18 that. But that really is not this Board's consideration so
19 much as seeing a design that at least attempts to comply
20 with the setback requirements.

21 So at present, I am still not swayed. That's all
22 I have at the moment.

1 BRENDAN SULLIVAN: All right.

2 ROBERT LINN: I'm sorry to interrupt, but is there
3 a setback that would be not compliant, but greater than the
4 1.7 that the Board might find more amenable, you know if it
5 was three feet or something like that?

6 Because I think that there is a opiate where if it
7 gets too thin over there, it's not really useable space, and
8 it has to move out to the back, but it might be able to move
9 in a little bit.

10 BRENDAN SULLIVAN: The proposed deck, why not put
11 that addition in that space? You know, instead of going to
12 the right towards the abutting property is to sort of go
13 back to where you're going to have this proposed deck.

14 I know that it doesn't -- not ideal as far as the
15 yard and the open space and what have you, but is it a
16 tradeoff between usable living space or useable outdoor
17 space?

18 You know, and again, I think that you're
19 infringing also -- there's two setback infringements, both
20 on the left and the right.

21 ROBERT LINN: Mm-hm.

22 BRENDAN SULLIVAN: Correct?

1 ROBERT LINN: Correct, yes.

2 BRENDAN SULLIVAN: Yeah. So right now you're in
3 compliance, and you're going to be out of compliance on two
4 sides.

5 ROBERT LINN: Mm-hm. Yeah. The reason for not
6 moving out where it says, "proposed deck" is that the --
7 that little -- that box that says, "lower level with roof
8 deck" is the glass box, and it's their living space. And
9 that has wonderful views too for the MacArthurs.

10 And so, it would -- by pushing out in front of the
11 proposed deck would not only block views to 245, but it
12 would also impose on their views as well.

13 DUNCAN MACARTHUR: Can I make a comment too?

14 BRENDAN SULLIVAN: Yep.

15 DUNCAN MACARTHUR: 245: I don't know if you've
16 seen the back of it, but I wish we had a -- sort of a site
17 plan of it, but it's -- I don't know if you know what a
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21 o looks like, but it kind of has two additions that
22 come off the back that are angled.

1 And one of them looks straight over our yard. So
2 -- and that's one of the deliberations we had with the
3 neighbors; if we push that back, it's directly in their
4 sight line.

5 ROBERT LINN: Olivia, if you're controlling the
6 slides, on page 5 is the site plan. So you can see on that
7 number 3, those little wings that pop out: the wing on the
8 left is a two-story wing, that little angled piece that does
9 look out over their yard.

10 OLIVIA RATAY: Mm-hm.

11 BRENDAN SULLIVAN: Yeah. I see it. All right.
12 Andrea, anything further to add?

13 ANDREA HICKEY: No. I don't have anything
14 further.

15 BRENDAN SULLIVAN: Okay. Wendy? Comments?

16 WENDY LEISERSON: Yeah. I was just trying to pull
17 up the proposed plans as well. I've long been a fan of Mr.
18 McArthur's designs. So I feel odd trying to second-guess
19 it.

20 But I do wonder if there is any -- on the
21 existing, you know, or the proposed rather design, is there
22 any way to reconfigure the garage and bring it, you know,

1 bring whatever you want to add on closer to the house? I
2 know there's a breezeway on the existing plan, right?

3 ROBERT LINN: Yes, yes.

4 ANDREA HICKEY: Yeah. Is there any way to move
5 things to the left and just reconfigure?

6 ROBERT LINN: I -- there's always -- yes, there's
7 always ways to do things like that. But not without
8 completely kind of disrupting. It would be much less of an
9 addition, as opposed to a kind of gutting and reworking that
10 section of the house, which is something we were trying to
11 avoid. Yes.

12 DAN ANDERSON: And the breezeway is a particular
13 attraction, because that goes all the way through.

14 ANDREA HICKEY: Mm-hm.

15 DAN ANDERSON: So it's not like that -- you know,
16 you sort of walk into that breezeway and you're looking
17 straight out back over the golf course. So if we were to
18 lose that, you know, that's kind of a whole key element to
19 the house.

20 ROBERT LINN: Mm-hm.

21 DAN ANDERSON: From the very beginning when it was
22 first designed.

1 ROBERT LINN: Mm-hm.

2 DAN ANDERSON: So that's kind of an "aha" moment.
3 So it would be a shame to lose that.

4 ROBERT LINN: Right.

5 ANDREA HICKEY: And what's the square footage of
6 the room that you're trying to get?

7 DAN ANDERSON: The overall square footage,
8 including the little dining room addition on the left, is
9 about 938 square feet. So that -- I think it's maybe about
10 600 square feet for the multipurpose area.

11 ANDREA HICKEY: And you have also a proposed shed
12 out there? What's that?

13 DUNCAN MACARTHUR: So the shed was part of the
14 original plan when we had the pool.

15 ANDREA HICKEY: Oh. But you're not doing that.

16 DUNCAN MACARTHUR: That was historical. That's
17 not --

18 ANDREA HICKEY: Okay.

19 DUNCAN MACARTHUR: -- that's not proposed.

20 ANDREA HICKEY: Got it. Okay. Okay. Not being
21 an architect, I think that's all I can ask you at the
22 moment. Thank you.

1 DUNCAN MACARTHUR: Sure.

2 BRENDAN SULLIVAN: Okay.

3 DUNCAN MACARTHUR: Can I just say one more thing?

4 BRENDAN SULLIVAN: Yeah. Identify.

5 DUNCAN MACARTHUR: Sorry, Duncan MacArthur again.

6 BRENDAN SULLIVAN: Yep.

7 DUNCAN MACARTHUR: You know, we went through a lot
8 of effort to sort of come up with this, and I know it's a
9 big ask, but it's -- we only ask because we do think it's
10 best, not just for us, but for each of our neighbors.

11 And I'm not particularly excited that I'm now
12 making my house nonconforming. So I actually think it's a
13 pretty big sacrifice on my part, because once I do this, I'm
14 sort of limited to being able to do anything else to the
15 house in front of the Board or Planning Board or -- you
16 know, sort of -- and we haven't maxed out the capacity of
17 the house, which I have no desire to do.

18 But it wasn't -- it wasn't an easy decision to
19 come to where we are. I do think it's a great design and I
20 don't think we'll be a detriment to the neighborhood. And I
21 think it goes right up against the single-family garage that
22 I also built for the neighbors to the right years ago.

1 So I -- you know, I think sort of once again, just
2 keeping in that line, sort of and if you look at the sight
3 line, you can sort of see that you have this sort of row of
4 houses all going down.

5 So just sort of keeping everything in that sort of
6 along those lines, which is more preferable -- again, I'm
7 repeating myself -- and pushing it out, which is what we
8 would end up having to do.

9 So I think that in general, I can understand the
10 reticence to allow something to go that close to the line,
11 but just taking it case by case, I hope you sort of find it
12 might be appropriate and beneficial to not only me, but to
13 the neighbors to the sides in this case.

14 BRENDAN SULLIVAN: Okay. Where am I -- Laura?
15 I'm sorry, Wendy, have you concluded your --

16 WENDY LEISERSON: Yes, I have. I have concluded -
17 -

18 BRENDAN SULLIVAN: Okay. Laura Wernick, comments?

19 LAURA WERNICK: I am sympathetic to the owner's
20 perspective. And it's really weighing on that which I think
21 is a reasonable request against long-term precedent. So I
22 think I have to stick with the concern about the long-term

1 precedent.

2 If there is some way to adjust it, as Wendy was
3 getting at, that would be great. But I don't -- I don't
4 have any further comment.

5 BRENDAN SULLIVAN: Okay. Well, to Mr. Linn and
6 Mr. MacArthur, reading the tea leaves, you're probably not
7 going to get the four affirmative votes.

8 DUNCAN MACARTHUR: Right.

9 BRENDAN SULLIVAN: And if you -- I can take it to
10 a vote, or you could continue the matter as a case heard;
11 would have to reassemble the same five members and, you
12 know, take another look at this and come back. You may come
13 back with the same plan and just say that's -- this is it,
14 or maybe come back with something else.

15 As far as your original question, Rob, about some
16 magic number of setback, it's -- it's hard to -- for me, I
17 think, looking at it, you know, what is that magic number?
18 Obviously, according to code, we need 10' but a sum of 25'.

19 So, you know, you have 10' on one side, but now
20 you are down to 19' on the other side. So, you know, it's a
21 two-edged sword. You've got noncompliance on both sides.

22 So I don't have any magic number as far as whether

1 three feet is the acceptable? Four feet, five feet, you
2 know? I mean --

3 DUNCAN MACARTHUR: Right. Yes.

4 BRENDAN SULLIVAN: -- you know, what does that --
5 what does that do to the interior space? Okay, you shrink
6 it down three or four feet, what are you left with?

7 DUNCAN MACARTHUR: Yeah.

8 ROBERT LINN: Yes. Yeah, right.

9 DUNCAN MACARTHUR: That's right.

10 BRENDAN SULLIVAN: Unusable space, basically.

11 DUNCAN MACARTHUR: Right.

12 ROBERT LINN: Yep.

13 BRENDAN SULLIVAN: And as far as going back into
14 that proposed deck. I know, you know, I've obviously
15 viewed the property from the back and it's a lovely home,
16 it's a lovely view, and it enjoys a tremendous amenity with
17 the golf course, as well as the abutting properties and all
18 along those properties along it.

19 Anything going to the back, obviously, infringes
20 upon the view and imposes on the other neighbors' views and
21 enjoyment of that amenity, and also because of the
22 topography of the lot, all those lots, makes it challenging.

1 DUNCAN MACARTHUR: Yes.

2 BRENDAN SULLIVAN: You're up at a certain plateau
3 and then all of a sudden, it just falls off greatly down
4 into the golf course, so that --

5 DUNCAN MACARTHUR: Right.

6 BRENDAN SULLIVAN: -- Even though an as-of-right
7 can be done, it does have adverse effects to the adjoining
8 property. So --

9 DUNCAN MACARTHUR: Right.

10 BRENDAN SULLIVAN: But I -- I can take it to a
11 vote, or you can ask for a continuance, and then go back to
12 us.

13 ROBERT LINN: Duncan, do you think we should do a
14 continuance?

15 DUNCAN MACARTHUR: I do.

16 ROBERT LINN: Yeah. Yeah. So I think we would
17 love -- we would request a continuance.

18 BRENDAN SULLIVAN: Okay. We have May 25 open, or
19 June 15?

20 ANDREA HICKEY: Mr. Chair, I am away on May 25.

21 BRENDAN SULLIVAN: All right. So now we're at
22 June 15. Any members of the Board, Jim, Andrea, Wendy or

1 Laura or myself for June 15?

2 JIM MONTEVERDE: I'm good for the fifteenth.

3 BRENDAN SULLIVAN: Okay, so Rob or Duncan, 15?
4 June 15, does that work?

5 ROBERT LINN: Yeah. As far as I know, that works
6 for me.

7 BRENDAN SULLIVAN: All right. Let me make a
8 motion, then, to continue this matter to June 15, 2023 at
9 6:00 p.m. on the condition that the petitioner change the
10 posting sign to reflect the new date of June 15, 2023 and
11 the time at 6:00 p.m.

12 Any new submittals not currently in the file --
13 would be new -- must be in the file by 5:00 p.m. on the
14 Monday prior to the June 15 hearing.

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

17 JIM MONTEVERDE: I agree.

18 BRENDAN SULLIVAN: Andrea Hickey?

19 ANDREA HICKEY: Yes, in favor.

20 BRENDAN SULLIVAN: Wendy Leiserson?

21 WENDY LEISERSON: Yes, in favor.

22 BRENDAN SULLIVAN: Laura Wernick?

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LAURA WERNICK: Yes, in favor.

BRENDAN SULLIVAN: And Brendan Sullivan

[All vote YES]

BRENDAN SULLIVAN: Five affirmative votes; the matter is continued to June 15, 2023.

ROBERT LINN: Thank you.

BRENDAN SULLIVAN: I'm sorry, say Matina is on 130 Cushing Street? All right.

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(6:41 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Andrea Hickey, Laura Wernick, and Matina Williams

BRENDAN SULLIVAN: So we're going to call Case No. 163881 -- 130 Cushing Street. We have myself, Jim Monteverde, Matina, Wendy and Andrea.

LAURA WERNICK: Mr. Chair, would it be possible to call the 401 Concord first?

BRENDAN SULLIVAN: I'm sorry?

LAURA WERNICK: The other case, the Concord?

BRENDAN SULLIVAN: Oh, Concord Avenue?

LAURA WERNICK: Concord Avenue case?

BRENDAN SULLIVAN: Which you thought I would call first?

LAURA WERNICK: That's my last -- yes, because that's my last. That's the only reason I attended this evening.

BRENDAN SULLIVAN: Okay.

LAURA WERNICK: Thank you.

BRENDAN SULLIVAN: My notes are different, Laura, so that's why I'm -- as far as the membership anyhow. All

1 right. So let me call Case No. 207647 -- 401 Concord
2 Avenue. Sitting on this is myself, Jim Monteverde, Andrea
3 Hickey, Laura Wernick and Matina Williams.

4 Okay, 401 Concord Ave. Andrew?

5 ANDREW PLUMB: Hi. Good evening.

6 BRENDAN SULLIVAN: Yes.

7 ANDREW PLUMB: This is Andrew Plumb.

8 BRENDAN SULLIVAN: All right. So since our last
9 meeting, what have you come up with?

10 ANDREW PLUMB: Yes, Thank you, Mr. Chair and
11 members of the Board. So since our last meeting, I have
12 redesigned the proposal that we reviewed, taking into
13 account the comments that were made about the ask for the
14 amount of FAR that we were requesting and comments about,
15 you know, perhaps given the size of the site, you know, a
16 more appropriate approach would be a larger unit and a
17 smaller unit, as opposed to two identical units.

18 And so, what you have before you is a revised
19 design that has done a few things. And to just sort of hit
20 the highlights: the FAR on this proposal before you this
21 evening is 0.65. I think where we were last time was 0.72.

22 And we have also changed this so that the unit mix

1 that we're proposing is a three-bed, three-bath and a two-
2 bed two-bath. In both cases, one of the bedrooms is located
3 in the basement, which is to be a finished space.

4 I think the other thing we were able to do was in
5 reducing -- we've sort of reduced the overall length of the
6 proposal, which pulls the Concord Avenue side basically in
7 line with the abutting two-family residences.

8 And it also pulls a little bit further away from
9 the residence at 8 Corporal Burns, giving a little bit more
10 extra room. I remember one of the Board members had some
11 questions about the amount of space between the driveway and
12 the building in the last round, and that has been increased,
13 and I'm happy to walk you through that.

14 But perhaps a good illustrative drawing to start
15 with is, it's Z2.1. It's on page 12 of the submission. And
16 it shows the new -- there it is. So the red dashed line
17 represents the kind of profile or outline of what we saw
18 last time, and the elevation of the new proposal.

19 And so, you can see how -- a couple of things; one
20 that the volume on the Concord Ave side, which is the right-
21 hand side of the image, where the biggest changes took
22 place, that was by removing six feet of the overall length

1 of the building.

2 And that allowed us to kind of shift back from
3 Concord Avenue, which gives us more open space. But we also
4 -- if you look at the left-hand side, you know, we shifted
5 the building to the right, page right, in order to get a
6 little bit more space on the -- with the neighbor at 8
7 Corporal Burns.

8 The other thing that we did is we changed the
9 maxing of the roof on the -- sorry, the Concord Avenue side,
10 and basically rotated the orientation of the gable and,
11 which we think accomplishes several things in terms of --
12 and here I might ask that we go to Drawing No. -- let's see
13 -- Z2.4 which shows the sort of -- let's give them more --
14 is sort of the proposal in the context of the other houses.

15 And on the top here we see Corporal burns, which
16 has a kind of a mix of at the left-hand side of the page
17 sort of typical two-families, and then a mix of single-
18 families.

19 And so, by turning the roof massing and changing,
20 you know, the fact that there's -- you know, there's sort of
21 a large volume and a smaller volume, we think it does a lot
22 more to kind of relate to the character of the sort of

1 Corporal Burns side.

2 And then if you look at the elevations on the
3 bottom of the page, by turning that roof on Concord Avenue,
4 sort of grabbed the cornice line that's present, whereas
5 last time you were looking at the gable end. So it kind of
6 in a way, you know, matches that.

7 So, you know, one of the difficulties or kind of
8 challenges with this site being on a corner is that to be
9 comfortable in the neighborhood, it kind of wants to work
10 with two different typologies: the two-families on Concord
11 Avenue and the single families on Corporal Burns.

12 And we think that we've kind of arrived at -- with
13 these moves and the kind of change -- the change in the
14 massing and the kind of making it smaller, that it's -- it's
15 actually able to, you know, in an urban way really kind of
16 be a good neighbor to both.

17 And, you know, we took a really hard look at, as
18 you know, you know, to make the project viable financially,
19 this really represents sort of as far as we can go to make
20 it work.

21 But I do think that it's gone a long way to
22 address the concerns that were brought up, at least in the

1 last round from the Board.

2 So that's sort of the high level. I mean, the
3 roof height has been further reduced when the massing
4 changed. We brought it down a little bit more, so it's at
5 33'. Last time it was at 34'.

6 And, you know, the open space has increased.
7 We're still looking for relief on the dimensional
8 requirement. We easily exceed the kind of total square
9 footage with the different types of open space that are
10 required but are looking for some relief on the sort of 15'
11 x 15' square piece.

12 I'm happy to -- if you look at Drawing No. Z0.5,
13 that's the proposed open space drawing, which I've added
14 dimensions to. And you can see that sort of between the
15 parking and the building, that that is now 4'3". I think it
16 was under 3'. It was 2'9" before.

17 And you can see that the sort of main façade of
18 the building is now 19' -- I think 19.6' off of the property
19 line with the 6' porch sort of sitting in that front yard.

20 Let's see. That's I think really the high points
21 of what's different. I'm happy to answer any other
22 questions that the Board has.

1 BRENDAN SULLIVAN: Great. Thank you, Andrew. Let
2 me open it to Board members. Jim Monteverde, any comments
3 or questions?

4 JIM MONTEVERDE: I'd like to thank you for all
5 your efforts and your work to address the comments from the
6 Board from the last presentation. I think it's come a long
7 way, and at the moment I'm feeling rather comfortable with
8 the proposal. So thank you.

9 BRENDAN SULLIVAN: Andrea Hickey, any comments?

10 ANDREA HICKEY: I have no comments at this time.
11 Thank you, Mr. Chair.

12 BRENDAN SULLIVAN: Okay. Laura?

13 LAURA WERNICK: I feel the same way: that the
14 improvements are significant, and I greatly appreciate what
15 they've done, and I believe it makes a difference to me.

16 BRENDAN SULLIVAN: And Matina Williams, any
17 comments, questions?

18 MATINA WILLIAMS: No real comments. Thank you for
19 your effort, again, and making the changes.

20 BRENDAN SULLIVAN: Let me open it to -- and I have
21 no questions or comments at this time, other than I can echo
22 what the Board members have said. Let me open it to public

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

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

7 OLIVIA RATAY: Judy Bacher?

8 JUDY BACHER: Yes, hi. This is Judy Bacher. I
9 live at 8 Corporal Burns Road, an abutter to the 401 Concord
10 Road property. And I think that this is a wonderful
11 solution to all of the issues that were raised from the very
12 beginning. And I fully support this design.

13 BRENDAN SULLIVAN: Thank you for calling in.
14 Appreciate that. That appears to be the only caller, so I
15 will close the public comment portion, send it back to you.
16 Andrew, anything else to add or -- you don't have to, if you
17 don't feel it necessary?

18 ANDREW PLUMB: I don't feel like I have any
19 further comments.

20 BRENDAN SULLIVAN: I will make a comment then. I
21 think that actually I supported the original one last time.
22 But I think this is a far better plan, and I think it

1 addresses some of the concerns that the Board had. And I
2 applaud you for your efforts, even though we have chipped
3 away at it. And hopefully it is still doable. Because I
4 think you guys do pretty good stuff. So anyhow, I'll leave
5 it at that.

6 Ready for a motion, Board?

7 ANDREA HICKEY: Ready.

8 BRENDAN SULLIVAN: Oh, sorry. I thought we were
9 all done. Okay. Yep. Another person calling in?

10 NICOLA MOORE: Yes. This is Nicola Moore. I'm
11 also an abutter. I'm at 395 Concord Avenue. And I agree; I
12 think that Andrew has gone above and beyond. And I think it
13 will work very well in the neighborhood and it will -- you
14 know, it will be a nice house to be next to.

15 So I couldn't figure out how to raise my hand, so.

16 BRENDAN SULLIVAN: Okay. All right.

17 NICOLA MOORE: But yeah, so the -- I'm the other
18 abutter. And I fully support it.

19 BRENDAN SULLIVAN: Great. Well, thank you for
20 raising your hand and calling in. And that, then, concludes
21 the public comment. So let me make a motion, then, to grant
22 the relief requested, seeking relief under 5.1, which is the

1 Table of Dimensional Requirements and 8.223, which requires
2 a variance.

3 I make the motion, then, that a literal
4 enforcement of the provisions of the ordinance would involve
5 a substantial hardship to the petitioner because it would
6 preclude the petitioner from building an adequate and
7 reasonable structure on two residential units on the site.

8 That a literal enforcement would only allow a
9 single-family on the site, which could be of sort of a
10 dimension that may not be easily markable, given the cost I
11 think of acquisition, development cost, and as such would be
12 out of the norm for the neighborhood.

13 The Board finds that the hardship is owing to the
14 unusual shape of the lot; also the fact that it is
15 encumbered by being on two -- having two front yard
16 setbacks, Corporal Burns and also Concord Avenue, which
17 severely limits the amount of structure having to comply
18 with the front yard setback...

19 And also the fact that the shape of the lots at
20 the corner there is curved and reduces greatly any amount of
21 land that would be on a rectangular-shaped lot, and that
22 this particular lot is unique to the neighborhood.

1 The Board finds that desirable relief may be
2 granted without substantial detriment to the public good.
3 The Board notes the letters of support from the neighbors,
4 the fact that the developer is taking a derelict building
5 that has not been properly maintained, it's an eyesore to
6 the community, and putting in a structure that is of
7 adequate size to house two reasonable units.

8 The Board finds that desirable relief may be
9 granted without substantial detriment to the public good or
10 nullifying or substantially derogating from the intent and
11 purpose of the ordinance.

12 The Board finds that under Section 1.30 of the
13 ordinance, that the ordinance empowers the Board to
14 encourage the most rational use of land throughout the city
15 and the protection of residential neighbors from
16 incompatible activities or potential designs.

17 And that this proposed project meets that
18 objective to provide two adequate residential units, which
19 adds to the housing stock at a fair market point and is in
20 general harmony with the surrounding neighborhood.

21 On the motion, then, to grant the relief as per
22 the request, Jim Monteverde?

1 JIM MONTEVERDE: In favor.

2 BRENDAN SULLIVAN: Matina Williams?

3 MATINA WILLIAMS: In favor.

4 BRENDAN SULLIVAN: Andrea Hickey?

5 ANDREA HICKEY: Yes, in favor.

6 BRENDAN SULLIVAN: Laura Wernick?

7 [Pause]

8 Laura?

9 LAURA WERNICK: Sorry. Laura Wernick yes, in
10 favor.

11 BRENDAN SULLIVAN: And Brendan Sullivan.

12 [All vote YES]

13 BRENDAN SULLIVAN: Also, one of the other
14 conditions is that the work comply with the revised plans,
15 supporting statements, dimensional forms initialed by the
16 Chair.

17 The variance is granted. Thank you, Andrew.

18 ANDREW PLUMB: Thank you very much.

19 BRENDAN SULLIVAN: Good luck. Good luck with it.

20 ANDREW PLUMB: Thank you.

21 LAURA WERNICK: So Mr. Chair, I'm leaving for the
22 rest of the evening.

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BRENDAN SULLIVAN: Yes. Thank you. Thank you.

LAURA WERNICK: Thank you. Goodnight.

BRENDAN SULLIVAN: Goodnight, Laura.

* * * * *

(6:56 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Matina Williams, Wendy Leiserson, and Andrea Hickey

BRENDAN SULLIVAN: Let me call Case No. 163881 -- 130 Cushing Street. Mr. McCarthy?

GREG MCCARTHY: Good evening, members of the Board.

BRENDAN SULLIVAN: Okay. Before you start, Jason Marshall was one of the original members who sat on this. He is no longer a member of the board. As such, Andrea Hickey has complied with a requirement to read all of the transcripts, review the previous documents in order to be able to sit.

Let me enter into the record a letter dated April 12, 2023 to myself as Chair of the Board of Zoning Appeal regarding 130 Cushing Street, BZA-163881.

"Dear Chairperson Sullivan, this is to certify that I have reviewed the Cambridge Board of Zoning Appeal file with respect to the above-referenced case, which files include without limitation the transcripts from prior

1 proceedings, applications, plans and correspondence.

2 "Respectfully, Andrea Hickey."

3 And as such, she is now duly appointed to sit on
4 this continued case. All right. So Mr. McCarthy, you may
5 proceed.

6 GREG MCCARTHY: Good evening, members of the
7 Board. Thank you for hearing me tonight. I'm here about
8 130 Cushing Street. What we have is an existing four-unit
9 building that we're doing a renovation on.

10 We're here tonight for a few violations, one of
11 them being floor area ratio. We're increasing the square
12 footage by 0.3 square feet, so it's not a very big squaring
13 off the building and filling in space.

14 We also have violations; we're proposing to put
15 window wells in on the side and the front of the building.
16 And we have violations for the set front and side setbacks
17 for those.

18 And then the biggest issue that we're here for
19 tonight is the open space. The biggest point of contention
20 last time we were here was the amount of open space. So we
21 made some revisions there and improved the amount of open
22 space for the building.

1 BRENDAN SULLIVAN: Okay. If I could ask Olivia to
2 pull up Sheet A1.0, which shows the open space? You're
3 providing four parking spaces, even though there is no
4 requirement now on the number of parking spaces?

5 GREG MCCARTHY: Correct.

6 BRENDAN SULLIVAN: You don't have to -- yeah,
7 okay.

8 GREG MCCARTHY: Yeah. The reason that we're
9 really trying to get the parking for these units is the cost
10 of the renovation in this building is very exorbitant. I'm,
11 it's a very large building, it's a lot to landscape the
12 exterior, the interior. It's a very, very big renovation.

13 And we want it to look as nice as possible. But
14 it's going to be very hard to make it financially feasible
15 if we're not -- you know, if we're not able to provide
16 parking with those units. It will make it more difficult,
17 especially right now.

18 So we're just -- you know, we're really, you know,
19 trying to make it work and trying to figure out which
20 schemes work.

21 The last time we came it was because of the way
22 that the open space is measured. You know, we still had a

1 decent amount of yard space, but the open space came out as
2 0 because it wasn't fitting the 15' length required to count
3 as open space.

4 And we've made a pretty substantial cutback here
5 on the size and increased the open space a decent amount --
6 not as much as we had initially thought, because we still
7 had thought that we had -- you know, had more open space
8 that wasn't 15' in both directions.

9 But that's kind of the scheme of what we've
10 proposed. We went from 0 to 16 percent open space on the
11 proposed plans.

12 BRENDAN SULLIVAN: Okay. Olivia, could you pull
13 up A2.2? Notice that the dormers have also been reduced.
14 It may have been part of the original -- not part of the
15 original, but maybe the last one. And those have been
16 compliant?

17 GREG MCCARTHY: Yes, yes.

18 BRENDAN SULLIVAN: Okay. All right. Anything
19 else to add?

20 GREG MCCARTHY: I guess on the window wells; I
21 would mention that we have them pretty well hidden. The
22 side ones you can't see from the street, and the ones in the

1 front we have planters around, really to kind of -- you
2 know, we're going to be doing an extensive landscaping on
3 the property to kind of really make it look nice, just like
4 the exterior.

5 So we're going to be putting planters in front of
6 those window wells, just to kind of shade it and some bushes
7 to make sure it's still very aesthetically pleasing. You
8 won't even -- hopefully won't even notice them at all.

9 BRENDAN SULLIVAN: All right. Let me open it up
10 to the Board for discussion. Jim Monteverde, any questions
11 or comments?

12 JIM MONTEVERDE: No questions, thank you.

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

15 MATINA WILLIAMS: No questions at this time.

16 BRENDAN SULLIVAN: Wendy Leiserson, questions or
17 comments?

18 WENDY LEISERSON: No questions. No. Not at this
19 time.

20 BRENDAN SULLIVAN: Okay. Andrea Hickey?

21 ANDREA HICKEY: I just wanted to confirm that I've
22 read the information, the most updated information in the

1 file, correct. So regarding usable open space, sort of the
2 existing is 39 and now what's proposed is 16 percent, is
3 that accurate?

4 GREG MCCARTHY: Yes.

5 ANDREA HICKEY: All right. That still troubles
6 me, but I am eager to hear what my other colleagues have to
7 say about open space versus parking spaces that are no
8 longer required.

9 I would, frankly, prefer to see more open space
10 and less parking, given the fact that there's such a
11 dramatic decrease in the usable open space from the existing
12 conditions to the requested conditions.

13 So that's really all I have at the moment, Mr.
14 Chair.

15 WENDY LEISERSON: Mr. Chair, if I might just
16 respond to Andrea? I did go and walk around the property
17 today. And I still do share Andrea's concern, given that
18 this is four families with less open space there.

19 I did ask some of neighbors who I saw randomly on
20 the street about parking. Parking is a problem during the
21 school day, because it is right next to the school. But
22 they said outside of school hours, you know, anecdotally

1 that they were saying that this is not a problem outside of
2 school hours.

3 So kind of torn about seeing a need for parking
4 during the daytime, but I do think that this -- the area
5 also of the open space, just so you know: I don't know if
6 you can understand this from the diagrams, but it's raised
7 above the school yard, so the back of the lot is adjacent to
8 the school yard and is several feet higher. And so, that's
9 the situation of it, if that's helpful to anyone.

10 And I think it would be a lovely property with the
11 full back yard. I'm not sure I see that as a hindrance to
12 selling it, though I'm sympathetic to the builders'
13 concerns.

14 BRENDAN SULLIVAN: Okay. I guess my thought on
15 it, and I know Cushing Street very well -- is there are two
16 things that if you could get as many cars off the street, I
17 think it helps. It helps snow days, it helps on street
18 cleaning days, which I guess they're not doing anymore, but
19 still. If you don't move your car, you still get ticketed,
20 even though you may not get towed.

21 And then the other side of it is the marketing of
22 it. And, you know, being in the business and dealing with

1 renovation projects and condos and all that other stuff that
2 the cost -- and I think Mr. McCarthy has alluded to this --
3 is enormous.

4 And it can be -- you know, you cross your fingers
5 and hope that you have figured this out right, and that you
6 really haven't stumbled into some really bad conditions.

7 This is an old building, a rental I think probably
8 since its inception. I would say that it's very substandard
9 condition, and that it was probably minimally maintained
10 over the years, and as such that to come in and provide
11 quality housing up to code, up to today's standards and
12 essentially beyond with new mechanical systems and all of
13 the other things that come together with it is enormously
14 expensive.

15 And that to provide an off-street parking space
16 makes it far more salable, marketable and attractive to
17 somebody who is looking at the space to buy.

18 So yes, outdoor space is desirable, is -- you
19 know, very nice. But if you ask somebody who is a
20 prospective buyer -- sort of me editorializing here -- as to
21 would they like to have, you know, a 10 x 20 more open space
22 screened area or a parking space, I think any prospective

1 buyer would probably say they'd really rather have a place
2 to park their car.

3 And I think that the neighborhood yes -- and
4 again, I've done work on Cushing Street -- and at the time
5 it can be somewhat challenging to find and place to pull
6 over and park the car or truck.

7 So that's sort of my take on it, and I would
8 support the plan that is before us, because I think that the
9 building needs to be totally redone, and that there is a
10 cost factor to that, and that I think that the reduction of
11 open space, yes, I think is a necessary part of that in
12 order to bring this project, this home, this building to
13 successful completion.

14 So yeah. Let me open it to public comment. Any
15 member of the public who wishes to speak should now click
16 the button that says, "Participants," and then click the
17 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.

20 [Pause]

21 There appears to be nobody calling in and we have
22 no further correspondence from anybody regarding this latest

1 plan. So I will close the public comments portion of it and
2 send it back to Mr. McCarthy for any comment or rebuttal in
3 regard to what you may have heard from members of the Board.

4 GREG MCCARTHY: Sure. Yeah, thank you. I
5 definitely understand the concerns. I think, you know,
6 we've been working on this. I think this is the fourth time
7 we've been here. We've made a lot of sacrifices from the
8 initial proposed plan.

9 This would be one that would be -- it would be
10 very, very difficult to -- to make this work financially
11 without the parking, unfortunately. It -- you know, and I
12 hate it, but it is what it is. I'm, it really is the
13 situation.

14 And it is kind of a unique situation where this
15 isn't close to public transportation. If, you know, a lot
16 of people ride bikes, but a lot of people take the train as
17 well, and it would be quite a walk to the closest train from
18 here.

19 So it's -- it's not that it's not accessible, it
20 is. But, you know, it's accessible to public
21 transportation. But, you know, we're not talking about a
22 property that's within a quarter or a half a mile from the

1 train, it's -- you know, it's a pretty decent, you know,
2 walk from a public transportation are.

3 And I think, you know, just to harp on it I really
4 like hate saying it or saying anything about the financial
5 when it comes to, you know, transforming a home, but it
6 would be very, very difficult to make this work without the
7 parking for each unit specifically in this location as well.

8 BRENDAN SULLIVAN: Okay. Any member of the Board
9 wish to chime in any further at all or comments? Jim,
10 Matina, Andrea, Wendy, no comments or anything?

11 WENDY LEISERSON: I would like to hear Andrea's
12 thoughts, now that she's heard the testimony regarding the
13 parking situation.

14 ANDREA HICKEY: All right, well, Mr. Chair I
15 appreciate your commentary, and I understand that anyone
16 paying a lot of money to buy an essentially new residential
17 condo would like to have parking. I hear you and understand
18 that the seller is motivated to include parking, because
19 that helps to sell the units.

20 But I'm not sure that those sort of private
21 motivations overrule what the City demands we look at, which
22 is that parking is not required by the City, but open space

1 does have requirements.

2 So are we saying if we approve this that we don't
3 care that the City has now done away with the parking
4 requirements, and we don't care that the City has open space
5 requirements? I mean, these requirements are there for a
6 reason.

7 And in my mind, that reason is not to make these
8 units desirable for sale, and not to make them more
9 marketable for sale; it's the community and their interests
10 that really is what I'm looking at.

11 And again, I'm open to hear my colleagues. I'm
12 not 100 percent decided. But market conditions, being able
13 to sell these units for top dollar and for the units to be
14 desirable to buyers, those really are not my concerns. My
15 concerns are enforcing the ordinance and making reasonable
16 sort of -- bending in a reasonable way where the ask is
17 reasonable.

18 BRENDAN SULLIVAN: Okay. Wendy, does that
19 enlighten?

20 WENDY LEISERSON: Yeah. I think --

21 BRENDAN SULLIVAN: Very difficult.

22 WENDY LEISERSON: Sorry, Mr. Chair, go ahead.

1 BRENDAN SULLIVAN: Very difficult to disagree with
2 Andrea Hickey's reasoning. I just -- and I think you're
3 right, Andrea, that it is somewhat of a tradeoff, and that
4 the City is asking us to weigh an awful lot of things. They
5 have reduced the parking requirement and because I think
6 they are encouraging more building, and more building equals
7 more residential units.

8 Now, does that sacrifice open space? It may. But
9 to what extent. I think -- am I reading you that this is an
10 extreme deviation from the open space requirements?

11 ANDREA HICKEY: Well, it is.

12 BRENDAN SULLIVAN: Okay. No, that's -- and I
13 think that's -- and I can understand that.

14 ANDREA HICKEY: Unless someone can convince me
15 otherwise.

16 BRENDAN SULLIVAN: Right.

17 ANDREA HICKEY: I'm still struggling with this. I
18 mean, I appreciate the petitioners having spent so much time
19 kind of scaling back and hearing what the Board had to say
20 about the structure. But I just don't see that there's been
21 any attempt to sort of hear us about the open space.

22 Wendy, I'm eager to hear your rapidly as well.

1 WENDY LEISERSON: I share Andrea's point of view.
2 And I do feel, you know, it's not an easy decision. But
3 when I looked at what that patch of open space really looks
4 like in real life, it seems very tiny for a house of this
5 scale.

6 And I respectfully disagree with you, Mr. Chair,
7 about for me I value open space as a buyer more than I do
8 parking, as long as parking on street is not completely out
9 of the question.

10 And for the record, I did have to park around the
11 corner from the house when I went to look at it during
12 school hours today. But, like I said, the neighbors said
13 that after school hours when most people would be coming and
14 going to work -- from work -- that there is parking.

15 And I also think that this is an extremely long
16 driveway here, which, you know, tandem parking I don't know
17 if that's possible here. You know, I haven't looked at the
18 figures closely enough, but it's a long driveway for getting
19 off the street during snow emergencies; that's for sure. So
20 that's doesn't concern me.

21 But I think Andrea's reasoning is impeccable in
22 terms of what our duty is, which is not to substitute our

1 policy preferences for what the City has expressed in its
2 ordinance.

3 BRENDAN SULLIVAN: Okay. Well, there's two things
4 we can either do here: We can either take it to a vote and
5 Greg, it appears that you're not going to get the four
6 affirmative votes for the plan that is currently before us.

7 The alternative would be, again, to continue this
8 matter and to -- and I think the only way to revise this
9 would be to eliminate two of the parking spaces in order to
10 bring the open space up to publicly accessible -- acceptable
11 level, which then two of the units may have parking, two of
12 the units may not have parking, which is going to impact it
13 accordingly.

14 I --

15 GREG MCCARTHY: I appreciate the offer. I think
16 we're -- we're -- we're not going to -- we're not going to --
17 - we're just going to probably leave it as is. And we can't
18 -- we can't do the renovation. This was, like, the very
19 last way we could have pulled off this construction.

20 The cost of the construction from this 6500
21 square-foot building is exorbitant. So we're going to just
22 have to probably leave it as is and stick with, like, a

1 rental situation and just go a different path with it,
2 unfortunately. So.

3 BRENDAN SULLIVAN: All right.

4 GREG MCCARTHY: Appreciate your time.

5 BRENDAN SULLIVAN: All right. Well, members of
6 the Board, should I take it to a vote then?

7 GREG MCCARTHY: Well, I also don't think this is
8 very fair, because we've made every attempt to address every
9 single concern that the Board has had.

10 And this is a huge improvement over the last one,
11 a huge improvement. The actual parking spots take up about,
12 I don't know 7 percent of the open space. But because of
13 the way that open space is measured, it takes up more of
14 useable open space.

15 So I -- we've addressed about 30 -- every single
16 concern that we've addressed before the Board to come back
17 here for a fourth time and improve the open space. I just --
18 -- I don't understand why we come to the Board if -- because
19 we understand that it's a variance that we're asking for
20 here. I'm just -- I don't understand.

21 BRENDAN SULLIVAN: All right. Jim?

22 JIM MONTEVERDE: Olivia, can you go back to the

1 drawings submitted? Is there a locus plan, one that
2 typically identifies the property and all the immediate
3 neighbors, folks they've reached out to? Something that
4 shows more of the neighborhood?

5 ANDREA HICKEY: That might be -- that might be the
6 assessor's plan, Jim. So the plot plan, the certified plot
7 plan just shows the --

8 JIM MONTEVERDE: Oh. Oh there you go, there you
9 go, there you go.

10 ANDREA HICKEY: Yeah, assessors.

11 JIM MONTEVERDE: So part of the --

12 GREG MCCARTHY: I guess what I was just trying to
13 say is that I would love to spend all this money to renovate
14 it, but we can't do it without the parking for the unit.

15 JIM MONTEVERDE: No.

16 GREG MCCARTHY: It's a risk anyway, and, you know,
17 it's --

18 JIM MONTEVERDE: Mr. McCarthy, just give me a
19 second.

20 GREG MCCARTHY: Sure.

21 JIM MONTEVERDE: So I've -- my kids went to the
22 Haggerty School. I have property that doesn't have open

1 space. And I took advantage of their play yard, which I
2 understand the concerns about the private outdoor space, I'm
3 just trying to look at it in the perspective of where
4 exactly this is, and what else is around it? What other
5 opportunities are around for outdoor space?

6 And there is the play yard -- it's all paved --
7 behind or diagonally behind the Haggerty School. But I
8 think as I played wiffleball there. But I think it's a bad
9 setup as a basketball court, et cetera.

10 So there's open space there. I think in the --
11 what's not showing in the aerial photographs, further to the
12 right on Huron Avenue --

13 GREG MCCARTHY: Mr. Chair, what's the name of the
14 --

15 BRENDAN SULLIVAN: Glacken.

16 GREG MCCARTHY: Glacken?

17 JIM MONTEVERDE: It's Glacken Field.

18 BRENDAN SULLIVAN: At the end of Cushing, right?

19 JIM MONTEVERDE: Which I've taken my kids to play
20 in as well. If the fountain still exists and the play
21 yard's there, there's play space.

22 Those if it's family housing and I think those

1 amenities are in that neighborhood -- specifically those
2 too, would certainly be usable for and help families, where
3 I could feel comfortable that the amount of private open
4 space may be less than the ordinance requires. But I could
5 be comfortable allowing that, knowing what the neighborhood
6 amenities are.

7 The other piece if I look at that driveway, I know
8 my kids would have been out there in hot wheels all day
9 long, which unfortunately doesn't count as outdoor open
10 space. You could certainly use it as play space.

11 So I think that the lot itself and the adjacent
12 amenities have some features that are positive that make me
13 comfortable about the more parking spaces and the smaller
14 amount of open space on the lot. That's my comment.

15 WENDY LEISERSON: Thank you, Jim, for that. I
16 think that that was a relevant contribution to the
17 discussion.

18 I do have another question for you and for all
19 members of the Board, I guess, which is with regard to the
20 private open space requirement, and the way it's measured, I
21 mean, I think part of the requirement is not just to allow
22 recreational space, but also in terms of how green the city

1 is and the cooling effect of plantings.

2 And so, I would like to get your perspectives on
3 how much it doesn't quite measure into yard space per se of
4 the lot is going to be green from that policy concern of the
5 City's?

6 Was that clear, my question?

7 JIM MONTEVERDE: Yeah. If I can respond? When I
8 looked at the floor plan that was on the screen before and
9 the site plan, the planting around the perimeter, that made
10 me comfortable that it maintains -- the neighborhood, again,
11 from the aerial photograph is fairly green for as dense as
12 the neighborhood is. And this kind of -- this -- trying to
13 maintain that.

14 So I was comfortable that it had enough open space
15 that appears planted, not hardscape, with trees, with shrubs
16 in it, kind of achieves that goal.

17 WENDY LEISERSON: And what's the driveway
18 substance going to be? Its permeable, is that correct?

19 GREG MCCARTHY: Yes.

20 WENDY LEISERSON: Andrea, your turn?

21 GREG MCCARTHY: I think it's -- the asphalt on the
22 proposed but it can definitely be permeable. Oh, no, it's

1 permeable. My apologies.

2 ANDREA HICKEY: So if I could ask Mr. McCarthy, so
3 on the landscape plan that we have up here, at the very rear
4 private open space 1058 square feet, what exactly -- is that
5 going to be a grassy area?

6 GREG MCCARTHY: Yeah, it's going to -- it's going
7 to be all grass. The exterior is going to be bushes and
8 trees, and it's going to come all the way up the side of the
9 house, and then swing around and come up these parking
10 spots.

11 So where the driveway ends and swings around the
12 parking spots here would be grass, and then the rest of the
13 open space would be grass as well.

14 ANDREA HICKEY: I sort of got lost as the plans --

15 GREG MCCARTHY: Sorry.

16 ANDREA HICKEY: -- moving around. So I --

17 GREG MCCARTHY: Essentially --

18 ANDREA HICKEY: -- if you could just run through
19 that with me again, my apologies.

20 GREG MCCARTHY: Yeah. So essentially everything
21 but the edges where the bush plantings and the trees are
22 going to be is going to be grass.

1 So to the right of the two 7.5' x 16' spaces is
2 grass. The whole left corner is grass. To the left of the
3 8.5' spots is grass. And then grass right up to the window
4 well and beyond it.

5 ANDREA HICKEY: All right. Well, Mr. Monteverde
6 has swayed me a bit. If I were to consider approving this,
7 I would want that grass sort of shown as such on the plan,
8 and for you to be required to make those areas grassy.
9 Because I can't tell from this plan what was intended for
10 those spaces. I may be reading it wrong.

11 GREG MCCARTHY: Yeah. No, absolutely. We can --
12 we'd definitely be happy to do that.

13 ANDREA HICKEY: Yeah. Mr. Chair, was there any
14 sort of one in the public that wanted to comment? Because I
15 would also be very interested in hearing from neighbors.

16 BRENDAN SULLIVAN: Way back, I think -- I'd have
17 to go back through the -- there was some comment that the
18 original plan may have been a little bit much. Because
19 there was more units that the dormers were entirely filled
20 the entire roof.

21 ANDREA HICKEY: Right. I did review those sort of
22 original plans and comments, but --

1 BRENDAN SULLIVAN: Yeah. And that was for the
2 original plan. It has gone through many alliterations since
3 then. And in response to those comments and a couple of
4 different owners or a different owner, it has been scaled
5 back dramatically.

6 ANDREA HICKEY: Mm-hm.

7 BRENDAN SULLIVAN: I think there was one --
8 actually maybe a call-in. I think I'd have to get a bunch
9 of papers here that -- that was my take on it; that it was a
10 bit of an overbuild initially, I think, and it has been
11 scaled back dramatically in response to -- I think there was
12 only one public comment. And I think in response to the
13 Board's comments also about the dormer and some of the open
14 space.

15 And I think the reduction of the number of
16 bedrooms also. So --

17 ANDREA HICKEY: Right.

18 BRENDAN SULLIVAN: Yep. And I think if we could
19 post the condition that the private open space be grass area
20 and be maintained as such and in perpetuity in part of the
21 condo documents.

22 ANDREA HICKEY: Right. But I wasn't just that

1 space that Mr. McCarthy has represented with the grassy; it
2 also is sort of alone. I think this -- if I -- I think
3 along the left side of the house as well?

4 GREG MCCARTHY: Yep.

5 BRENDAN SULLIVAN: So that would be a landscaped
6 area, not hardscape?

7 GREG MCCARTHY: Correct.

8 ANDREA HICKEY: It would be a grassy area, right.

9 BRENDAN SULLIVAN: Yeah. Maybe --

10 ANDREA HICKEY: And same in the front.

11 BRENDAN SULLIVAN: May be difficult to maintain,
12 but it leaves it in its inception.

13 GREG MCCARTHY: It's what it is now, so it will be
14 easy to, you know, just fix up and clean up.

15 WENDY LEISERSON: And so, on this diagram where we
16 see grass in the front interspersed by -- what is that
17 interspersed by? Is that going to be all grass instead of
18 whatever's breaking up the grass there?

19 GREG MCCARTHY: So right through the middle is
20 permeable pavers. And the left and the right are as well,
21 but those can be grass as well. That can be grass right up
22 to the --

1 WENDY LEISERSON: I think what you're hearing from
2 us is we want to maximize the grass coverage and minimize
3 anything that is not naturally growing in the ground.

4 GREG MCCARTHY: Yeah. Absolutely.

5 BRENDAN SULLIVAN: Okay. Do we have some
6 consistence -- consensus? Members of the Board for a
7 motion? I would just like to see -- this building has been
8 just languishing, in dire need of refurbishing, repurposing.

9 And I think the neighbors -- I think that was one
10 of the other comments, Andrea, is that somebody said we just
11 want this building done. It's been an eyesore in the
12 neighborhood, and it needs to be, you know, refurbished,
13 repurposed. And it's going to take a whole lot of money to
14 do that.

15 I think the plan before us is doable, and I think
16 it's a fair and reasonable request. So do we have a
17 consensus for the members of the Board to make a motion with
18 the condition that the areas that are designated private
19 open space be grass?

20 That the area in front obviously be grass, and the
21 area to the left side be grass, and that the only paved area
22 would be where the designed asphalt pavement, and that the

1 proposed parking space be permeable area? Do we have a
2 consensus on that?

3 ANDREA HICKEY: The driveway is asphalt or
4 permeable? I didn't understand that.

5 JIM MONTEVERDE: Permeable.

6 ANDREA HICKEY: Okay. Jim, are you trying to say
7 something?

8 JIM MONTEVERDE: No. Sorry.

9 ANDREA HICKEY: Okay.

10 BRENDAN SULLIVAN: Okay. Can I make a motion?
11 Andrea? Wendy?

12 ANDREA HICKEY: I'm going to hold my --

13 BRENDAN SULLIVAN: Matina?

14 ANDREA HICKEY: -- and say yes. Yes.

15 BRENDAN SULLIVAN: Okay. Matina, anything else to
16 chime in on?

17 [Pause]

18 You're on mute, Matina. You'll have to unmute.

19 [Pause]

20 Matina? Any other comments?

21 MATINA WILLIAMS: I'm sorry. It just wouldn't
22 come off mute.

1 BRENDAN SULLIVAN: Okay.

2 MATINA WILLIAMS: I've been trying to stay stuff.
3 But I agree, I was, you know, being swayed back and forth,
4 but I'm ready for a vote.

5 BRENDAN SULLIVAN: Okay. Thank you.

6 MATINA WILLIAMS: Thank you.

7 BRENDAN SULLIVAN: Let me make a motion, then, to
8 grant the relief requested, as per the plan presented dated,
9 stamped in April 10, 2023, initialed by the Chair on the
10 condition that the work comply with the revised drawings,
11 supporting statements and also dimensional form as
12 submitted.

13 And also with the condition that the area as
14 designated open space -- could be a grassed area, the area
15 along the left side of the building be grassed area, which
16 is now brown, basically. There are some window wells there,
17 obviously, it cannot be grass. And that the area in front
18 be grass.

19 And that the parking area be permeable. Is that
20 correct, Mr. McCarthy?

21 GREG MCCARTHY: Yes.

22 BRENDAN SULLIVAN: Okay. The Board finds that a

1 literal enforcement of the provisions of the ordinance would
2 involve a substantial hardship to the petitioner because it
3 would severely limit the ability of the petitioner to
4 refurbish and repurpose this building.

5 The Board finds that this building has fallen into
6 great disrepair. It's an eyesore in the neighborhood, and
7 its rehabilitation would be a welcome addition to the
8 neighborhood and an asset to the nation -- to the community,
9 I'm sorry.

10 The Board finds that the hardship is owing to the
11 size and shape of the building that is located on a fairly
12 narrow lot, and as such precedes the current zoning, and
13 that the Board is in -- the location is encumbered by the
14 existing ordinance, which severely limits any addition of
15 this particular nature, of this particular circumstance that
16 is before us: That it will provide four quality housing
17 units, which is much-needed in the city.

18 The Board finds that desirable relief may be
19 granted without substantial detriment to the public good,
20 because it will result in the renovation of a four-family
21 structure that has fallen into great disrepair. And that
22 the surrounding properties will benefit greatly by an

1 improved structure.

2 Also that desirable relief may be granted without
3 nullifying or substantially derogating from the intent and
4 purpose of the ordinance to allow for reasonable
5 development, and to provide quality housing for citizens of
6 the city.

7 The Board notes that the conditions regarding the
8 grassed areas as a condition of granting of this relief.

9 On the motion, then, to grant the relief as
10 stated, Jim Monteverde?

11 JIM MONTEVERDE: In favor.

12 BRENDAN SULLIVAN: Matina Williams?

13 MATINA WILLIAMS: In favor.

14 JIM MONTEVERDE: Andrea Hickey?

15 ANDREA HICKEY: Yes, in favor, but with one sort
16 of comment.

17 Mr. Chair, can I ask that you hand mark up the
18 plan that you would be initialing to show those landscaping
19 changes? To me, those are really the only reasons why I'm
20 approving this plan. And I want to make sure that nothing
21 falls through the cracks with respect to the plan in the
22 file and our oral sort of requirements.

1 BRENDAN SULLIVAN: Yes. I can mark up the
2 existing one. Would that suffice, or would you like Mr.
3 McCarthy to submit a new --

4 ANDREA HICKEY: Yep.

5 BRENDAN SULLIVAN: -- site plan?

6 ANDREA HICKEY: No, I don't think a new plan is
7 necessary. I think if, Mr. Chair, if you'd be willing to
8 just mark up sort of grass area on the plan that you're
9 approving, that would really allay any fear that I have that
10 our sort of deliberations could fall through the cracks
11 regarding the grass.

12 BRENDAN SULLIVAN: Okay. The plan, the hard copy,
13 actually shows the areas that are sort of private open space
14 and the area down along the left side of the building -- say
15 the window wells as colored in green. So I am marking that
16 up as grass, and the area shown in green will be noted as
17 equating to a grassed area.

18 ANDREA HICKEY: That is great. I can't see the
19 green on this end, but I --

20 BRENDAN SULLIVAN: Yeah, I know. It doesn't show
21 up on the plan, unfortunately. It gets diluted. But --

22 ANDREA HICKEY: Right. But you'd also need to

1 mark up along the Cushing Street ground where it's showing
2 paved now that will be grass. If -- I believe that's what
3 Mr. McCarthy --

4 GREG MCCARTHY: Yeah. To the left and to the
5 right of the 190 -- it says 195 square feet of grass.

6 ANDREA HICKEY: Right. And then that middle strip
7 could remain. Is that something --

8 GREG MCCARTHY: That's --

9 MATINA WILLIAMS: Hello?

10 GREG MCCARTHY: Can you hear me?

11 ANDREA HICKEY: Yes.

12 GREG MCCARTHY: So yeah, the middle one is the
13 walkway right up --

14 ANDREA HICKEY: Right.

15 GREG MCCARTHY: -- right at the entrance.

16 ANDREA HICKEY: Okay.

17 WENDY LEISERSON: And that --

18 BRENDAN SULLIVAN: All right, so Andrea, I am
19 marking up --

20 WENDY LEISERSON: -- that's to remain permeable?

21 BRENDAN SULLIVAN: Yeah, so I'm marking that up as
22 grassed area.

1 ANDREA HICKEY: Right. On the right and the left.

2 BRENDAN SULLIVAN: On the right and the left.

3 ANDREA HICKEY: -- of where it currently says,
4 "grass" but not that middle strip. That is to be some sort
5 of permeable paving?

6 BRENDAN SULLIVAN: That's access into the front of
7 the building, correct.

8 ANDREA HICKEY: Right.

9 BRENDAN SULLIVAN: Yeah.

10 ANDREA HICKEY: And that's to be permeable?

11 BRENDAN SULLIVAN: Correct.

12 ANDREA HICKEY: And that is acceptable to me, with
13 a little hesitation. But yes.

14 BRENDAN SULLIVAN: Okay. So you have voted yes.
15 And Wendy, your vote on granting the variance with those
16 conditions?

17 ANDREA HICKEY: With those conditions, and also, I
18 just want some clarification on the driveway. I know you
19 said the parking area was permeable; is the driveway also
20 permeable?

21 GREG MCCARTHY: The existing driveway is asphalt,
22 which we can make permeable pavers. So if you want to put

1 that on the plan, I think that's what we're planning on
2 doing anyway. But on the plan, it says, "asphalt." So if
3 you want to mark that, that's what we're planning to do.

4 ANDREA HICKEY: Could you please mark that,
5 Brendan?

6 BRENDAN SULLIVAN: Yes.

7 ANDREA HICKEY: Okay. And Mr. McCarthy, I hope --
8 I wish you luck with this project financially, and I hope
9 our trust in you --

10 GREG MCCARTHY: Thank you very much. Thank you
11 very much.

12 ANDREA HICKEY: -- is well-placed. Thank you.

13 GREG MCCARTHY: I appreciate it. Can I also just
14 take this time to say sorry for speaking out of line. My
15 apologies. It's been an emotional process, and no excuses;
16 I'm very sorry for just kind of going off there and talking
17 when I wasn't called on or anything like that.

18 So thank you for hearing me, and apologies again.

19 BRENDAN SULLIVAN: No, not at all. I think you
20 have an awful lot at stake. And so anyhow, okay. So Wendy,
21 you're in favor? I am in favor with those conditions. On
22 the five affirmative votes, the variance is granted as per

1 the application. Okay, good luck with it.

2 GREG MCCARTHY: Thank you so much.

3 BRENDAN SULLIVAN: Okay.

4 MATINA WILLIAMS: Okay, Mr. Chair, I think I'm
5 gone.

6 BRENDAN SULLIVAN: No, no. You're here for the
7 night. Do you think -- because Laura; there's a little bit
8 of a mix-up. Are you available, Matina? Because Laura was
9 not available to sit on the regular agenda. So we are now -
10 if you cannot sit and we are short then we are short a
11 member.

12 MATINA WILLIAMS: Oh. I was only for the
13 continued. Okay. All right. Good.

14 BRENDAN SULLIVAN: You can -- you can sit?

15 MATINA WILLIAMS: Yeah, I'll sit. That way --

16 BRENDAN SULLIVAN: Okay.

17 MATINA WILLIAMS: -- you have a quorum.

18 BRENDAN SULLIVAN: You're a trooper, thank you.

19 MATINA WILLIAMS: Mm-hm.

20 BRENDAN SULLIVAN: Back to the regular agenda.

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(7:37 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Matina Williams, Wendy Leiserson, and Andrea Hickey

BRENDAN SULLIVAN: Case No. 211336 -- 421 Walden Street. Either Erin or Mr. Bernstein. 421 Walden Street?

[Pause]

Erin? Erin?

ERIN LEFKOWITZ: Sorry, this is Erin. I'm the owner. I can see Richard's name, and he's off mute, but I don't hear him.

BRENDAN SULLIVAN: Okay. Is Mr. Bernstein, is he going to represent the case, or present the case.

ERIN LEFKOWITZ: He is. He's going to present. He's the architect.

BRENDAN SULLIVAN: Okay. All right. If somebody wants to tell us what you want to do.

ERIN LEFKOWITZ: It looks like he's signing back in. I can start. I'm sorry. I wasn't prepared to speak, but that this is my property at 421 Malden. We're proposing a remodel of the back porch. It's a two-story structure, a

1 two-family home, and we're --

2 RICHARD BERNSTEIN: Hello? Can you hear me now?

3 ERIN LEFKOWITZ: We can, Richard, thank you.

4 RICHARD BERNSTEIN: All right. Thank you. I'm
5 not as versatile with Zoom. But thank you, Erin, for
6 standing in. I don't know if you can see me or hear me, but
7 my name is Richard Bernstein. I'm the architect for the
8 proposed project. The owner, Erin Lefkowitz, who filled in
9 for me quickly.

10 The porch needs to be replaced because the safety
11 and condition of the existing nonconforming porch structure
12 has been compromised due to deterioration, requiring removal
13 and reconstruction.

14 The existing two-level porch provides a second
15 means of egress for both dwellings, and currently there is
16 not enough room for a table and chairs, which are desired by
17 the residents.

18 The property is an owner-occupied, traditional
19 two-family house recently purchased. The challenge of
20 accommodating this need for additional space on each level
21 while working on the zoning requirements resulted in a
22 proposed cantilevered expansion of the decks on each level,

1 with no increase to the size of the roof.

2 There is a small increase in floor area -- usable
3 open space, and it's also porch floor area, which has
4 created the need for a special permit.

5 The plan conforms to the required side yard
6 setback and the distance to the existing garage, requiring
7 just the special permit and avoiding the need for a
8 variance.

9 Maintaining the original scale of the porch is a
10 priority, so the proposed structure would not be any more
11 detrimental to the neighborhood than the existing
12 nonconforming structure, while also enhancing and
13 complimenting the traditional design of the house.

14 This concludes my introduction. I can answer any
15 questions. And I don't think my camera is working, but --

16 BRENDAN SULLIVAN: Well, we hear you so that's
17 fine.

18 RICHARD BERNSTEIN: "Start video." I don't know.
19 Okay.

20 BRENDAN SULLIVAN: All right. Jim Monteverde, any
21 questions?

22 JIM MONTEVERDE: No questions.

1 BRENDAN SULLIVAN: Matina Williams, any questions
2 at this time?

3 [Pause]

4 Okay. Matina, you're on --

5 MATINA WILLIAMS: Nope. No questions at this
6 time.

7 BRENDAN SULLIVAN: No? Okay. Wendy, any
8 questions at this time?

9 WENDY LEISERSON: No questions.

10 BRENDAN SULLIVAN: Andrea Hickey?

11 ANDREA HICKEY: No questions.

12 BRENDAN SULLIVAN: And I have none at this time,
13 too. So let me open it to public comment. Any member of
14 the public who wishes to speak should now click the button
15 that says, "Participants," and then click the button that
16 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.

19 RICHARD BERNSTEIN: Hello, everybody. I'm sorry.

20 BRENDAN SULLIVAN: No, that's all right. We're
21 looking for public comment.

22 [Pause]

1 There appears to be nobody calling in. We are in
2 receipt of correspondence from Virginia Birmingham, 425
3 Walden Street.

4 "To whom it may concern, I, Virginia Birmingham of
5 425 Walden Street, have reviewed the proposed plan and
6 documents including in BZA-211336. I support the granting
7 of the special permit and approve the project."

8 There is also correspondence from Paul Schoenau,
9 S-c-h-o-e-n-a-u.

10 "We have reviewed the proposed plan and support
11 the granting of a special permit and approve the project.
12 Good luck with the hearing, and hopefully the renovation
13 project."

14 "417 Walden Street."

15 And that is any correspondence to the Board. So I
16 will close public comment, send it back to Richard. Any
17 other thing to add before I take a -- send it to the Board?

18 RICHARD BERNSTEIN: No. I was very happy to get
19 involved with this project, and I think you've come up with
20 a solution that really fits well into the neighborhood, and
21 it shows a good solution of how to expand a small porch into
22 a usable space.

1 And it expands the usable open space for the
2 property. I think it's a great benefit to Erin and her
3 family, and the woman who lives downstairs. Thank you.

4 BRENDAN SULLIVAN: Thank you. Any comments by
5 members of the Board? Ready for a vote at all?

6 ANDREA HICKEY: Ready.

7 BRENDAN SULLIVAN: Okay. Let me make a motion,
8 then, to grant the relief requested, which is a special
9 permit, seeking relief under 8.22d and 10.40 Special Permit
10 Criteria. There is a violation of floor area ratio, but
11 there is an existing noncompliance, and as such no new
12 nonconformity is created.

13 So either 8.22d: In all districts, the Board may
14 grant a special permit for the alteration or enlargement of
15 a preexisting dimensionally nonconforming, detached single-
16 family or two-family dwelling not otherwise permitted 8.22.1
17 above, but not the alteration or enlargement of a
18 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 find -- that
5 the alteration or enlargement shall not be substantially
6 more detrimental than the existing nonconforming structure
7 to the neighborhood, and that the alteration or enlargement
8 satisfies the criteria in 10.43.

9 10.43, the criteria for granting the special: It
10 appears that the requirements of the ordinance can be met
11 for the granting of the special permit.

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

15 The Board finds that continued operation of or
16 development of adjacent uses, as permitted in the Zoning
17 Ordinance, would not be adversely affected by the nature of
18 the proposed use, and the Board incorporates by reference
19 two letters from abutting property owners in support of the
20 proposal.

21 There would not be any nuisance or hazard created
22 to the detriment of the health, safety and/or welfare of the

1 occupant of the proposed use -- in fact, the Board finds
2 that it would be it enhanced by providing some additional
3 outdoor space, which will allow the petitioner and the
4 occupant of either one of the units to have some additional
5 outdoor space in order to sit and to assemble, and
6 especially in this time of COVID-19 that additional outdoor
7 space is greatly desired and in fact has a health benefit.

8 The Board finds that the proposed use would not
9 impair the integrity of the district or adjoining district,
10 or otherwise derogate from the intent and purpose of the
11 ordinance. The intent of the ordinance is to allow the fair
12 and reasonable development of existing properties, and the
13 Board finds that the request before us attains that
14 objective.

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

17 JIM MONTEVERDE: In favor.

18 BRENDAN SULLIVAN: Matina Williams?

19 MATINA WILLIAMS: In favor.

20 BRENDAN SULLIVAN: Wendy Leiserson?

21 WENDY LEISERSON: In favor.

22 BRENDAN SULLIVAN: Andrea Hickey?

1 ANDREA HICKEY: Yes, in favor.

2 BRENDAN SULLIVAN: And Brendan Sullivan yes.

3 [All vote YES]

4 Five affirmative votes; the special permit is
5 granted on the condition that the work comply with the
6 drawings as submitted, dimensional form and supporting
7 statements and initialed by the Chair.

8 Good luck with it.

9 RICHARD BERNSTEIN: Thank you very much.

10 ERIN LEFKOWITZ: Thank you very much. And Matina,
11 thank you for staying on for this session.

12 RICHARD BERNSTEIN: Yes. We all thank you for
13 that.

14 BRENDAN SULLIVAN: Goodnight.

15 ERIN LEFKOWITZ: Take care.

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2 (7:47 p.m.)

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

6 BRENDAN SULLIVAN: The next case is 194140 -- 4
7 Shepard Street. Mr. Bernstein?

8 RICHARD BERNSTEIN: Yes, and hello again, and
9 thank you to Maria for helping schedule these two cases. I
10 have the privilege of representing Steedman Bass, who is
11 also here with us, who has purchased a wonderful house off
12 of Shepard Street -- on Shepard Street right off of Mass.
13 Ave. within the past year.

14 The house, built as a single-family home in 1895,
15 is now an existing two-family and is owner-occupied.

16 The property is nonconforming with regards to not
17 only zoning, but also building code requirements,
18 specifically currently access to the third-floor unit is by
19 the original main stair of the house, and the emergency
20 egress for the top floor is through a small window in the
21 kitchen to a metal fire escape.

22 The key part of our proposal here is that the

1 proposed attic addition and the extension of the existing
2 two-story rear stair up to the third floor is a life safety
3 improvement most importantly. It provides now proper -- it
4 would provide proper access and safe egress in conformance
5 with the building code requirements.

6 It has been designed to work within the historic
7 character of the house. It would be built within the
8 existing footprint of the rear two-story structure, and
9 within the lines of the style and the style of the existing
10 roof, whereas the side that the building is closest to the
11 property line is actually an extension of the existing
12 sloped roof, and therefore it would be no more detrimental
13 than the existing.

14 And my -- and Steedman has talked to all his
15 neighbors and has gotten support across the board.

16 The proposal for the third floor also includes
17 adding two small dormers to match the original gable
18 dormers. These -- to provide very much needed additional
19 natural light and ventilation to the living space on the
20 third floor. These are the most important and significant
21 improvements that require a special permit, as indicated.

22 In addition to the proposal, there's a proposed

1 small accessory building which is a shed to provide an
2 enclosure for the recycling, trash and compost bins, and to
3 provide bicycle storage for the residents.

4 It's a unique location in that this is the first
5 property in from the apartment buildings on Mass. Ave. And
6 the location of the proposed shed along the -- at the end of
7 the driveway along the existing six-foot fence -- is
8 opposite a six-story brick wall of the apartment building.
9 And we specifically located it away from any of the
10 apartment windows and feel it's a very beneficial location.

11 This location also preserves the landscaping of
12 the open space in the back yard for the benefit of all
13 properties and is truly in the best interest of the
14 neighborhood.

15 This concludes my introduction, and I welcome your
16 questions.

17 BRENDAN SULLIVAN: The two forms of relief that
18 you're asking for the variance is actually for the shed?

19 RICHARD BERNSTEIN: That's correct.

20 BRENDAN SULLIVAN: And that the additional work
21 that we're looking at now on the screen is actually by way
22 of a special permit?

1 RICHARD BERNSTEIN: Yeah.

2 BRENDAN SULLIVAN: There is violations, but it is
3 not a new nonconformity? So you're increasing an existing
4 nonconforming number. Is that basically correct?

5 RICHARD BERNSTEIN: That is correct.

6 BRENDAN SULLIVAN: All right. Let me open it to
7 the Board. Jim Monteverde, any questions?

8 JIM MONTEVERDE: No questions, thank you.

9 BRENDAN SULLIVAN: Matina Williams, any questions
10 or comments?

11 MATINA WILLIAMS: No questions or comments at this
12 time.

13 BRENDAN SULLIVAN: Okay. Wendy Leiserson?

14 WENDY LEISERSON: I have just a technical question
15 for my colleagues, which is with regard to bicycle shed,
16 which is also being used as a recycling shed. Is there --
17 I'd like to know from my colleagues whether the bicycle
18 storage has to be exclusive or whether this satisfies the
19 accessory structures?

20 BRENDAN SULLIVAN: Well --

21 WENDY LEISERSON: And --

22 BRENDAN SULLIVAN: -- it's just an accessory

1 building use of it. Doesn't really come into play, however
2 they want to use it. It's just an accessory building. And
3 the location of it and the distance to the house is what
4 creates the violation. So --

5 WENDY LEISERSON: So it doesn't matter in this
6 instance?

7 BRENDAN SULLIVAN: It doesn't matter the use.

8 WENDY LEISERSON: In this instance. Okay.

9 BRENDAN SULLIVAN: The City encourages bicycle
10 usage, and as such people looking for a place to put it,
11 rather than having to -- I'm unsure what the access to the
12 basement is, but --

13 RICHARD BERNSTEIN: It is through a bulkhead.
14 Very difficult, actually.

15 BRENDAN SULLIVAN: Right. So -- and I would think
16 that even -- especially during inclement weather, people
17 still bicycle.

18 WENDY LEISERSON: Oh, yeah. No, I have no problem
19 with the use, I just wasn't sure which technical points we
20 had to look at with regard to this --

21 BRENDAN SULLIVAN: Yeah, no, it's just --

22 WENDY LEISERSON: -- structure, yeah.

1 BRENDAN SULLIVAN: -- it's just the -- the
2 structure itself. How it's used --

3 WENDY LEISERSON: Okay.

4 BRENDAN SULLIVAN: -- is basically not addressed
5 and blind to the ordinance.

6 WENDY LEISERSON: Okay.

7 BRENDAN SULLIVAN: So. Yep.

8 WENDY LEISERSON: Thank you for the clarification.

9 BRENDAN SULLIVAN: Yep. Andrea Hickey?

10 ANDREA HICKEY: No. I have nothing. Thank you.

11 BRENDAN SULLIVAN: All right. And I have no
12 further questions. Let me open it to public comment. Any
13 member of the public who wishes to speak should now click
14 the button that says, "Participants," and then click the
15 button that says, "Raise hand."

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

18 [Pause]

19 There appears to be nobody calling in, and we are
20 not in receipt of any correspondence. So I will close
21 public comment portion of this. Anything to add, Richard,
22 at all, before I send it to the Board for a vote?

1 RICHARD BERNSTEIN: This is a wonderful house
2 that's going to be preserved and enhanced. And it will be
3 owner-occupied.

4 And I worked with Steedman on not only this
5 project, but he's lived next door to 6 to 8, which we had to
6 get special approval for a new back stair, which is very
7 successful. So I appreciate the opportunity to be involved
8 with this project.

9 BRENDAN SULLIVAN: The existing recycling compost
10 trash cans are outside now, open to --

11 RICHARD BERNSTEIN: Yes.

12 BRENDAN SULLIVAN: -- everything?

13 RICHARD BERNSTEIN: That's correct.

14 BRENDAN SULLIVAN: And the bicycle right now is
15 left outside, left on a porch, or --

16 RICHARD BERNSTEIN: Left outside.

17 BRENDAN SULLIVAN: -- exposed to the elements?

18 RICHARD BERNSTEIN: Steedman is actually an avid
19 bicyclist and does not own a car. He prefers bicycles. And
20 this would provide everyone the opportunity to store their
21 bicycles conveniently.

22 BRENDAN SULLIVAN: Great. Okay. All right.

1 Ready for a motion, Board? All right. Let me -- there's
2 two forms of relief.

3 So the first one would be the bicycle -- well, the
4 accessory structure to be used for bicycle storage and also
5 a recycling compost trash bin and all of the accessory
6 plastic things that we'd have to use.

7 So let me make a motion, then, that a literal
8 enforcement of the provisions of the ordinance would involve
9 a substantial hardship to the petitioner because it would
10 preclude the petitioner to providing an out of way and safe
11 and away from rodent storage of recycling compost trash
12 bins, and also would also allow -- the literal enforcement
13 would preclude the petitioner from providing -- a literal
14 enforcement would preclude the petitioner from providing a
15 safe and also out-of-the-weather storage area for bicycles,
16 which is highly encouraged by City policy.

17 The Board finds that the hardship is owing to the
18 size of the structure on the lot, which was built way before
19 the enactment of the current zoning ordinance, and as such
20 the property is encumbered by such ordinance, which severely
21 restricts any additions of this kind, which would require
22 some relief from this Board.

1 The Board finds that desirable relief may be
2 granted without substantial detriment to the public good; in
3 fact the public good would be enhanced by an out-of-the-way,
4 out-of-sight recycling trash bins; also cut down on any
5 rodent activity, and also provide a safe and valuable
6 shielding of the elements by being able to store bicycles.

7 The desirable relief may be granted without
8 nullifying or substantially derogating from the intent and
9 purpose of this ordinance to allow this Board to encourage
10 fair and reasonable use of the property and development,
11 which enhances the living experience of the property owner.

12 On the motion, then, to grant the relief
13 requested, Jim Monteverde?

14 JIM MONTEVERDE: In favor.

15 BRENDAN SULLIVAN: Matina Williams?

16 MATINA WILLIAMS: In favor.

17 BRENDAN SULLIVAN: Wendy Leiserson?

18 WENDY LEISERSON: In favor.

19 BRENDAN SULLIVAN: Andrea Hickey?

20 ANDREA HICKEY: Yes, in favor.

21 BRENDAN SULLIVAN: And Brendan Sullivan yes in
22 favor of granting the variance on the condition also that

1 the work comply the drawings as submitted and supporting
2 statements and dimensional forms regarding the size and
3 location of the shed.

4 Now, regarding the special permit -- and they're
5 seeking relief under 8.22d, which does have enhancing the
6 nonconformity, but does not create any new conformity -- the
7 Board finds that in all districts, as far as I know, that it
8 may grant a special permit for the alteration or enlargement
9 of a preexisting dimensionally nonconforming, detached
10 single-family dwelling or two-family dwelling not otherwise
11 permitted in 8.22.1 above, but not the alteration or
12 enlargement of a preexisting, nonconforming use.

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

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

1 neighborhood, and that the alteration or enlargement
2 satisfies the criteria in 10.43.

3 And criteria of 10.43, granting of a special
4 permit, the Board finds that it appears that the
5 requirements of the ordinance can be met with the granting
6 of the special permit.

7 That traffic generated, or patterns of access or
8 egress would not cause congestion, hazard, or substantial
9 change in the established neighborhood character. In fact,
10 the Board finds that the proposed design enhances the
11 character of the structure, which dates back to -- what was
12 it, Richard 18 what?

13 RICHARD BERNSTEIN: 1895.

14 BRENDAN SULLIVAN: 1895, and as such is an asset
15 to the community and adjoining properties.

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

20 And there would not be any nuisance or hazard
21 created to the detriment of the health, safety and/or
22 welfare of the occupant of the proposed use -- in fact, as

1 testimony has shown, it would be greatly enhanced to have a
2 code-compliant way of exiting the third-floor unit with the
3 creation of appropriate and code-compliant stairwells, and
4 also appropriate petitions to enhance the livability of
5 anyone who occupies these units.

6 The Board finds that the proposed use would not
7 impair the integrity of the district or adjoining district,
8 or otherwise derogate from the intent and purpose of the
9 ordinance to allow this Board to grant relief to allow for
10 fair and reasonable development.

11 The Board does make such finding that the request
12 before it is a fair and reasonable request for this
13 particular property.

14 On the motion, then, to grant the special permit,
15 and also on the condition that the work comply with the
16 drawings as submitted, dimensional forms, supporting
17 statements and initialed by the Chair.

18 Jim Monteverde?

19 JIM MONTEVERDE: In favor.

20 BRENDAN SULLIVAN: Matina Williams?

21 MATINA WILLIAMS: In favor.

22 BRENDAN SULLIVAN: Wendy Leiserson?

1 WENDY LEISERSON: In favor.

2 BRENDAN SULLIVAN: Andrea Hickey?

3 ANDREA HICKEY: Yes, in favor.

4 BRENDAN SULLIVAN: And Brendan Sullivan yes.

5 [All vote YES]

6 BRENDAN SULLIVAN: The special permit is also
7 granted. Good luck with it.

8 RICHARD BERNSTEIN: Thank you very much. Thank
9 you.

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(8:01 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Matina Williams, Wendy Leiserson, and Andrea Hickey

BRENDAN SULLIVAN: Okay, the Board will now hear Case No. 211571 -- 8 Winter Street.

DAN ANDERSON: Good evening.

BRENDAN SULLIVAN: Dan.

DAN ANDERSON: Mr. Sullivan.

BRENDAN SULLIVAN: Yep.

DAN ANDERSON: I've stuck around to be here to request a continuance for No. 8 Winter Street. We had a successful meeting with ECPT and have been following up with abutters but have been asked to look at some alternatives for that project. And so, I respectfully request a continuance.

BRENDAN SULLIVAN: Okay. Any particular date, Dan?

DAN ANDERSON: So I said yes to the twenty-fifth for Third Street. It actually turns out to be my wife's birthday, so I'm in trouble. Could we look for a date after

1 that?

2 BRENDAN SULLIVAN: I'm sorry. Your wife's
3 birthday is when?

4 DAN ANDERSON: May 25.

5 BRENDAN SULLIVAN: So after that would be June 15?
6 Well, okay, you don't want to do the twenty-fifth.

7 DAN ANDERSON: Well, you know, yeah. Since I'm
8 already committed to one, I'm not sure that I'm going to get
9 in any trouble. So let's say that May 25, and I'll go for
10 Double Jeopardy.

11 BRENDAN SULLIVAN: Okay. So let me continue this
12 -- it's a case not heard. You'll pay for this, but anyhow.

13 DAN ANDERSON: Yeah, understood.

14 BRENDAN SULLIVAN: All right.

15 Let me make a motion, then, to grant the
16 continuance to May 25, 2023 on the condition that the
17 petitioner change the posting sign to reflect the new date
18 of May 25, 2023 and that any new submittals not currently in
19 the file be submitted by 5:00 p.m. on the Monday prior to
20 the May 25, 2023 hearing.

21 On the motion, then, to continue this matter, Jim
22 Monteverde?

1 JIM MONTEVERDE: In favor.

2 BRENDAN SULLIVAN: Andrea Hickey?

3 ANDREA HICKEY: Yes, in favor.

4 BRENDAN SULLIVAN: Wendy Leiserson?

5 WENDY LEISERSON: Yes, in favor.

6 BRENDAN SULLIVAN: Matina Williams?

7 MATINA WILLIAMS: Yes, in favor.

8 BRENDAN SULLIVAN: In favor.

9 [All vote YES]

10 BRENDAN SULLIVAN: So the matter is continued
11 until May 25, 2023. See you then.

12 DAN ANDERSON: Thank you very much.

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2 (8:04 p.m.)

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

6 BRENDAN SULLIVAN: Next case we will hear is BZA
7 212734 -- 5 Foch Street. Mr. Rafferty?

8 JAMES RAFFERTY: Good evening, Madam Chair,
9 members of the Board. For the record, my name is James
10 Rafferty. I'm appearing on behalf of the applicant, Susan
11 Kale, K-a-l-e. With Ms. Kale and myself this evening is the
12 Project Architect, Joshua Knapper, K-n-a-p-p-e-r.

13 This is an application for a variance to allow for
14 an enlargement, an addition to a single-family house in
15 North Cambridge. Ms. Kale?

16 SUSAN KALE: Yes, sir.

17 JAMES RAFFERTY: Thank you. Ms. Kale is present.
18 She has lived -- in fact she's lived in North Cambridge, I
19 believe, her whole life. She is a resident of the city,
20 serves the city as a police officer, and is looking to
21 expand this house to take advantage of the third floor.

22 The third floor currently is very much an attic

1 floor. It has a stairway to access it, but the rooms up
2 there are very small, and the stairway is not at all code-
3 compliant.

4 The request would allow for a variance for an
5 additional 268 square feet over the allowed FAR. The lot
6 itself is 4000 square feet. It's a narrow lot. The shape
7 of the lot is a portion of the hardship.

8 The design essentially, I think, is best viewed
9 through a plan that I might suggest Ms. Ratay could put up
10 Sheet 204, if that's possible. And Sheet 204 will show you
11 the house has a funny orientation now. It's a one-, two-,
12 three-level house. The portion is one level, then there's a
13 second floor, and then there's a third.

14 What's happening here is -- and the architect can
15 go into detail -- the roof is being removed and reframed to
16 within the 35-foot height level. But a new roof at the
17 third floor will offer a full third floor, and there's an
18 infill on the second floor.

19 So as I noted, the additional amount of square
20 footage totals 268 square feet, beyond what the far
21 permitted in the B district allows.

22 Ms. Kale was somewhat inspired with this design by

1 the house next door, which happened to be owned by her
2 sister, very similarly sized, and she was able to take
3 advantage of the third floor about six or eight years ago,
4 and it's proved to be a very effective living space.

5 So that's the case. Happy to have Mr. Knapper
6 walk you through the design or Ms. Kale or I could answer
7 any questions, if the Board have them.

8 BRENDAN SULLIVAN: Mr. Rafferty, there are two
9 forms of relief that you're requesting. If you could just
10 touch on the variance, and then the special permit aspect of
11 that?

12 JAMES RAFFERTY: Thank you, yes. The variance is
13 related to the GFA, the 268 square feet over the allowed
14 FAR. The special permit involves windows on a nonconforming
15 lot.

16 BRENDAN SULLIVAN: Okay. Okay. If you would like
17 to walk us through it and very briefly?

18 JAMES RAFFERTY: All right, Mr. Knapper, can you
19 walk the Board through this?

20 JOSHUA KNAPPER: I certainly can. So the primary
21 issue, like Mr. Rafferty had mentioned, is that that attic
22 level of the home has some very aggressive roof lines just

1 care of the pitch of the roof itself.

2 And so, in order to make that third floor more
3 habitable, what we've really just done is kind of extend the
4 -- what I would call the cheek walls, or the side façade
5 walls, so that the gable roofline is just a little less
6 aggressive pitch wise.

7 And by doing so, by basically increasing that --
8 those cheek walls about 3.5 feet, we are able then to occupy
9 so much more of the space underneath, because of that line
10 and its height change.

11 So if you -- I'm sorry, but if the moderator would
12 flip to the front façade, that would be A201, you can see
13 this is the existing front façade.

14 And you can see that roofline at the third floor
15 with a little -- the shed dormer on the left, which is the -
16 - which was placed there to accommodate that nonconforming
17 or nonfunctional -- really functional egress stair up to the
18 third floor.

19 And then Moderator, if you don't mind flipping to
20 the next page, you'll see what we've done is simply take
21 those roof lines up and decrease their pitch lines slightly.
22 This accommodates a new staircase within the plan itself,

1 but also gives us a much more gracious width along the gable
2 line itself.

3 And then yeah, back to that original 202, you can
4 see this is the side elevation, the driveway elevation, and
5 how the first floor here on the rear side projects out from
6 the second and third floor.

7 And so what we propose here is then to the next
8 page -- is to basically build up off of that projection and
9 create that as habitable space for the family.

10 And as to the special permit and the nonconforming
11 element with the windows, I believe the best -- the left
12 façade of the home is within the setback or, well, the
13 zoning bylaw setbacks, but is obviously an existing
14 nonconforming condition. And we're simply looking to
15 incorporate some fenestration on that façade.

16 BRENDAN SULLIVAN: Okay. And the length of that
17 dormer is 6'8"?

18 JOSHUA KNAPPER: So we don't -- the existing
19 dormer?

20 BRENDAN SULLIVAN: Yeah.

21 JOSHUA KNAPPER: The existing dormer, this that
22 you're looking at right now, that's the small shed dormer.

1 I would say that that is probably about 6' ish itself.

2 But we are -- understanding the Dormer
3 Regulations, in lieu of doing a dormer, we chose just to
4 take the roof off of the structure and go up moderately but
5 go up instead of incorporating dormers into the rooflines,
6 which would be longer than those Regulations would afford.

7 BRENDAN SULLIVAN: Okay, so it's basically an
8 addition up rather than -- yeah, okay.

9 JOSHUA KNAPPER: That's correct.

10 JAMES RAFFERTY: We reviewed that with the
11 Building Commissioner as to whether or not it constituted a
12 dormer, and his conclusion was that it did not.

13 BRENDAN SULLIVAN: Right. Okay. All right.
14 Anything else to add? Anything else to add at this time?

15 JOSHUA KNAPPER: No, sir. Not from me.

16 BRENDAN SULLIVAN: Nope? All right. Let me send
17 it to the Board. Jim Monteverde, any questions?

18 JIM MONTEVERDE: Two questions. Can you speak
19 about bit about the hardship, what it is that inspires the
20 expansion?

21 JAMES RAFFERTY: [Sneeze]

22 JIM MONTEVERDE: God bless you.

1 JAMES RAFFERTY: I apologize; I'm suffering with
2 some bronchial conditions -- I can say more annoying than
3 usual.

4 But the hardship really is related to the shape of
5 the lot and the condition of the existing structure. The
6 existing structure is quite old. It's a nonconforming
7 structure, as noted by Mr. Knapper. It's 4', about 4' off
8 the left side.

9 The lot is deep and narrow, and those are the
10 elements of the hardship that limit areas where the
11 expansion can go. It's a very obvious place to expand the
12 house, because we can do it all within the height limit and
13 not change the footprint of the house.

14 JIM MONTEVERDE: Thank you. Second question: In --
15 somewhere in the description -- I don't have the full file
16 in front of me -- is a statement that the addition, the
17 renovation was consistent with the neighborhood. And I
18 can't recall if this file provided some photos of some
19 adjacent houses that were likewise three stories tall.

20 But if I went on Google Earth and went further
21 down the street on both sides, it didn't look like it was
22 consistent with the neighborhood into the massing and the

1 scale of the other houses. Can you speak to that please?

2 JAMES RAFFERTY: Sure. I can direct you to the
3 property at 79 Foch Street, which I think is here, which has
4 this very same condition, which has a built-out third floor.
5 And that was done pursuant to a variance issue by the Board
6 in April of 2011.

7 JIM MONTEVERDE: Thank you. But I think my
8 question was really the one neighborhood doesn't make a
9 neighborhood.

10 And if I went and looked at the character of the
11 neighborhood more, it's more houses up and down the street,
12 the proposal -- again what the neighbor did adjacent to it -
13 - doesn't really seem to be consistent with the neighborhood
14 -- again, scale and character, et cetera.

15 SUSAN KALE: Sir, if I may speak, the house
16 directly across from me -- I think we submitted a picture --
17 is the same parameters as the rest. If we can go across the
18 street, there's a house that's directly across and that's --

19 JIM MONTEVERDE: Yep.

20 SUSAN KALE: -- I submitted a picture.

21 JIM MONTEVERDE: I saw -- again, I saw the two
22 properties that were directly adjacent to them close by,

1 that seemed to have the same effect type of renovation. But
2 when I looked further down the street, both directions,
3 neither one of those really seemed to be consistent with the
4 rest of the character of the majority of the houses.

5 I think I've made my comment. I'll just stop
6 there. Thank you.

7 JOSHUA KNAPPER: If I may, what we really tried to
8 do with this modification to the existing home was to really
9 not increase its mass from the front façade specifically.
10 You know, the roofline isn't -- you know, but more than 12"
11 taller than the current roof line ridge wise, and so the
12 real -- the only significant change is the flair, or the
13 pitch of that gable end.

14 And so, the remainder of the homes along Foch
15 Street all are three-story, but they all have just that more
16 aggressive gable-end pitch, whereas ours is just trying to
17 ease that a little bit in order to accommodate better space
18 with it.

19 JIM MONTEVERDE: Thank you.

20 BRENDAN SULLIVAN: Andrea Hickey, any question,
21 comments?

22 ANDREA HICKEY: No. Not at the moment. Thank

1 you, Mr. Chair.

2 BRENDAN SULLIVAN: Wendy Leiserson, any questions
3 or comments?

4 WENDY LEISERSON: No. Jim asked the hardship
5 question that I was curious about. So thank you.

6 BRENDAN SULLIVAN: Matina Williams, any questions,
7 comments?

8 [Pause]

9 Matina?

10 MATINA WILLIAMS: Hi, sorry. No questions or
11 comments at this time.

12 BRENDAN SULLIVAN: All right. And I don't have
13 any questions or comments at this time either. I'll open it
14 to public comment. Any members of the public who wishes to
15 speak should now click the button that says, "Participants,"
16 and 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 will have up to three minutes in which to comment.

20 [Pause]

21 There's nobody calling in. We are in receipt of
22 the petition that Susan has submitted.

1 "We are in support of the petition submitted by
2 our new neighbor, Susan Kale, to the Board of Zoning
3 Appeal."

4 And it's signed by seven people: 3 Foch Street, 3
5 Foch Street #1, 3 Foch Street #2, 1 Foch Street, 30 Murray
6 Hill Road, 34 Newman, 36 Murray Hill and 79 Foch Street.

7 And that is the sum and substance of any
8 correspondence to the Board. I will close the public
9 comment portion. Mr. Rafferty, any comments to add, or
10 Architect?

11 JAMES RAFFERTY: No, thank you. We -- Mr. Knapper
12 has done a good job explaining the design. We were very
13 conscious of the fact of trying to have this addition remain
14 as close to the allowed FAR. So it does represent an
15 additional 268 square feet.

16 But we hope the Board will find that the impact on
17 the surrounding properties is negligible and it will allow
18 for an expansion of family living within the city.

19 BRENDAN SULLIVAN: Thank you.

20 WENDY LEISERSON: I believe, Mr. Rafferty, you
21 meant an additional 268 square feet above the ordinance
22 requirements, but it's a more expensive extension than --

1 JAMES RAFFERTY: Oh, correct -- thank you.

2 WENDY LEISERSON: -- that --

3 JAMES RAFFERTY: Yeah. So the zoning relief
4 relates to the 268 square feet additional. That's with the
5 variance. The granting of the variance will allow for an
6 additional 268 square feet.

7 BRENDAN SULLIVAN: Anything else, Wendy?

8 WENDY LEISERSON: No, that's all. Thank you.

9 BRENDAN SULLIVAN: Okay. I think my view on this
10 is that looking at the existing structure, it needs
11 something. And I think that the third floor can use,
12 obviously, some updating. It can use some expansion to make
13 it more livable, make better egress -- entry and egress out
14 of the unit; safer entry and exit out of the unit.

15 And that the entire area around there of Cambridge
16 off Mass. Avenue with new ownership coming in and expansion
17 the Board has had a number of properties in the past that
18 have had similar requests of really updating and
19 repurposing, reoutfitting a lot of these old housing stocks,
20 which were probably built back in the '20s and '30s.

21 And I think that what is before us is a fair and
22 reasonable request. It'll allow for a much greater upgrade

1 to the property, which is a boon to the surrounding
2 properties, and I think it's a fair and reasonable request.
3 That's sort of my thought on it.

4 Members of the Board, are we ready for a vote?
5 Any other additional comments at all or --

6 JIM MONTEVERDE: Ready for a vote.

7 BRENDAN SULLIVAN: Okay. Any other concerns by
8 members of the Board that you wish to have addressed, or
9 ready for a vote? Okay.

10 Make a motion, then, that the variance portion of
11 this, which is the additional square footage, the Board
12 finds that a literal enforcement of the provisions of the
13 ordinance would involve a substantial hardship to the
14 petitioner because it would preclude the petitioner from
15 adding some much-needed additional floor space, a
16 realignment, a redesign, repurposing of the additional -- of
17 the interior space to accommodate some additional space,
18 which would make the unit, the house far more livable and
19 more up-to-date and have safer entry and egress out of the
20 units, and that the addition -- space as designed -- will be
21 aesthetically pleasing.

22 The Board finds that the hardship is owing to the

1 fact of the existing structure on the block, which predates
2 the existing ordinance, and as such is encumbered by a more
3 restrictive ordinance than when the house was built -- it
4 was probably built prior to the existence of the zoning
5 ordinance -- and as such that any addition would require
6 this particular nature, which the Board finds is somewhat
7 minimal, would require some relief from this Board.

8 The Board finds that relief may be granted without
9 substantial detriment to the public good. The Board finds
10 that the setbacks will not be altered.

11 The Board finds that and incorporates by reference
12 a petition signed by a number of abutting properties.

13 The desirable relief may be granted without
14 substantial detriment to the public good or nullifying or
15 substantially derogating from the intent and purpose of the
16 ordinance to allow homeowners to improve their properties
17 and potentially expand the properties to bring certain areas
18 up to code to allow for safer livability of the house, and
19 also entry and egress out of sections of the property,
20 especially as noted in the petition in the third floor,
21 which will add to the health and safety of any occupant of
22 the building.

1 On the variance portion, Jim Monteverde?

2 JIM MONTEVERDE: In favor.

3 BRENDAN SULLIVAN: Andrea Hickey?

4 ANDREA HICKEY: Yes, in favor.

5 BRENDAN SULLIVAN: Wendy Leiserson?

6 WENDY LEISERSON: Yes, in favor.

7 BRENDAN SULLIVAN: Matina Williams?

8 MATINA WILLIAMS: Yes, in favor.

9 BRENDAN SULLIVAN: And Brendan Sullivan in favor.

10 [All vote YES]

11 BRENDAN SULLIVAN: Five affirmative votes, the
12 variance is granted on the condition that the work conform
13 to the drawings, and initialed by the Chair, supporting
14 statements, and the dimensional form.

15 Now on the variance -- sorry, on the special
16 permit portion of it, let me make a motion, then, to grant
17 the special permit under Article 8.222c.

18 The article permits the creation of windows on a
19 nonconforming wall, as long as there are no further
20 violations of the dimensional requirements of Article 5.

21 The Board finds that traffic generated, or
22 patterns of access or egress would not cause congestion,

1 hazard, or substantial change in the established
2 neighborhood character.

3 The Board finds that continued operation of or
4 development of adjacent uses, as permitted in the Zoning
5 Ordinance, would not be adversely affected by the nature of
6 the proposed use. The Board notes and incorporates by
7 reference the petition signed by the abutting properties.

8 The Board finds that there would not be any
9 nuisance or hazard created to the detriment of the health,
10 safety and/or welfare of the occupant of the proposed use,
11 in fact it would be enhanced with the addition of windows,
12 which adds to the fenestration, light and air coming into
13 the structure, which is a great health benefit.

14 The Board finds that the proposed windows will not
15 change the use of the property and are consistent with the
16 residential uses in the district.

17 On the motion, then, to grant the special permit
18 portion of the petition, Jim Monteverde?

19 JIM MONTEVERDE: In favor.

20 BRENDAN SULLIVAN: Andrea Hickey?

21 ANDREA HICKEY: Yes, in favor.

22 BRENDAN SULLIVAN: Wendy Leiserson?

1 WENDY LEISERSON: Yes, in favor.

2 BRENDAN SULLIVAN: Matina Williams?

3 MATINA WILLIAMS: Yes, in favor.

4 BRENDAN SULLIVAN: And Brendan Sullivan yes.

5 [All vote YES]

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

8 JAMES RAFFERTY: Thank you very much and good
9 evening.

10 SUSAN KALE: Thank you. Thank you, Matina, for
11 staying. We appreciate you. Thank you so much.

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2 (8:24 p.m.)

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

6 BRENDAN SULLIVAN: The Board will hear Case No.
7 212290 -- 12 Scott Street. Maggie Booz.

8 MATINA WILLIAMS: You're welcome.

9 MAGGIE BOOZ: Good evening. We're here -- I'm
10 here with my client, Mark Gregor, and we're here to request
11 a special permit to widen a set of steps going up to the
12 front porch of 12 Scott Street.

13 We're maintaining the same setback from the
14 sidewalk edge to both porch and the set of steps. The set
15 of steps is the bottom step is 13 -- about 13 feet, three
16 inches or four inches from the sidewalk. And the porch is
17 17 feet plus from the sidewalk.

18 And those things will be maintained, but we're
19 hoping to widen the steps in order to be more harmonious
20 with the new porch that we've designed and make a more
21 generous façade towards the street.

22 The house is nonconforming at to its rear yard

1 setback, and the front of the house in terms of the porch
2 itself is nonconforming. That is, it's too close to the
3 sidewalk, and that's why we're here.

4 BRENDAN SULLIVAN: Okay. Let me have Olivia just
5 pull that up on the screen, so that you could see the
6 requested relief. If we could go to a shot of it, I guess.

7 MAGGIE BOOZ: Yeah, I think the elevations are
8 telling.

9 BRENDAN SULLIVAN: Yep. Right. Okay.

10 MAGGIE BOOZ: So we're widening the door. We're
11 trying to get our glass into the front of the house, make
12 the steps wider, make the porch wider -- just give it a more
13 generous aspect towards the -- towards the street; more of a
14 neighborhood relationship than it has now.

15 BRENDAN SULLIVAN: Good. Jim Monteverde,
16 questions, comments?

17 JIM MONTEVERDE: No questions.

18 BRENDAN SULLIVAN: Andrea Hickey?

19 ANDREA HICKEY: No, thank you.

20 BRENDAN SULLIVAN: Wendy Leiserson?

21 WENDY LEISERSON: No, thank you.

22 BRENDAN SULLIVAN: Matina Williams?

1 MATINA WILLIAMS: No questions or comments at this
2 time.

3 BRENDAN SULLIVAN: All right. And I have nothing
4 to add. Olivia, what is the public comment? Any members of
5 the public who wish to speak should now click the button
6 that says, "Participants," and then click the button that
7 says, "Raise hand."

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

11 [Pause]

12 There appears to be nobody calling in. There is
13 no correspondence submitted the Board. I will close the
14 public comment portion of the hearing. Maggie, back to you.
15 Any further comments?

16 MAGGIE BOOZ: We have spoken to the neighbor
17 directly across the street -- I should say Mark has -- who
18 had no objections, and in fact volunteered to speak tonight.

19 We thought that it wasn't a controversial
20 proposal, but just to know that that neighbor is in support;
21 and actually the neighbors on both sides are happy about the
22 work that's going on as well.

1 So I think we're -- we're good.

2 BRENDAN SULLIVAN: Yep. It actually looks like a
3 nice -- nice plan. Nice design.

4 MAGGIE BOOZ: Thank you.

5 BRENDAN SULLIVAN: My thought. Ready for a
6 motion, Board members? Okay. Let me make a motion, then,
7 to grant the relief requested as per, which is a special
8 permit under 8.22d.

9 The Board finds that it may grant a special permit
10 for the alteration or enlargement of a preexisting
11 dimensionally nonconforming, detached single-family dwelling
12 or two-family dwelling not otherwise permitted in 8.22.1
13 above, but not the alteration or enlargement of a
14 preexisting, nonconforming use.

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

21 In order to grant the special permit, the Board of
22 Zoning Appeal is required to find -- and does make such

1 finding -- that the alteration or enlargement shall not be
2 substantially more detrimental than the existing
3 nonconforming structure to the neighborhood, and that the
4 alteration or enlargement satisfies the criteria in Section
5 10.40 (sic).

6 Under 10.43, the criteria for a special permit, it
7 appears that the requirements of the ordinance can be met
8 with the granting of the special permit.

9 The Board finds that there would not be any
10 traffic generated, or patterns of access or egress would not
11 cause congestion, hazard, or substantial change in the
12 established neighborhood character.

13 The Board finds that continued operation of or
14 development of adjacent uses, as permitted in the Zoning
15 Ordinance, would not be adversely affected by the nature of
16 the proposed use, and the Board incorporates by reference
17 the presentation that the adjoining property owner has
18 expressed no problem with the proposed work and is in
19 support of the proposal.

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

1 in fact the redesign, reconfiguration of the entry stairway
2 would -- stairs -- would be an asset to anyone who enters or
3 egresses the property.

4 The Board finds that the proposed use would not
5 impair the integrity of the district or adjoining district,
6 or otherwise derogate from the intent and purpose of the
7 ordinance to allow for a fair and reasonable tweaking of
8 anybody's property to update it and also to make a better
9 and safer entry and exit from the structure.

10 On the motion, then, to grant the special permit,
11 on the condition that the work comply with the drawings
12 submitted, and also the supporting statements and
13 dimensional form and initialed by the Chair, prepared by Jim
14 Monteverde?

15 JIM MONTEVERDE: In favor.

16 BRENDAN SULLIVAN: Andrea Hickey?

17 ANDREA HICKEY: Yes, in favor.

18 BRENDAN SULLIVAN: Wendy Leiserson?

19 WENDY LEISERSON: Yes, in favor.

20 BRENDAN SULLIVAN: Matina Williams?

21 MATINA WILLIAMS: Yes, in favor.

22 BRENDAN SULLIVAN: And Brendan Sullivan in favor.

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[All vote YES]

BRENDAN SULLIVAN: The special permit for the proposal is granted. Good luck with it.

MAGGIE BOOZ: Thank you so much. Thank you.

1 * * * * *

2 (8:31 p.m.)

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

6 BRENDAN SULLIVAN: The Board will now hear Case
7 No. 213662 -- 50 Kinnaird Street. Ms. Rhatigan?

8 [Pause]

9 Sarah? Kinnaird Street?

10 SARAH RHATIGAN: Hi. I'm so sorry. This is Sarah
11 Rhatigan, Trilogy Law. Apologize, Mr. Chairman, I was
12 disconnected in the process of switching over to being a
13 participant. Good evening and thank you for hearing this
14 case. Sarah Rhatigan for the record, Trilogy Law, LLC, 12
15 Marshall Street in Boston.

16 And I'm here representing the owners of 50
17 Kinnaird Street, who are also here on the call -- Mariam
18 Hassan and Akash Trivedi. We're here.

19 And this is a special permit request in order to
20 allow this family to make a modification to the home, which
21 is to construct a dormer at the third level that will allow
22 them to have a full set of stairs, code-compliant stairs, up

1 to the third-floor living space in their home.

2 And it's a special permit request, because this is
3 an existing, nonconforming two-family home. It's
4 nonconforming both in terms of its setbacks, it's
5 essentially on the left lot line with no setback. And the -
6 - it already exceeds the area, gross floor area and the FAR
7 for the district.

8 The dormer itself will simply extend up the wall,
9 the nonconforming wall, on that left side of the structure.
10 And thank you, Olivia, for helping us with this.

11 So if you look at the front elevation top left
12 image there, that shows you in the shading the new shed
13 dormer being proposed. So that wall of the house is
14 essentially on the lot line. So that's the nonconformity
15 extending the wall up.

16 And then by doing so, we're creating another 87
17 square feet; just a tiny bump up in the GFA for the
18 building.

19 All the other -- I will just a couple things I
20 wanted to mention: First, the reason for the dormer I think
21 in some way is most apparent when we look at photos.

22 We don't have to move there yet, but we provided

1 a number of photos that show what the conditions are
2 currently; a very steep set of sort of attic-style stairs --
3 actually yeah, it would be -- thank you, the visual is
4 helpful, I think -- up to a very narrow third-floor level
5 that has two bedrooms, but they're pretty constrained with
6 steep roofs down and very little room in which you can
7 actually fully stand up.

8 So yes, 28, page 28 is perfect. That's a perfect
9 view, thanks. So this is what one of the bedrooms looks
10 like now.

11 And then there's two on either side of the middle
12 portion of the house. By allowing the shed dormer, this is
13 going to allow for a full, code-compliant set of stairs up
14 to the third level.

15 And I should say that the home, the first floor
16 would be rented, and then Mariam and Akash will be living in
17 the second- and third-floor apartment.

18 So this is going to really make a quite
19 substantial change and make this home really useful for them
20 for their living conditions.

21 The owners spent quite a bit of time working with
22 their neighbor on the left that is perhaps most impacted by

1 the dormer. And they made some modifications to their
2 plans, including they had originally planned to try to put
3 on a rear deck at the second-floor level, which the neighbor
4 wasn't pleased with, which is absolutely fine. And they,
5 you know, removed those plans, as well as making some other
6 modifications, moving some skylights that's they weren't too
7 pleased with.

8 They also worked through concerns about
9 construction and how the construction will be done. And
10 that neighbor on that side submitted a letter of support,
11 which I'm sure Mr. Chairman will probably see in the file,
12 but it's -- Mr. Danny Pallin.

13 And he's actually sort of on call. He's busy but
14 he has said if anyone asks, you know, questions or really
15 wants to hear from him, he'd be happy to jump on the call
16 today.

17 The other thing is that I just wanted to comment
18 Mr. Chairman, thank you for posing a question through the
19 Administrator prior to this hearing about compliance with
20 the Dormer Guidelines.

21 Olivia, would you mind just heading back to the
22 elevation plan set for the proposed? Perfect, thank you.

1 So the architect and the homeowner spent quite a
2 bit of time trying to comply as much as possible, both with
3 -- you know, with all aspects of the zoning, but as well
4 with the Dormer Guidelines. And they're compliant in a
5 number of respects.

6 I think that the comment that you had had, or the
7 question that you had posed is, "Well, there are no windows
8 on the face of the dormer." The Dormer Guidelines do ask
9 that -- I think that's something like 50 percent of the wall
10 of a shed dormer be glass.

11 There are two reasons why we're not able to do
12 that in this case. I think probably the most substantial
13 one is that you can't put new windows on a zero-lot line or
14 if you do, I believe that you may need to get a variance
15 from the state building code for, you know, fire code
16 compliance issues.

17 So that's kind of the driver there, as well as
18 privacy concerns for the neighbor that we were just talking
19 about to the left who is -- who said that, you know, they
20 wouldn't want any windows on that side.

21 And in terms of the other things that may not
22 technically comply, like it's not dropped down from the

1 ridge, there was an effort to try to do as much as they
2 could, but there's just very limited room. And so, the team
3 essentially designed a dormer that was as minimal as
4 possible for the functional needs of the project.

5 I am happy to answer any other questions. The
6 General Contractor is also available if others have
7 questions, but I would like to stand by and hear if there
8 are any. Thank you.

9 BRENDAN SULLIVAN: Okay. No, I think the question
10 that I raised when I first saw the dormer I said, "Oh,
11 there's no windows." And so, I asked Maria to alert you to -
12 - I knew the question was going to come up. And, but then
13 Dr. Pallin's letter came in after that, so that answers my
14 question as to why.

15 So anyhow, and you've just addressed that. So Jim
16 Monteverde, any questions, comments at this time?

17 JIM MONTEVERDE: No questions. Thank you.

18 BRENDAN SULLIVAN: Andrea Hickey?

19 ANDREA HICKEY: No, thank you, Mr. Chair.

20 BRENDAN SULLIVAN: Wendy Leiserson?

21 WENDY LEISERSON: No questions, thank you.

22 BRENDAN SULLIVAN: Matina Williams?

1 MATINA WILLIAMS: No questions.

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

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

9 [Pause]

10 There's nobody calling in.

11 We are in receipt of correspondence from Dr.
12 Pallin. And it's to the Board.

13 "I am the owner and resident of 52 Kinnaird
14 Street. The owners of 50 Kinnaird are petitioning you for
15 permission to build a dormer on our side of their house and
16 to do some other work.

17 "Their house at 50 Kinnaird Street is built
18 directly upon the dividing line with my property at 52
19 Kinnaird. In other words, there is zero setback on their
20 side. They are petitioning to build a dormer that will be
21 directly above my property line.

22 "The owners and the architect and their lawyer

1 have been in touch with me. They have assured me that no
2 new windows or skylights will be built on my side of their
3 building, which is the north side. They have also assured
4 me that no new decks will be built anywhere near my home.

5 "Additionally, they have requested my permission
6 to use my property for construction. They have graciously
7 agreed to rent my accessory apartment. Finally, they have
8 graciously assured me that the utmost care will be taken not
9 to damage anything of my property, and that in the event of
10 inadvertent damage, they would remediate without
11 remonstrance that I have made a good faith request.

12 "Consequently, I offer my strong support for their
13 petition. Please grant Miriam and Akash permission to build
14 a dormer on the north side of 50 Kinnaird and to do all else
15 depicted in the attached architectural drawing.

16 "As far as I know, everyone else in the
17 neighborhood supports their plans, but my place is obviously
18 the one most affected, so I hope you will give weight to my
19 expression of total support for their plans.

20 "Thank you.

21 "Daniel J. Pallin, M.D., owner of 52 Kinnaird
22 Street."

1 I think that's the only correspondence that we
2 have regarding this, and it is. So let me close the public
3 comment part portion. Anything else to add, Sarah, before
4 we take it to the Board?

5 SARAH RHATIGAN: There was a letter that I had
6 tried to send earlier, and I think I may have had technical
7 issue, but I'd be happy to read it into the record. It's
8 another letter of support. And I've already e-mailed it to
9 --

10 BRENDAN SULLIVAN: If it's a brief one, yep, you
11 can give us the bullet points.

12 SARAH RHATIGAN: It's really brief.

13 BRENDAN SULLIVAN: Sure.

14 SARAH RHATIGAN: Sure. This is from James
15 Arvanitis at 51 Kinnaird Street.

16 "I am writing this letter in support of the
17 variance, or the zoning variance request, by Mariam Hassan
18 for 50 Kinnaird Street. I'm one of the abutters to the
19 property and support the renovations planned, provided they
20 meet Engineering regulations and code."

21 BRENDAN SULLIVAN: Great. Okay.

22 SARAH RHATIGAN: Thank you. No other comments.

1 Thank you.

2 BRENDAN SULLIVAN: All right. Board, any
3 comments, reservations? Ready for a motion?

4 Okay. Seeking relief for the application under
5 5.31, which is the dimensional requirements, they're
6 exceeding it, but they are not creating any new
7 nonconformity. And as such, can seek relief under 8.222d
8 and 10.43, which is the special permit.

9 Under 8.22d, the Board may grant a special permit
10 for the alteration or enlargement of a preexisting
11 dimensionally nonconforming, detached single-family dwelling
12 or two-family dwelling not otherwise permitted in 8.22.1
13 above, but not the alteration or enlargement of a
14 preexisting, nonconforming use.

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

21 In order to grant the special permit, the Board of
22 Zoning Appeal is required to find -- and does make such

1 finding -- that the alteration or enlargement shall not be
2 substantially more detrimental than the existing
3 nonconforming structure to the neighborhood, and that the
4 alteration or enlargement satisfies the criteria in 10.43.

5 Under 10.43, it appears that the requirements of
6 the ordinance can be met with the granting of the special
7 permit.

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

12 The Board finds that continued operation of or
13 development of adjacent uses, as permitted in the Zoning
14 Ordinance, would not be adversely affected by the nature of
15 the proposed use.

16 The Board notes and incorporates by reference the
17 letter from the abutter, Dr. Pallin, giving support to this
18 project and reason for the alterations to the design in
19 order to satisfy his concerns with many of the design
20 elements.

21 The Board finds that there would not be any
22 nuisance or hazard created to the detriment of the health,

1 safety and/or welfare of the occupant of the proposed use,
2 and the design shows, and so does the presentation by
3 Counsel, that it would alleviate a very serious stair
4 problem. Basically what is there now, it looks like a
5 ship's ladder, and that the access and egress from the third
6 level would be greatly enhanced by the new design.

7 And that the proposed use would not impair the
8 integrity of the district or otherwise -- or adjoining
9 district, or otherwise derogate from the intent and purpose
10 of the ordinance to allow this Board to grant relief from
11 the ordinance, where the Board finds that it's a fair and
12 reasonable request.

13 Also that the request would allow for a code-
14 compliant stairway, which would enhance the safety of anyone
15 using the premises.

16 On the motion, then, to grant the special permit,
17 Jim Monteverde?

18 JIM MONTEVERDE: In favor.

19 BRENDAN SULLIVAN: Andrea Hickey?

20 ANDREA HICKEY: Yes, in favor.

21 BRENDAN SULLIVAN: Wendy Leiserson?

22 WENDY LEISERSON: Yes, in favor.

1 BRENDAN SULLIVAN: Matina Williams?

2 MATINA WILLIAMS: Yes, in favor.

3 BRENDAN SULLIVAN: And Brendan Sullivan yes.

4 [All vote YES]

5 BRENDAN SULLIVAN: Five votes in favor. The
6 special permit as per the application is granted.

7 SARAH RHATIGAN: Thank you very much.

8 BRENDAN SULLIVAN: Yep. Thank you, Sarah.

9 SARAH RHATIGAN: Appreciate your time.

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2 (8:47 p.m.)

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

6 BRENDAN SULLIVAN: The Board will hear Case No.
7 213774 -- 60 Market Street. Mr. Glassman?

8 ADAM GLASSMAN: Good evening, Mr. Chair, and
9 members of the Board. Thank you for hearing this case
10 tonight.

11 For the record, this is Adam Glassman with GCD
12 Architects, 2 Worthington Street in Cambridge here
13 representing the owners of 60 Market Street, Debbie and
14 Sebastian Colley. They've lived at this house since 2020.
15 They have been residents of Cambridge since 2007.

16 They live in this detached, single-family along
17 with their two growing kids. They have a son who's 11, a
18 daughter who is 9, and between the four of them, they occupy
19 two bedrooms on the second floor.

20 We're asking tonight for a special permit under
21 8.22.d to convert the largely unusable and unsafe attic
22 space into a mansard roof addition. No new nonconformity is

1 being created.

2 The existing lot is oddly-shaped, it's small. The
3 vertical addition will maintain the existing nonconforming
4 setbacks, and our FAR will increase from 1.07 to 1.24 by
5 adding additional 243 square feet of living space to the
6 attic.

7 Olivia, do you want to start with the slides?

8 On the cover sheet is the proposed work, proposed
9 mansard on the third floor.

10 I'll add that several nights ago we were at the
11 Planning Board, and they enthusiastically endorsed this
12 project, and they have sent a letter to the file
13 recommending BZA approval.

14 We also have support letters from our -- two of
15 our direct abutters also supporting the proposed work.

16 Next slide?

17 Our existing floor plans you can see on the second
18 floor we've got two bedrooms and a bathroom. The existing
19 attic space is very narrow, very low ceiling heights and on
20 the second floor you can see this existing winder stairs
21 that's nonconforming with the building code.

22 It has very low head height. It has narrow

1 winders, which are dangerous. This actually is our FAR
2 page, which shows that we've got an existing 1581 square
3 feet in the home with a 1.07 FAR, existing FAR allowable FAR
4 at 21.75.

5 Next slide, please?

6 Our proposed FAR brings the square footage of the
7 house to 1824 square feet by converting the gable into a
8 mansard design.

9 Next slide, please?

10 This is an image of our lot, with very small,
11 oddly-shaped trapezoid. You can see the setback below. It
12 goes all the way to the center of the lot, so any vertical
13 addition necessarily continues those setback violations. We
14 will lose no open space with this project.

15 Next slide, please?

16 Our zoning legend: Any existing conformities will
17 remain. Any non-existing conformities will remain. We will
18 only increase the nonconformity with the FAR, because of the
19 additional 243 square feet.

20 Next slide?

21 Image of the existing house: little gable, half-
22 story on the top.

1 Next slide?

2 Our existing floor plans. Here you can better see
3 the two bedrooms on the second floor, the shared full
4 bathroom, also on the second floor. Bedroom 2 is, I
5 believe, used by Debbie and Sebastian. Bedroom 1 is shared
6 by the two children, the son and the daughter.

7 They're getting older; there's a need to create
8 more bedrooms, not only so they can have their own spaces,
9 but we have visiting grandparents who come and stay and
10 there's really no place for them to be comfortable.

11 Next slide, please?

12 Our extent of the demolition: The existing third-
13 floor plan here. It actually says two bedrooms, but they're
14 more like -- almost like finished storage spaces. One of
15 them is used as an office, and the other one really is used
16 as mainly storage and when the grandparents visit, they turn
17 it into a makeshift bedroom. But it really is inadequate.

18 You can see on the lower left of the third-floor
19 plan how the stairs duck under the roof. The head height
20 gets very low, and it's not a safe access or egresses for
21 anyone.

22 Next slide, please?

1 Our existing elevations. The extent of the half-
2 story gate will be removed, as shown here.

3 Next slide?

4 The same thing here; the top portion of the house,
5 the half-story gable will be removed.

6 Next slide?

7 The proposed mansard tapered to look historically
8 correct. We had a previous version of the mansard, which
9 was a little top-heavy, a little clunky. We received
10 feedback from the Planning Board, responded to that, and
11 this is the design that they've enthusiastically approved or
12 endorsed.

13 Next slide?

14 These are the mansards from the right rear and to
15 the left rear. On the upper left of the proposed rear right
16 side view, you can see the two windows with the panel in the
17 middle.

18 Originally, we had three windows in that area, our
19 neighbor on the right side requested that we adapt one
20 window from that space, which we did, and we added it into
21 the back, which they had no problem with. And I believe we
22 have a support letter from them.

1 Next slide, please?

2 These are the -- what we say are the proposed
3 plans, but we have no changes to the basement. The first
4 floor and the change to the second floor, we'll be building
5 a code-compliant stair up to the third floor.

6 Next slide, please?

7 The proposed third-floor conversion, we're able to
8 add two more bedrooms and another full bathroom. So we've
9 got enough space -- bedroom space and bathroom space for a
10 family of four and visiting grandparents.

11 Next slide?

12 Elevations showing the new work, mansard at the
13 top. No changes to the stories below.

14 Next slide?

15 Same views from the left and the rear. The design
16 of the dormer: The mansard is consistent from all four
17 sides.

18 Next slide?

19 Enlarged view of the dormer or of the window
20 grouping that the neighbor asked us to adjust, which is
21 shown here.

22 Next slide?

1 Our sections showing the adequate headroom we can
2 now provide on the third floor.

3 Next slide, please?

4 Our existing and proposed views side-by-side. The
5 scale, massing of the house remains pretty much intact. The
6 character of the neighborhood remains intact.

7 Next slide, please?

8 Additional existing proposed views side-by-side.

9 Next slide, please?

10 Final existing proposed views.

11 Next slide?

12 Our site plans, we don't really have to say too
13 much about this. We've already covered that towards the
14 beginning. We've got a very tight lot. We've got very,
15 very challenging setback requirements on this lot. I
16 believe that is the end of our presentation. Happy to take
17 any questions.

18 JIM MONTEVERDE: No questions.

19 BRENDAN SULLIVAN: Andrea Hickey?

20 ANDREA HICKEY: No questions, Mr. Chair.

21 BRENDAN SULLIVAN: Wendy Leiserson?

22 WENDY LEISERSON: No questions.

1 BRENDAN SULLIVAN: Matina Williams?

2 MATINA WILLIAMS: No questions at this time.

3 BRENDAN SULLIVAN: All right. And I have no
4 questions. Let me open it to public comment. Any members
5 of the public who wish to speak should now click the button
6 that says, "Participants," and then click the button that
7 says, "Raise hand."

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

11 The Board is in receipt of correspondence from
12 Denise Bergman and Gerald Bergman.

13 "As homeowner/abutters to 60 Market Street, we
14 offer our support to Sebastian and Debbie Colley's petition
15 for a special permit, per amended plans dated 03/27/23."

16 There is also correspondence from Susan Hartnett
17 and Wayne Raila -- R-a-i-l-a at 88 Elm Street.

18 "We write to support Sebastian and Debbie Colley's
19 request for a special permit. We are abutters to their
20 property. Over the past several weeks, Sebastian and Debbie
21 have worked with us to revise their designs, setting the
22 height of the roofline at 27'9", a height that is 7" lower

1 than their original plans. They have also reduced the
2 number of new windows that will face our home and yard from
3 three to two. We appreciate their willingness to make these
4 changes and offer our support for their request for a
5 special permit."

6 The Board is also in receipt of communication from
7 the Planning Board regarding 60 Market Street dated April
8 12.

9 "At its regular meeting of April 11, 2023, the
10 Planning Board discussed this proposal with the revised plan
11 set -- dated 04/03/23 and voted to forward a favorable
12 recommendation to the BZA on the special permit request for
13 this project."

14 That is the sum and substance of any
15 correspondence. I will close the public comment portion and
16 send it back to you, Mr. Glassman. Any parting words at
17 all?

18 ADAM GLASSMAN: No. No parting words.

19 BRENDAN SULLIVAN: Okay. Open it to the board.
20 Any concerns by the members of the Board? Ready for a
21 motion?

22 JIM MONTEVERDE: Ready for a motion.

1 ANDREA HICKEY: Ready.

2 BRENDAN SULLIVAN: I must note that I'll
3 editorialize here for 60 seconds that I had the better first
4 part of my life in a house with a mansard roof, and I'm
5 always very partial to mansard roofs.

6 And I actually researched it a little bit and
7 found out that mansard roofs, which were introduced back in
8 the late 1500s, were introduced as a way to skirt sort of
9 taxing of number of windows and the mansard roof allowed for
10 more interior living space without the addition of a
11 tremendous amount of windows.

12 And in the 1700s, there was a law passed which
13 taxed interior rooms of a height of a building at 65',
14 limited to 65', but it only went up to the cornice line.
15 And so, a mansard roof, then, was able to raise that area
16 above the cornice line and provide interior living space.

17 So it was a way to get around the zoning and here
18 we are so many years later, we're still seeking relief from
19 zoning for mansard roofs. But it's a good design.

20 So on the motion, then, to grant the relief
21 requested under 8.22d, the Board may grant a special permit
22 for the alteration or enlargement of a preexisting

1 dimensionally nonconforming, detached single-family dwelling
2 or two-family dwelling not otherwise permitted in 8.22.1
3 above, but not the alteration or enlargement of a
4 preexisting, nonconforming use.

5 Provided that there is no change in use, and that
6 any enlargement or alteration of such preexisting,
7 nonconforming detached single-family dwelling or two-family
8 dwelling may only increase a preexisting dimensional
9 nonconformity but does not create a new dimensional
10 nonconformity.

11 In order to grant the special permit, the Board of
12 Zoning Appeal is required to find -- and does make such
13 finding -- that the alteration or enlargement shall not be
14 substantially more detrimental than the existing
15 nonconforming structure to the neighborhood, and that the
16 alteration or enlargement satisfies the criteria in Section
17 10.43.

18 Under 10.43, it appears that the requirements of
19 the ordinance can be met with the granting of the special
20 permit.

21 Traffic generated, or patterns of access or egress
22 would not cause congestion, hazard, or substantial change in

1 the established neighborhood character.

2 The Board finds that continued operation of or
3 development of adjacent uses, as permitted in the Zoning
4 Ordinance, would not be adversely affected by the nature of
5 the proposed use. The Board notes and incorporates by
6 references the letters from abutting general property owners
7 in support of this project.

8 The Board finds that there would not be any
9 nuisance created to the detriment of the health, safety or
10 welfare of the occupants of the proposed use; in fact, it
11 would be greatly enhanced by the addition of the code-
12 compliant stairway to the third-floor area.

13 The Board finds that the proposed use would not
14 impair the integrity of the district or adjoining district.

15 The Board notes by reference the support from the
16 Planning Board of the current revised plan and would not
17 otherwise derogate from the intent and purpose of the
18 ordinance to allow homeowners to add additional space in
19 order to keep families in the city, which is an asset to the
20 city and out of City policy to encourage reasonable
21 development to allow for housing for families.

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

1 as per the application, on the condition that it conform to
2 the drawings, supporting statements and dimensional forms
3 initialed by the Chair, Jim Monteverde?

4 JIM MONTEVERDE: In favor.

5 BRENDAN SULLIVAN: Andrea Hickey?

6 ANDREA HICKEY: Yes, in favor.

7 BRENDAN SULLIVAN: Wendy Leiserson?

8 WENDY LEISERSON: Yes, in favor.

9 BRENDAN SULLIVAN: Matina Williams?

10 MATINA WILLIAMS: Yes, in favor.

11 BRENDAN SULLIVAN: And Brendan Sullivan in favor.

12 [All vote YES]

13 BRENDAN SULLIVAN: The special permit as per the
14 application is granted.

15 ADAM GLASSMAN: Thank you, Mr. Chair and members
16 of the Board. Goodnight.

17 BRENDAN SULLIVAN: Goodnight, yep.

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(9:02 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Andrea
A. Hickey, Wendy Leiserson, and Matina
Williams

BRENDAN SULLIVAN: The Board will now hear Case
No. 211717 -- 402 Rindge Avenue. Mr. Braillard? Adam?

ADAM BRAILLARD: Sorry, guys.

BRENDAN SULLIVAN: No, that's all right.

ADAM BRAILLARD: Thank you, Mr. Chair, members of
the Board. Adam Braillard, Prince Lobel Tye. We're at One
International Place in Boston, Massachusetts, here on behalf
of the applicant, T-Mobile Northeast LLC.

We're here in connection with the special permit
in a 6409 eligible facilities request from the Board to
modify an existing wireless communications facility that's
located at 402 Rindge Road. It's located in the Residential
C-2 Zoning District.

Just getting right into it, what we're proposing
to do is really modify the existing telecommunications
facility. And the proposal will consist of removing the six
existing panel antennas to two per sector and replacing

1 those with three antennas per sector for nine total panel
2 antennas, which will be of like-kind antennas.

3 We're also going to remove 12 remote radio units
4 and then replace those with six new like-kind radio units.
5 So you're going to be actually reducing the number of remote
6 radio units there.

7 We are going to remove or replace two of the radio
8 cabinets that are out of view with three new radio cabinets,
9 and still we remain out of view; going to be located in the
10 same locations.

11 And then we're going to be removing unused
12 additional equipment, including three dish antenna that are
13 all on the rooftop or penthouse façade of this building,
14 which is the antennas average about 200 to 211, 212 feet up
15 in the air.

16 Like I said, the building and the existing
17 facility is located in the Residential C Zoning District,
18 but we believe that the nonconforming uses still do prevail
19 in the area and the vicinity because of -- that has been the
20 finding in the past.

21 There hasn't been many significant changes with
22 respect to uses with existing nonresidential uses in the

1 area like the Summer Shack and the major thoroughfare like
2 Alewife Brook Parkway and the train station across the
3 street, and then some of the bigger box stores to the south.

4 And like I said, the Board has determined that
5 that is the case in this area, in that there hasn't been
6 significant changes.

7 And finally, I just want to note that the
8 proposal, because it's very -- it's substantially similar to
9 what is existing in -- from an aesthetic standpoint, is a de
10 minimis change; is not inconsistent with the character that
11 does prevail in the surrounding neighborhood.

12 BRENDAN SULLIVAN: Okay. Any questions? Jim
13 Monteverde, any questions?

14 JIM MONTEVERDE: No questions.

15 BRENDAN SULLIVAN: Matina Williams, any questions?

16 MATINA WILLIAMS: No questions.

17 BRENDAN SULLIVAN: Wendy Leiserson?

18 WENDY LEISERSON: No questions.

19 BRENDAN SULLIVAN: Andrea Hickey?

20 ANDREA HICKEY: No questions.

21 BRENDAN SULLIVAN: And I have no questions either.
22 Let me open it to public comment. Any members of the public

1 who wish to speak should now click the button that says,
2 "Participants," and then click the button that says, "Raise
3 hand."

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

6 [Pause]

7 There appears to be nobody calling in. So I will
8 close the public comment portion. We are not -- we have no
9 receipt of correspondence from any interested party. So I
10 will close that portion and send it back to Adam. Any other
11 comments you wish to make?

12 ADAM BRAILLARD: No, thank you, Mr. Chair.

13 BRENDAN SULLIVAN: All right. Ready for a motion?
14 Any concern by members of the Board?

15 JIM MONTEVERDE: Ready for a motion.

16 BRENDAN SULLIVAN: Okay. Let me make a motion,
17 then, to grant the relief requested, which is a special
18 permit under Section 4.32g1 and the 10.43 Requirements for a
19 Special Permit.

20 "Under 4.32, The Board shall consider the scope
21 of, or limitation imposed by any license secured from any
22 state or federal agency having jurisdiction over such

1 matters.”

2 And the Board finds upon this submission that T-
3 Mobile is duly licensed, that there are no restrictions, and
4 that the application falls within their parameters in which
5 to operate.

6 “The Board shall consider the extent to which the
7 visual impact of the various elements of the proposed
8 facility is minimized.” The Board finds that the photo
9 simulations does demonstrate and attempt to minimize the
10 visual appearance of the proposal, and the compliance with
11 that required.

12 “Where it is proposed to erect a facility in any
13 residential zoning district, the extent to which there was a
14 demonstrated public need for the facility at the proposed
15 use, and the existence of alternative functional suitable
16 sites and nonresidential locations, and the character of the
17 prevailing uses in the area, and the prevalence of other
18 existing mechanical systems and equipment carried on or
19 above the roof of nearby structures.”

20 The Board notes that this particular building is
21 well-suited for this type of installation because of its
22 height and the ability, then, to transmit over a wider area

1 without encumbrances of any natural forces.

2 The Board finds that under 10.43, it appears that
3 the requirements of the Ordinance can be met with the
4 granting of the special permit.

5 "Traffic generated, or patterns of access or
6 egress would not cause congestion, hazard, or substantial
7 change in the established neighborhood character."

8 The Board notes the existence of existing
9 telecommunication facilities at the locus, and that no
10 adverse effect has been noted from the existing and none is
11 anticipated for the proposed.

12 The Board finds that "continued operation of or
13 development of adjacent uses, as permitted in the Zoning
14 Ordinance, would not be adversely affected by the nature of
15 the proposed use." In fact, the Board finds that the
16 increase in the facility and the improvement and
17 modernization of equipment would enhance the development and
18 uses of adjoining properties for an advanced
19 telecommunication benefit.

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

1 or to the citizens of the city.”

2 The Board finds that “the proposed use will
3 benefit the city and promote safety and welfare for its
4 residents, businesses and also drivers by providing
5 reliable, state-of-the-art digital, wireless voice and data
6 services.”

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

11 The Board finds that the ordinance allows this
12 Board to grant special permits from time to time to upgrade
13 facilities to enhance the telecommunication ability of its
14 citizens and anybody traversing in the immediate area.

15 In furtherance, the Chair moves that the petition
16 be granted for the special permit on the following
17 conditions: That the work proceed in accordance with the
18 plans submitted by the petitioner, and initialed by the
19 Chair.

20 That upon completion of the work, the physical
21 appearance and visual impact of the proposed work will be
22 consistent with the photo simulations submitted by the

1 petitioner, and initialed by the Chair.

2 That the petitioner at all times maintain the
3 proposed work, so that its physical appearance and visual
4 impact will remain consistent with the photo simulations
5 previously referred to.

6 That should the petitioner cease to utilize the
7 equipment approved tonight for a continuous period of six
8 months or more, it shall promptly thereafter remove such
9 equipment and restore the building on which it is located to
10 its prior condition and appearance, to the extent reasonably
11 practical.

12 That the petitioner is in compliance with and will
13 continue to comply with in all respects the condition
14 imposed by this Board with respect to previous special
15 permits granted to the petitioner, with regard to the site
16 in question.

17 Further, in as much as the health effects of the
18 transmission of electromagnetic energy waves is a matter of
19 ongoing societal concern and scientific study, the special
20 permit is also subject to the following conditions:

21 a) That the petitioner shall file with the
22 Inspectional Services Department each report it files with

1 the federal authorities regarding electromagnetic energy
2 waves emissions emitting from all of the petitioner's
3 equipment on the site.

4 Each such report shall be filed with the
5 Inspectional Services Department no later than 10 business
6 days after the report has been filed with the federal
7 authorities.

8 Failure to timely file such reports with the
9 Inspectional Services Department shall ipso facto terminate
10 the special permit granted tonight.

11 b) That in the event that at any time federal
12 authorities notify the petitioner that its equipment on the
13 site, including but not limited to the special permit
14 granted tonight, fails to comply with the requirements of
15 law or governmental regulations -- whether with regard to
16 the emissions of electromagnetic energy waves or otherwise
17 the petitioner, within 10 business days of receipt of such
18 notification of such failure, shall file with the
19 Inspectional Services Department a report disclosing in
20 reasonable detail that such failure has occurred, and the
21 basis for such claimed failure.

22 The special permit granted tonight shall ipso

1 facto terminate if any of the petitioner's federal licenses
2 are suspended, revoked, or terminated.

3 c) That to the extent a special permit has
4 terminated, pursuant to the foregoing paragraphs a) and b),
5 the petitioner may apply to this Board for a new special
6 permit, provided that the public notice concerning such
7 application discloses in reasonable detail that the
8 application has been filed because of a termination of the
9 special permit, pursuant to paragraph a) or b) above.

10 Any such new application shall not be deemed a
11 repetitive petition, and therefore will not be subject to
12 the two-year period during which repetitive petitions may
13 not be filed.

14 d) That within 10 business days after receipt of a
15 building permit for the installation of the equipment
16 subject to this petition, the petitioner shall file with the
17 Inspectional Services Department a sworn affidavit of the
18 person in charge of the installation of equipment by the
19 petitioner with the geographical area that includes
20 Cambridge stating that:

21 a) he or she has such responsibility, and

22 b) that the equipment being installed pursuant to

1 the special permit we are granting tonight will comply with
2 all federal safety rules and will be situated and maintained
3 in locations with appropriate barricades and other
4 protections, such that individuals, including nearby
5 residents and occupants of nearby structures, will be
6 sufficiently protected from excessive radiofrequency
7 radiation under federal law.

8 On the motion, then, to grant the special permit
9 as per the application, supporting statements submitted and
10 initialed by the Chair, Jim Monteverde?

11 JIM MONTEVERDE: In favor.

12 BRENDAN SULLIVAN: Andrea Hickey?

13 ANDREA HICKEY: Yes, in favor.

14 BRENDAN SULLIVAN: Wendy Leiserson?

15 WENDY LEISERSON: Yes, in favor?

16 BRENDAN SULLIVAN: Matina Williams?

17 MATINA WILLIAMS: Yes, in favor.

18 BRENDAN SULLIVAN: And Brendan Sullivan in favor.

19 [All vote YES]

20 The special permit is granted.

21 ADAM BRAILLARD: Thank you, folks. Appreciate it.

22 BRENDAN SULLIVAN: Thank you, Adam. And that

1 concludes tonight. Thank you.

2 [9:16 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.

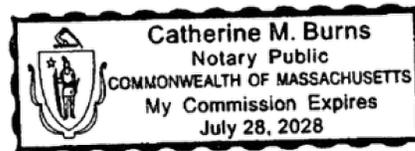
In witness whereof, I have hereunto set my hand this 26th day of April, 2023.



Notary Public

My commission expires:

July 28, 2028



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