

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, NOVEMBER 18, 2021

6:00 p.m.

Remote Meeting

via

831 Massachusetts Avenue
Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Brendan Sullivan, Vice Chair

Andrea A. Hickey

Wendy Leiserson

Jim Montverde

City Employees

Olivia Ratay



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1 P R O C E E D I N G S

2 * * * * *

3 (6:00 p.m.)

4 Sitting Members: Constantine Alexander, Brendan Sullivan,
5 Andrea A. Hickey, Wendy Leiserson and Jim
6 Monteverde

7 CONSTANTINE ALEXANDER: Welcome to the November
8 18, 2021 meeting of the Cambridge Board of Zoning Appeals.
9 My name is Gus Alexander, and I am the Chair.

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

19 This meeting is being video and audio recorded,
20 and is broadcast on the City of Cambridge online meeting
21 portal and on cable television Channel 22, within Cambridge.
22 In due course, there will also be a transcript of these

1 proceedings.

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

5 Members of the public will be kept on mute until
6 it is time for public comment. I will give instructions for
7 public comment at that time, and you can also find
8 instructions on the city's webpage for remote BZA meetings.
9 Generally you will have up to two minutes to speak.

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

12 OLIVIA RATAY: Andrea Hickey?

13 ANDREA HICKEY: Andrea Hickey present.

14 OLIVIA RATAY: Jim Monteverde?

15 JIM MONTEVERDE: Jim Monteverde is present.

16 OLIVIA RATAY: Wendy Leiserson?

17 WENDY LEISERSON: Wendy Leiserson present.

18 OLIVIA RATAY: Brendan Sullivan?

19 BRENDAN SULLIVAN: Brendan Sullivan present.

20 OLIVIA RATAY: Gus Alexander?

21 CONSTANTINE ALEXANDER: And the Chair is present
22 as well, at least for now. Okay.

1 As is our practice, we will start by hearing
2 continued cases. These are cases that have started at an
3 earlier date, and for one reason or another have been
4 continued until this evening. Once we have gone through our
5 litany of continued cases, we will then turn to our regular
6 agenda, but we will start no earlier than 6:30 for the
7 regular agenda.

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2 (6:02 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Andrea A. Hickey, Wendy Leiserson and Jim
5 Monteverde

6 CONSTANTINE ALEXANDER: So turning to the
7 continued agenda, I'm going to first call Case Number 127988
8 -- 26 Bellis Circle. Anyone here wishing to be heard? --
9 #26. 26 Bellis Circle, #26. Anyone here wishing to be
10 heard on this matter?

11 [Pause]

12 CONSTANTINE ALEXANDER: Nope? We have earlier
13 received a request from the petitioner -- or actually the
14 petitioner's counsel, to continue this case further. They
15 wish to continue it; the request was to continue this until
16 December 16 at 6:45 p.m. However, our December 16 agenda is
17 full. And so we're going to have to continue this case
18 until January 6. This is a case not heard, and so there's
19 no need for any of the members tonight to be present on
20 January 6.

21 So the Chair moves that we continue this case as a
22 case not heard until 6:45 p.m. on January 6, subject to the

1 following conditions:

2 First, that the petitioner sign a waiver of notice
3 for decision, and that has already been done since this case
4 has been continued before.

5 Two, that a new posting sign reflecting the new
6 date, January 6, and new time, 6:45, must be erected and
7 maintained for the 14 days prior to the January 6 date.

8 And lastly, to the extent that the petitioner is
9 planning or will submit new or modified plans, specs, or
10 other technical information, they must be in our file no
11 later than 5:00 p.m. on the Monday before January 6. If
12 that is not done, we will not hear that case that night; we
13 will continue it further or we will dismiss it.

14 Brendan, how do you vote?

15 BRENDAN SULLIVAN: Brendan Sullivan yes to the
16 continuance.

17 CONSTANTINE ALEXANDER: Jim?

18 JIM MONTEVERDE: Jim Monteverde yes to the
19 continuance.

20 CONSTANTINE ALEXANDER: Andrea?

21 ANDREA HICKEY: Andrea Hickey yes to the
22 continuance.

1 CONSTANTINE ALEXANDER: Wendy?

2 WENDY LEISERSON: Wendy Leiserson yes to the
3 continuance. Sorry --

4 CONSTANTINE ALEXANDER: Hello?

5 WENDY LEISERSON: Mr. Chair, I thought that this
6 had been heard.

7 CONSTANTINE ALEXANDER: I'm sorry?

8 WENDY LEISERSON: I thought that we had heard this
9 previously.

10 CONSTANTINE ALEXANDER: Yes, I'm --

11 BRENDAN SULLIVAN: Wendy is making the comment
12 that it is a heard case.

13 CONSTANTINE ALEXANDER: Oh, you're right. It is a
14 heard case. But the five of us need to be -- the five who
15 are on the call tonight need to be available on January 6.
16 And it looks like that way -- because four said they have no
17 problem, and I will vote yes to continue.

18 [All vote YES]

19 And I plan to be here on January 6.

20 So the motion has been adopted. The case is
21 continued until 6:45 p.m. on January 6.

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2 (6:05 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Andrea A. Hickey, Wendy Leiserson and Jim
5 Monteverde

6 CONSTANTINE ALEXANDER: The Chair will now call
7 Case Number 141576 -- 321 Alewife Brook Parkway. Anyone
8 here wishing to be heard on this matter?

9 JAMES RAFFERTY: Good evening, Mr. Chair, members
10 of the Board. My name is James Rafferty. I'm an attorney
11 with law offices at 907 Massachusetts Avenue in Cambridge.
12 I'm here this evening representing the applicant. Present
13 with me is Alan Kelly of Linear Retail and Christopher Roth
14 of Banfield Pet Hospital.

15 CONSTANTINE ALEXANDER: Okay. The floor is yours.
16 I'm sure you're aware of the voluminous questions and
17 comments that this Board has received from neighbors with
18 regard to the relief being sought tonight.

19 JAMES RAFFERTY: I'm very aware, Madam -- Mr.
20 Chair, thank you. In fact, the reason we sought a
21 continuance two weeks ago was to provide an opportunity to
22 get answers from both the operator and the landlord. We've

1 shared those, sent those answers to the principal
2 correspondent, and we placed a copy of those responses in
3 the file as well.

4 To begin with, this is an applicant to obtain a
5 special permit to operate a veterinary hospital at 321
6 Alewife Brook Parkway. Board members are probably familiar
7 with this shopping center. It's right at the corner of
8 Concord Avenue and Alewife Brook Parkway. It's perhaps
9 often referred to as the CVS or Trader Joe's shopping
10 center.

11 That's the structure that's in the rear portion of
12 the shopping center; and in the forward section of the
13 shopping center is a separate, stand-alone building with six
14 retail spaces.

15 In one of these spaces, which most recently was
16 the home of a mattress retailer, the applicant seeks to
17 operate a veterinary hospital.

18 Banfield Pet Hospital operates veterinary
19 hospitals throughout the country, and in this instance, what
20 they're proposing is a hospital that meets with the
21 definition of the requirements of the Special Permit
22 Criteria set forth in Article 4, which says this this use is

1 permitted in a Business A Zoning District, provided that all
2 animals are kept indoors, and that no noise or odors are
3 perceptible from the exterior.

4 That is exactly what will happen here.

5 There are -- we were asked earlier about there are
6 a few animal-related uses nearby. Across the street in the
7 Whole Foods shopping center, there is a PetSmart location.
8 And actually within the PetSmart location, Banfield operates
9 a veterinary clinic. When this facility opens, that clinic
10 will no longer operate in the PetSmart location.

11 So the difference between the PetSmart location
12 and this location is the PetSmart location is really a place
13 where the operators refer to it as a "pet hotel."

14 Seemingly, the word, "kennel" might have a pejorative sense
15 with some pet owners. So -- but they have there -- they
16 board pets; people are going away, they bring their pets
17 there.

18 This is a veterinary establishment. There are no
19 pets that are here overnight. It's not going to be open in
20 the evening, and some of the responses we provided to the
21 questions that were raised address that issue. We've set
22 forth in our application the criteria under the special

1 permit in terms of the impact that this use would have on
2 surrounding uses.

3 Obviously, the principal surrounding uses are
4 other retail uses within the complex. There are nearby
5 residential uses on the other side of Wheeler Street, and
6 there were some questions raised about the operation not
7 only the pet store -- excuse me, the pet store -- excuse me,
8 the hospital -- Veterinary Hospital, but also questions
9 arose about the management operation of certain conditions
10 at the shopping center itself.

11 So we asked the landlord of Linear Retail to
12 provide some response to issues raised particularly around
13 the way the current dumpster is being maintained, and also,
14 to be able to make commitments around the posting of
15 adequate signage, that will alert the pet owners who visit
16 the facility to not allow their pets to use the neighboring
17 residential properties as an opportunity to exercise their
18 pets or any other pet-related functions that sometimes
19 occur.

20 Banfield has a protocol around such things. And
21 I'm happy to get into the details if it's appropriate. But
22 as I said, we've provided written responses to the questions

1 we received, and we're now prepared to answer any additional
2 questions.

3 CONSTANTINE ALEXANDER: In the interim, from the
4 time you provided the responses until now, have you received
5 any further feedback or comments from the person or persons
6 who made the comments? In other words, is the matter still
7 in -- are there any disputes going on or not, or do you
8 know?

9 JAMES RAFFERTY: Well, candidly, I didn't hear the
10 questions as disputes. And they were told to us that they
11 were in fact questions -- not views of opposition, but
12 operational-style questions.

13 There were one of two other questions that emerged
14 as recently as yesterday, but at that moment, the vast
15 majority I believe have been addressed. And as I said, if
16 one were to categorize the questions and comments, they fell
17 into two categories.

18 One specifically related to the operations of a
19 veterinary hospital, for which Banfield provides specific
20 examples of how these hospitals and operations are
21 conducted.

22 And then the other question had to do with larger

1 landlord-related issues, associated -- particularly in this
2 case the dumpster adjacent to CVS, there were some
3 photographs provided that would reveal that the trash
4 management there is not as appropriate as it should be.

5 There's also a recent comment about the timing of
6 dumpster pickup at that location. So we have alerted Linear
7 Retail to the most recent questions.

8 And as I noted, Mr. Kelly is here to the extent
9 the Board wishes us to go into that, or whether you'd rather
10 wait to hear what public comment is.

11 CONSTANTINE ALEXANDER: I would rather wait. Let
12 me ask one other question. Obviously -- I shouldn't say,
13 "obviously" -- but I assume that your client is going to be
14 leasing the space that's in question here?

15 JAMES RAFFERTY: That's correct.

16 CONSTANTINE ALEXANDER: How long is the initial
17 term of that?

18 JAMES RAFFERTY: Candidly, I do not know.

19 CONSTANTINE ALEXANDER: Okay. Your client is on
20 the line; can they advise you?

21 JAMES RAFFERTY: I suspect perhaps the landlord
22 representative, or I would presume the Banfield

1 representative may be aware.

2 CONSTANTINE ALEXANDER: I'm sorry?

3 CHRISTOPHER ROTH: Hi. Christopher Roth here from
4 Banfield Pet Hospital. Our initial term is a 10-year-term
5 with 2 five-year options.

6 CONSTANTINE ALEXANDER: Okay. I wasn't interested
7 in the option, but thank you. 10-year-term? Okay.

8 CHRISTOPHER ROTH: Yeah.

9 CONSTANTINE ALEXANDER: Thanks. Anything else at
10 this point, Mr. Rafferty?

11 JAMES RAFFERTY: No thank you. I think, as I
12 noted, the supporting statement addresses the one thing that
13 I do think is worth people being aware of are the hours of
14 operation here. They are significantly less than nearly all
15 the other retail uses in the shopping center, with a 7:00
16 p.m. closing and no Sunday activity.

17 CONSTANTINE ALEXANDER: Thank you. Brendan, do
18 you have any questions?

19 BRENDAN SULLIVAN: Brendan Sullivan no questions
20 or comments at this time.

21 CONSTANTINE ALEXANDER: Jim, any questions or
22 comments?

1 JIM MONTEVERDE: No. Jim Monteverde no questions.

2 Thank you.

3 CONSTANTINE ALEXANDER: Andrea?

4 ANDREA HICKEY: No questions, thank you.

5 CONSTANTINE ALEXANDER: Wendy?

6 WENDY LEISERSON: Wendy Leiserson no questions.

7 CONSTANTINE ALEXANDER: I have no questions at
8 this point either. So I'm going to open the matter up to
9 public testimony. Any members of the public who wish to
10 speak should now click the icon at the bottom of your Zoom
11 screen that says, "Raise hand."

12 If you're calling in by phone, you can raise your
13 hand by pressing *9 and unmute or mute by pressing *6. So
14 we'll take a few moments to see if anyone wishes to speak.
15 Wendy?

16 [Pause]

17 CONSTANTINE ALEXANDER: I'm surprised, but okay.
18 Thank you. With that, I'm going to close public testimony
19 as indicated by Mr. Rafferty and confirmed by me.

20 There were a number of letters with a significant
21 number of questions of the petitioner, which the petitioner
22 has sought to answer. It's all in our files. I have to

1 assume that the answers are satisfactory to the persons who
2 asked the questions, so so be it.

3 I will now close public testimony.

4 JAMES RAFFERTY: Mr. Chair, I --

5 CONSTANTINE ALEXANDER: Yes.

6 JAMES RAFFERTY: If possible, I would like to
7 correct an earlier statement. It was my understanding that
8 they were not open on Sundays, but I'm looking at one of the
9 responses, and apparently, they are open on Sundays.

10 So I don't -- I want to be accurate in my
11 representation. The answer that was provided from Banfield
12 is that their typical hours of operations are from 7 a.m. to
13 7:00 p.m. seven days per week.

14 CONSTANTINE ALEXANDER: Okay. Thank you. I have
15 -- to me personally, the significant idea is 7:00 p.m.;
16 whether it's Sunday or not, you're not going to be open late
17 hours; it's not going to be ten at night.

18 JAMES RAFFERTY: That's correct.

19 CONSTANTINE ALEXANDER: That's to me, only me.
20 That's the important point to be taken away from your
21 presentation. I'm going to make a motion, as is our
22 procedure on Zoom -- I'll make a motion to grant relief, and

1 then we'll then take a vote. People could vote yes, no --
2 people being Board members -- or want to modify what is
3 being part of the motion.

4 So the Chair moves that we make the following
5 findings with regard to the special permit that's being
6 sought:

7 That: One, that the requirements of the Ordinance
8 cannot be met unless we grant the special permit.

9 Traffic generated or patterns of access or egress
10 resulting from the relief being sought will not cause
11 congestion, hazard, or substantial change in established
12 neighborhood character.

13 In this regard, although there is some veterinary
14 related activities in the general area, though it's not a --
15 although not of the nature that is being proposed by the
16 petitioner, that there is no indication to me, at least,
17 that there will be any congestion or hazard resulting,
18 should we grant the relief being sought.

19 That the continued operation of or development of
20 adjacent uses, as permitted in the Zoning Ordinance, will
21 not be adversely affected by the nature of the proposed use.
22 In this regard, we have found -- we have at this point at

1 least no letters of opposition to the relief, on the grounds
2 that there would be an adverse effect on the development or
3 use of adjacent -- operation or development of adjacent
4 uses.

5 That no nuisance or hazard will be created to the
6 detriment of the health, safety and/or welfare of the
7 occupant of the proposed use. In this regard, I will impose
8 the conditions that are in the Ordinance right now for all
9 veterinary establishments. There was two in nature, and Mr.
10 Rafferty has already touched on them in this presentation.

11 And that generally, what is being proposed will
12 not impair the integrity of the district or adjoining
13 district, or otherwise derogate from the intent and purpose
14 of this ordinance.

15 I think it speaks for itself that this is a
16 commercial area with other shopping center uses, including
17 some that are veterinary related, as I've indicated.

18 So on the basis of all of these findings, the
19 Chair moves that we grant the special permit requested on
20 the condition that -- I've got to find the conditions -- on
21 the condition that, excuse me, I've got to find --

22 JAMES RAFFERTY: "All animals are kept indoors --

1 CONSTANTINE ALEXANDER: I'm sorry?

2 JAMES RAFFERTY: The condition, I'm assuming --
3 the language from the ordinance is that, "All animals are
4 kept indoors, and that no noise or odors are perceptible
5 from the exterior."

6 CONSTANTINE ALEXANDER: That's what I was looking
7 for. Thank you, Mr. Rafferty. So those are the conditions.
8 Is there --

9 BRENDAN SULLIVAN: Yeah, Brendan Sullivan. I
10 would support the motion and on the condition that the
11 establishment conduct themselves in the manner required by
12 the special permit, and also, by the -- what is presented as
13 their -- how they're going to conduct their operation. And
14 that's part of their presentation or their application.

15 CONSTANTINE ALEXANDER: Right.

16 BRENDAN SULLIVAN: And not to deviate from that
17 one question, Mr. Rafferty, how long has Banfield been
18 across the street next to the PetSmart?

19 JAMES RAFFERTY: I would ask Mr. Roth.

20 BRENDAN SULLIVAN: I remember sitting on that
21 case.

22 JAMES RAFFERTY: Yes.

1 BRENDAN SULLIVAN: Some of the same issues came up
2 then as came up regarding this as far as the conduct or the
3 behavior or lack thereof of dogs and animals and some of
4 their masters.

5 And I think over the years that those fears have
6 been alive, so that there was a fear of the unknown at that
7 time, and I think that both animal and owner have conducted
8 themselves fine across the street, from what I could see --
9 and I frequent that shopping center quite a bit; obviously
10 Staples and PetSmart and so on and so forth. So I would
11 support the special permit.

12 CONSTANTINE ALEXANDER: Thank you. Jim?

13 JIM MONTEVERDE: Jim Monteverde, I vote to support
14 the special permit.

15 CONSTANTINE ALEXANDER: Andrea?

16 ANDREA HICKEY: I am in favor of the special
17 permit.

18 CONSTANTINE ALEXANDER: Wendy?

19 WENDY LEISERSON: Wendy Leiserson in favor of the
20 special permit.

21 CONSTANTINE ALEXANDER: The Chair votes in favor
22 as well. It's unanimous.

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[All vote YES]

The special permit is being granted. Thank you.

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

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2 (6:21 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Andrea A. Hickey, Wendy Leiserson and Jim
5 Monteverde

6 CONSTANTINE ALEXANDER: The Chair will now call
7 Case Number 017219 -- 544 Massachusetts Avenue. Anyone here
8 wishing to be heard on this matter?

9 [Pause]

10 CONSTANTINE ALEXANDER: No one is on? Okay.
11 Apparently, no one is on, but we do have -- I don't know
12 where this came from, but I have been advised that the
13 petitioner wants to continue this case once again, this time
14 until March of this year, 2022.

15 So the Chair moves that we will continue -- we
16 makes a motion that we continue this case as a case not
17 heard until 6:00 p.m. on March 24, subject to the following
18 conditions:

19 One that the petitioner sign a waiver of time for
20 decision -- well, yeah, a waiver of time for decision. That
21 has already been done in connection require continuances, so
22 that's been satisfied.

1 Second, that a new posting sign -- yet another new
2 posting sign be erected and maintained for the 14 days by
3 the petitioner and maintained for the 14 days before March
4 24, reflecting the new date and the new time. Both must be
5 reflected on the sign that is posted.

6 And lastly, to the extent that the petitioner has
7 new or revised plans, specifications or other technical
8 data, that must be in our files no later than 5:00 p.m. on
9 the Monday before March 24.

10 Brendan, how do you vote?

11 BRENDAN SULLIVAN: Brendan Sullivan yes to the
12 continuance.

13 CONSTANTINE ALEXANDER: Jim?

14 JIM MONTEVERDE: Jim Monteverde yes to the
15 continuance.

16 CONSTANTINE ALEXANDER: Andrea?

17 ANDREA HICKEY: Andrea Hickey yes in favor of the
18 continuance.

19 CONSTANTINE ALEXANDER: Wendy?

20 WENDY LEISERSON: Wendy Leiserson yes in favor of
21 the continuance.

22 CONSTANTINE ALEXANDER: And the Chair votes yes as

1 well, so this case is continued until March 24.

2 [All vote YES]

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2 (6:24 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Andrea A. Hickey, Wendy Leiserson and Jim
5 Monteverde

6 Lastly, before I get to our regular agenda, we
7 have one other request for an extension actually, a six-
8 month extension with regard to the property at 11 Lopez
9 Street. This is in connection with the decision we rendered
10 on December 9, 2020.

11 And the petitioner submitted reasons why they
12 cannot complete -- they need to get an extension. Some of
13 them are personal, if you will, in nature. And so I don't
14 propose to read them in the public record. But they are
15 part of our record, if anyone wants to go to the zoning
16 office and read our file.

17 So if we continue the case until -- what's the
18 date? We didn't have a date?

19 BRENDAN SULLIVAN: Yes.

20 CONSTANTINE ALEXANDER: [Six months date, I saw
21 somewhere. Yeah. No, it doesn't have a date.] We're
22 looking for the date that's six months out. Okay. The

1 Chair moves that we grant an extension of our earlier
2 decision until June 9, 2022.

3 Brendan, how do you vote?

4 BRENDAN SULLIVAN: Brendan Sullivan yes to the
5 continuance.

6 CONSTANTINE ALEXANDER: Jim?

7 JIM MONTEVERDE: Jim Monteverde yes for the
8 continuance.

9 CONSTANTINE ALEXANDER: Andrea?

10 ANDREA HICKEY: Andrea Hickey yes in favor of the
11 continuance.

12 CONSTANTINE ALEXANDER: Wendy?

13 WENDY LEISERSON: Wendy Leiserson yes in favor of
14 the continuance.

15 CONSTANTINE ALEXANDER: And the Chair votes yes as
16 well.

17 [All vote YES]

18 And this case is continued until June 9, 2022.

19 That concludes our continued cases, then. This is
20 a request for an extension. Our regular agenda begins at
21 6:30, it's not quite 6:30 yet, so we'll take a brief recess
22 until 6:30, and then we'll resume with our regular agenda.

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[BREAK]

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2 (6:31 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Andrea A. Hickey, Wendy Leiserson and Jim
5 Monteverde

6 CONSTANTINE ALEXANDER: We're going to
7 start our regular session, and the first case I'm going to
8 call is Case Number 148819 -- 675 West Kendall Street.
9 Anyone here wishing to be heard on this matter?

10 ROSE CONTI: Yes, Mr. Chairman. Myself and Ken
11 Filosi from Alnylam. I represent Lee Kennedy Company, on
12 behalf of Alnylam. We're here to present to you this
13 evening.

14 I don't know if Nina is on? Nina, are you on?

15 [Pause]

16 ROSE CONTI: I think she's joining now.

17 NINA PICKERING: I am on; I was just promoted.

18 ROSE CONTI: Great. Awesome.

19 KEN FILOSI: Great.

20 NINA PICKERING: Thank you. Mr. Chair, good
21 evening and good evening, Board members. We are ready to
22 present. I will take the screen. We have prepared a

1 presentation that we sent to you. And then I'm going to
2 turn it over to Ken. Can you all see my screen? It's --

3 CONSTANTINE ALEXANDER: Yep.

4 JIM MONTEVERDE: Yes.

5 ROSE CONTI: Okay, terrific.

6 KEN FILOSI: Great. Thank you, Rose. Appreciate
7 it. And we do want to thank the Board for having us this
8 evening and giving us the opportunity to present.

9 As Rose had mentioned, she is with Lee Kennedy
10 Construction Company. Nina Pickering Cook is with Anderson
11 & Kreiger Law Firm, and Jim Tracy -- I'm not sure if he's on
12 or not, but he's with SignWorks Company. So this is our
13 team.

14 For those of you not familiar with Alnylam
15 Pharmaceuticals, we're a rare disease company with several
16 medicines delivered to the market to date for our patients
17 all over the world. We have been in Kendall Square
18 locations -- three of them -- for several years at 101 Main
19 Street, 300 Third Street, and we do have signage on that
20 building three stories up.

21 And tonight's subject building at 675 West
22 Kendall, which we are looking for approval of a variance for

1 a sign 105 feet from ground level to the top of the sign and
2 the size of it is 170 square feet.

3 We believe it's worthy to note the sign location
4 has sight lines only to the surrounding businesses in Henri
5 A. Termeer Square.

6 Next slide, Rose?

7 Our agenda this evening, we wanted to talk about
8 the project background just to set expectations for
9 everyone. We've been through this process a couple of
10 different times with the East Cambridge Planning Team, and
11 with the Planning Board, and of course we're presenting now
12 to the Board of Zoning Appeals.

13 I'd also like to talk about our plans, and then we
14 have questions and answers.

15 Next slide, Rose?

16 ROSE CONTI: Mm-hm.

17 KEN FILOSI: So we obviously recognize the need
18 for this variance, due to the signage, elevation and size
19 that I previously cited. We went in front of the East
20 Cambridge Planning Team in early June. We had two different
21 signs that we were looking at.

22 Rose, would you go to the next slide, just so I

1 can explain to the Board?

2 This was the original presentation that we gave to
3 the East Cambridge Planning Team. You can see on the south
4 side elevation at Athenaeum Street up on the corner of the
5 building six stories high we had the Alnylam sign there, and
6 we also wanted the sign at the West Kendall side, which is
7 east elevation, up in the right-hand corner.

8 Originally, when we presented to the folks, we had
9 these two signs. They were illuminated signs. They work
10 with LED lighting. And the idea here was to have that LED
11 lighting on at dusk for a couple of hours then turned off,
12 and then -- you know, the next day we would put it back on
13 at dusk.

14 Rose, back to the previous slide? Thank you.

15 The East Cambridge Planning Team rejected that
16 plan there. And so as a team we went back to the drawing
17 board, and we took a look at modifying the plan. We
18 eliminated the variance request and signage on Athenaeum at
19 the rooftop level, and we also eliminated the illumination
20 completely.

21 That there was also rejected in a July meeting.

22 So our next Board that we spoke to was the Planning Board

1 early in November.

2 We sat at that meeting there; although we didn't
3 get the opportunity to speak, they did do a vote, and they
4 rejected that plan too. So here we are, you know, in front
5 of the Board of Zoning Appeal right now, to see if we can
6 move this forward.

7 Next slide, Rose?

8 So to the Board, what we're looking at is one sign
9 east elevation, West Kendall Street six stories high. I had
10 mentioned previously the components of that sign, the height
11 and size of it. This here is in so-called Henry A. Termeer
12 Square, as you know. And this is what we're looking
13 hopefully to gain from the Board.

14 Next slide, Rose?

15 From a zoning perspective, we understand that
16 within zoning, it can only be 20 feet high, and the max area
17 can only be 60 square feet. Again, our proposal, because we
18 do need the variance, is 105 feet from ground level to the
19 top of the sign. The lettering height are so-called swoosh,
20 if you will. The Alnylam logo 84. The Capital A and the l
21 are 46 inches high, and everything else lowercase is 32
22 inches.

1 Next slide, Rose? I'm going to turn it over to
2 Nina. And Nina -- again -- is from Anderson & Krieger.
3 She's our lawyer for this year, and she's going to go
4 through the variance requirements. Nina?

5 NINA PICKERING: Thanks, Ken and good evening to
6 the Board. Can everyone hear me okay?

7 CONSTANTINE ALEXANDER: Yes.

8 NINA PICKERING: Great. So there were three
9 requirements to obtain a variance, as this Board well knows.
10 It is -- there needs to be a substantial hardship, due to
11 the soil, shape or topography of the lot and the relief
12 can't cause a substantial detriment. I'm just going to go
13 through and describe how this application satisfies each of
14 those criteria.

15 CONSTANTINE ALEXANDER: As you do that, I may have
16 questions -- maybe other members of the Board as well... have
17 questions as well.

18 NINA PICKERING: Great.

19 CONSTANTINE ALEXANDER: So I hope you don't mind
20 if we interrupt you, or I interrupt you during the course of
21 your presentation.

22 NINA PICKERING: Not at all. Just stop me any

1 time.

2 CONSTANTINE ALEXANDER: Okay.

3 NINA PICKERING: So with respect to the
4 Substantial Hardship Criteria, in this case a compliance
5 sign would be completely obstructed to the two streets
6 approaching this side of the building.

7 The compliance sign, again, would be at street
8 level, because it's no higher than 20 feet, and the size of
9 it would be quite small for a building of this size. If we
10 were able to raise that sign: Again, we would still have
11 the hardship that the size would need to be enlarged in
12 order to effectively see it.

13 CONSTANTINE ALEXANDER: Two questions. Excuse me,
14 two questions with regard to that. So right now -- I walked
15 around the building this afternoon. There were Alnylam
16 signs on two sides of the building already -- two of the
17 four sides. And they're out by the doorways, and they're
18 not as big or as prominent as what you're proposing, but
19 there are signs.

20 So number 1, it's not like you can't ever find --
21 if you get to the building, you will see a sign that says,
22 "Alnylam."

1 Next, what's the importance of people being able
2 to see a sign in this day in age of GPS? You just put --
3 you plug into your GPS the address, and it'll get you to the
4 building. You don't --

5 NINA PICKERING: Sure.

6 CONSTANTINE ALEXANDER: -- need the sign.

7 NINA PICKERING: So I have two responses to that,
8 Mr. Chair. The first response is -- I'll take them in
9 reverse order -- the response that you don't really need a
10 big sign in this day in age because you can find them in you
11 can find them on your GPS, I frankly just disagree.

12 First of all, if you're driving, I think we've all
13 had experiences when we've been driving and looking for
14 something on our GPS and it's not exactly the safest manner
15 in which to find a location. I think being able to look
16 where you're going and see a building that's clearly your
17 destination is much safer.

18 Second of all, the argument that you can just use
19 your GPS on your phone to find anything, there are kind of
20 two logical problems with that.

21 The first problem is -- again, we've all had those
22 times where our phone doesn't get signal, our phone is out

1 of battery, and there is also the issue of that just
2 undercuts the whole purpose of having a signed bylaw to
3 begin with.

4 If this Board's approach to signs is signs that
5 are visible to people on the street that are approaching the
6 building are unnecessary because you can find the one with
7 GPS, then there's no reason for signs of any size or shape.
8 If that --

9 CONSTANTINE ALEXANDER: Maybe people in the city
10 of Cambridge would like that, by the way, you should know.

11 NINA PICKERING: Well, that's not -- that's not
12 the law at this point. So that's my response to those.

13 When we're talking about wayfinding, yes, I
14 completely appreciate that you went and looked at the
15 building and standing in front of the building you could
16 find it and you saw that there was a sign there by the door
17 saying, "This is the Alnylam building."

18 Frankly, that's not wayfinding. Right? You're
19 already there. Wayfinding for a sign is leading someone to
20 the building. And so I think, you know, again this is a
21 modest request of one subtle sign up high, where it's not
22 obstructed from view that people can see it.

1 So it's really that obstruction that creates that
2 substantial hardship. And I'll talk about in the next slide
3 what that obstruction is.

4 So the second criteria is the hardship that we're
5 talking about, the obstruction in our case has to be due to
6 the lot's soil, shape or topography.

7 What we're talking about here is that there are
8 street-level obstructions around this side of the building
9 that completely obstruct the ability to see anything at that
10 street level, as you approach either from Linskey Way or
11 Alnylam -- Athenaeum Street. Those structures -- there are
12 both structures as well as the trees in Henri A. Termeer
13 Square. I think the next slide shows.

14 CONSTANTINE ALEXANDER: I have to -- before we
15 turn to the next slide, go back to that, thank you. The
16 hardship is owing to due to the lot's -- that's your lot, or
17 Alnylam's lot -- soil, shape or topography. The fact that
18 there are structures and trees in an abutting park doesn't
19 fit with the requirement there is to get a variance.

20 NINA PICKERING: I disagree, Mr. Chair, if I may?

21 CONSTANTINE ALEXANDER: You may.

22 NINA PICKERING: So we're not basing this either

1 on the lot's soil or the shape, we're basing this on
2 topography. And if you look at a dictionary definition of,
3 "topography" that is listed as -- I'll quote here, I think
4 it's from Merriam-Webster -- "The arrangements of natural
5 and artificial physical features of an area."

6 So people think of topography as are there hills
7 in the way, right? Generally. Topography as a matter of
8 legal definition is natural or artificial physical features.

9 And what we can show you is that there are natural
10 and artificial physical features that obstruct where a
11 compliant sign would fit on this building. Rose, if there's
12 -- if I can show you in the next slide, I can show you what
13 I mean by that urban topography that obstructs.

14 CONSTANTINE ALEXANDER: Does the topography
15 require you to have a sign as high as you're proposing?

16 NINA PICKERING: Yes. We'll -- I'll -- Rose --
17 that'll be in the next slide.

18 ROSE CONTI: I don't -- yep.

19 KEN FILOSI: There we go.

20 NINA PICKERING: Thank you, Rose. So as you can
21 see here, this is Athenaeum, the sight line from Athenaeum
22 Street, I believe -- the corner, the other corner on Henri

1 A. Termeer Park.

2 As you can see, the structures of the park
3 completely block that front entrance there to the Alnylam
4 building. And then where the red arrow is does show where
5 that -- the proposed sign would be.

6 So although there's -- you know, some trees in the
7 way, depending on your vantage point, you can still see the
8 sign up that high. I don't think if you put it a floor
9 below, I think that's still going to be obstructed from both
10 sides there.

11 Are there any more questions from the Board on
12 this slide?

13 CONSTANTINE ALEXANDER: Do Board members have
14 questions on this slide?

15 BRENDAN SULLIVAN: Brendan Sullivan no questions
16 or comments at this time.

17 CONSTANTINE ALEXANDER: Let's assume --

18 NINA PICKERING: We -- I have -- I'm going onto
19 the third criteria; I just didn't know if folks had
20 questions specific to the topography.

21 JIM MONTEVERDE: No questions.

22 BRENDAN SULLIVAN: Nope.

1 NINA PICKERING: Great. I will move on. The
2 final criteria is there cannot be substantial detriment to
3 the public good.

4 Again, this sign that we're proposing in its final
5 iteration, thanks to the hard work that folks have done,
6 both with City Staff and with the East Cambridge Planning
7 Team, we now have what we would think of as a visually
8 subtle sign, and it has very little color. It's all in the
9 blue range; it's not incredibly bright and there's no
10 illumination proposed at all.

11 And the area of the proposed sign does not face
12 the residences nearby. It does face only other businesses
13 in the area. And this is in keeping with some of the
14 existing commercial signs in the surrounding area and non-
15 surrounding buildings.

16 And I think that particularly when it comes to
17 what Alnylam has done in considering the impact of this sign
18 on the neighborhood, I think perhaps Ken can speak most
19 eloquently to what the thought process and design, what
20 considerations were going into the placement and design.

21 KEN FILOSI: As you folks can well imagine, there
22 was a lot of talk about this sign here within management of

1 Alnylam.

2 And, you know, one of the things that we do at 675
3 on all four sides of the building -- because two of the
4 sides on the Athenaeum side and the Third Street side front
5 apartment buildings.

6 And we're very concerned about our neighbors.
7 What we do every single night: Our security team, for
8 instance, takes pictures that are reported back to me and my
9 team to make sure that the lights are off as good as
10 possible within the building. Granted, we do have
11 scientists that -- you know, work second shift, and so you
12 would see lights on at times in the building.

13 We're doing construction inside the building right
14 now in the first, second and third floors. So at times
15 you'll see lighting on the second shift, if you will. Our
16 second shift is 3:00 p.m. to 11:00 p.m.

17 Another thing that we did is -- again, concerned
18 about the neighbors -- we actually blanked out all of the
19 windows to the best of our ability so no light would shine
20 through.

21 So I guess what I'm trying to say here to the
22 Board is that we're trying to be a good neighbor. We've

1 been in that building for many years, and we're going to be
2 there hopefully for many more. And we're doing our best to
3 make sure that there's no illumination.

4 And we've had a few complaints from neighbors.
5 And we've addressed them immediately the next day or that
6 evening, depending on who's on, to make sure that if there
7 are lightings on and it's -- you know, shining into their
8 living room, let's say -- you know, we'll rectify that
9 situation.

10 CONSTANTINE ALEXANDER: Thank you.

11 NINA PICKERING: Thanks, Ken. I think the next
12 slide we have just shows some other examples of similar
13 height in signs.

14 I would certainly point out that the one on the
15 lower left corner is the other Alnylam building. Again, you
16 can see color wise certainly as compared to the Akamai sign
17 -- not to cast aspersions, but it is more subtle in its
18 approach as opposed to, you know, a billboard advertisement.

19 With that, I think we will just finish with
20 saying, you know, we appreciate everyone's time and effort.
21 We are certainly aware of a concern in the East Cambridge
22 area of sign requests such as this for signs high up on

1 buildings. I think the difference here is -- as I've
2 hopefully made clear, we can satisfy the variance
3 requirement on this. And we're not asking for it all over
4 the building, but one side -- one sign on one side.

5 So given that we've satisfied the variance
6 requirement, we would ask that you approve our application.

7 CONSTANTINE ALEXANDER: Thank you. Thank you for
8 a good presentation.

9 NINA PICKERING: And with that, I think Rose and
10 Ken and I will be happy to answer any questions from the
11 Board and or the public.

12 CONSTANTINE ALEXANDER: Okay. So first of all,
13 let me make a few preliminary comments. I'm going to
14 congratulate you and your company for the presentation, and
15 your company I think, to my mind at least, is a good citizen
16 of the city of Cambridge.

17 KEN FILOSI: Thank you.

18 CONSTANTINE ALEXANDER: But -- and the but -- I'll
19 stick to it as a "but."

20 KEN FILOSI: There's a but.

21 CONSTANTINE ALEXANDER: However -- I think that's
22 a better word -- however, we have sign provisions in our

1 zoning ordinance. These are very controversial.

2 There was an attempt some years ago to change the
3 zoning for signage, and it was soundly defeated by the
4 voters of this city. And, as you know from the file,
5 there's at least some members of the community who are very,
6 very strong opponents of any variances for signs.

7 And then we've got to go to the official body, the
8 city of -- East Cambridge Planning Board opposed it; the
9 Planning Board. The Planning Board, who is a significant
10 organization in the city, opposes it. I'll read from their
11 memo to the Zoning Board.

12 "The Board" -- the Board referring to the Planning
13 Board -- "has concerns related to the compatibility or the
14 proposed size and location of the sign with the surrounding
15 neighborhood. The Board does not recommend the approval of
16 the signs as proposed -- as the proposal does not provide a
17 rationale to exceed the signage limitations allowed by
18 zoning."

19 And despite the presentation I've heard tonight,
20 in my mind -- and I'm only one of five, I haven't voted yet
21 -- you haven't demonstrated that you meet the requirements
22 for a variance. I mean, the substantial hardship is -- you

1 know, you've got signs all over the building, it's not
2 exactly a retail operation where you need to identify for
3 people who walk down the street where you are; you don't
4 meet the second requirement at all, I don't think.

5 The hardship is owing to circumstances relating to
6 the soil conditions -- that doesn't apply to shape: I guess
7 it applies, you said how big the building is --or the
8 topography of such land or structures, and especially
9 affecting such land or structure but not affecting generally
10 the zoning district in which it is located.

11 I don't think you meet those requirements by a
12 long shot. That's my personal view. When it comes to
13 taking a vote, I will express that view and vote
14 accordingly.

15 With that, however, lets open the matter up to --
16 any questions? Members of the Board? Brendan?

17 BRENDAN SULLIVAN: Brendan Sullivan no questions,
18 no comments.

19 JIM MONTEVERDE: Jim?

20 JIM MONTEVERDE: Jim Monteverde no questions at
21 this time.

22 CONSTANTINE ALEXANDER: Andrea?

1 ANDREA HICKEY: Yes. I would just like to ask the
2 moving parties to run through with me where is the building
3 numbered outside? Like, where do you see the address on the
4 building?

5 KEN FILOSI: They're from the building ground-
6 level, you really can't see with this picture, but the
7 bottom of the A if you will, there's a -- there's lettering
8 there that says 650 West Kendall.

9 ANDREA HICKEY: And is that where your corporate
10 entrance is, your door?

11 KEN FILOSI: It is. That's a good point. So our
12 main entrance to the building -- and this is our corporate
13 headquarters, by the way --

14 ANDREA HICKEY: Right.

15 KEN FILOSI: -- is right there. All of our
16 visitors come in to that location there; office get
17 screened, and so on and so forth. But yes, that is exactly
18 right.

19 ANDREA HICKEY: Okay. And I saw some, like
20 temporary signs on other storefronts, if I'm remembering
21 correctly, on the lower level. But it wasn't sort of
22 permanent numbering. Am I remembering that correctly?

1 KEN FILOSI: I'm not sure exactly what you mean by
2 that.

3 ANDREA HICKEY: Oh.

4 KEN FILOSI: It's related to Alnylam or other
5 retail?

6 ANDREA HICKEY: Other retail.

7 KEN FILOSI: There may be. I'm just not sure, to
8 be honest with you.

9 ANDREA HICKEY: All right. That's all I have now,
10 thank you.

11 KEN FILOSI: You're welcome.

12 CONSTANTINE ALEXANDER: Thank you, Andrea.
13 Wendy, questions?

14 WENDY LEISERSON: No questions at this time,
15 thanks.

16 CONSTANTINE ALEXANDER: Thank you as well. I'm
17 now going to open the matter up to public testimony. We do
18 have -- I should mention before we do that -- we do have in
19 addition to the comments from the East Cambridge Planning
20 Team and the Planning Board, we have a letter from a well-
21 known signage person who opposes with strong reasons, and
22 there is a letter of support from a neighbor or someone in

1 the area. That's the nature of what we have in our files.

2 So now to open the matter up to public testimony.
3 Any members of the public who wish to speak should now click
4 the icon at the bottom of your Zoom screen that says, "Raise
5 hand."

6 If you're calling in by phone, you can raise your
7 hand by pressing *9 and unmute or mute by pressing *6. So
8 we'll take a moment to see if anyone wishes to call in or is
9 calling in.

10 OLIVIA RATAY: Heather Hoffman?

11 CONSTANTINE ALEXANDER: Ms. -- Heather, you're on.

12 HEATHER HOFFMAN: Thank you. Heather Hoffman, 213
13 Hurley Street. I would like to point out that as I told
14 Alnylam the first time she presented to the East Cambridge
15 Planning Team that I have spent the last and awful lot of
16 years hating their sign that I have to look at that they
17 showed you as an example of an area sign that doesn't
18 comply.

19 That sign is from the days long before the
20 attempted change to the zoning ordinance to the sign part of
21 the zoning ordinance that you refer to. And things have
22 changed. There has -- as you said, there has been a much

1 greater feeling in the various decision-making bodies that
2 when we say this, we mean it, and you really, really do have
3 to meet the strict requirements of a variance.

4 The Akamai sign that they showed, I'm really kind
5 of surprised they left that in the presentation, because
6 they've already been told that's in the MXD District, which
7 is exempt from the sign ordinance.

8 As to Cicada, I don't know where that is, so I
9 can't speak to that. But the fact is that this Board has
10 been really admirable in the way that it has enforced the
11 sign ordinance in this area. And you really, really have
12 insisted on a real hardship.

13 Now, they said this only faces other businesses,
14 but that's not true. It faces a park -- a park that is
15 supposed to be largely a contemplative park; Harvard Square.
16 In fact, they say that this really nice park is in the way
17 of seeing signs on this building on streets that aren't
18 their address.

19 Well, I live on Hurley Street between Third and
20 Sciarappa. Should I complain that people can't tell where
21 my house is from Third Street or from Sciarappa? You know,
22 you drive by this on West Kendall, and darned if you can't

1 see it from there.

2 So just because the building is big and has other
3 streets, I don't use a GPS, but I do use Maps. And I would
4 be looking for West Kendall Street if I were looking.

5 So I just -- I needed to make sure that the
6 applicants heard this as much as anything. I know the
7 Board already knows most of this. So I just want to thank
8 you, and I continue to oppose this.

9 CONSTANTINE ALEXANDER: Thank you. Thank you,
10 Heather. Anyone wishes to speak? Okay, I'm going to close
11 public testimony. And as we've done before, I'll make a
12 motion to grant the variance being sought, and then we can
13 discuss that and vote yes, no or modify the motion.

14 So the Chair moves that we make the following
15 findings:

16 That a literal enforcement of the provisions of
17 the Ordinance would involve a substantial hardship, such
18 hardship being is that the ability of guests or other --
19 guests or business invitees have a difficulty in locating
20 the entrance to the structure, and therefore there is a need
21 for a sign that exceeds what our zoning ordinance permits.

22 That the hardship is owing to circumstances

1 relating to the topography of such land or structures
2 relating to the adjoining park.

3 And that the desirable relief may be granted
4 without substantial detriment to the public good, or
5 nullifying or substantially derogating from the intent or
6 purposes of this Ordinance.

7 So on the basis of these findings, the Chair moves
8 that we grant the variance requested on the condition that
9 the work proceeds in accordance with plans which have been
10 initialed by the Chair and were submitted -- were given to
11 us by the City of Cambridge Community Development.

12 Brendan, how do you vote?

13 BRENDAN SULLIVAN: [Brendan Sullivan], I would vote
14 to not support the motion, and to not granting the variance
15 for the requested relief for the signs.

16 CONSTANTINE ALEXANDER: Thank you. Jim?

17 JIM MONTEVERDE: [Jim Monteverde], I would vote to
18 not grant the variance relief sought.

19 CONSTANTINE ALEXANDER: Andrea?

20 ANDREA HICKEY: [Andrea Hickey], I am not in favor
21 of the motion and would vote to deny the petition.

22 CONSTANTINE ALEXANDER: I'm sorry, could you say

1 that again?

2 ANDREA HICKEY: I am not in favor of the motion,
3 and I would vote to deny the petition.

4 CONSTANTINE ALEXANDER: Okay. So I misunderstood
5 you. Thank you. And Wendy?

6 WENDY LEISERSON: [Wendy Leiserson.] I too would
7 vote to deny the petition. I'm against it.

8 CONSTANTINE ALEXANDER: And the Chair, as you
9 might have guessed from my comments so far, would vote to
10 oppose the relief being sought. So it's unanimous.

11 [All vote NO]

12 CONSTANTINE ALEXANDER: The variance request has
13 been denied. We need to take one more vote for the record
14 as to why we denied the variance.

15 And I'm going to suggest that we make a finding
16 that the literal enforcement of the provisions of the
17 ordinance do not involve a substantial hardship to the
18 petitioner. There are other signs on the building, and the
19 nature of the use of the building is such that a sign of
20 this size and this height is not necessary.

21 The hardship is not owing to circumstances
22 relating to the soil condition, shape of the lot or the

1 topography of such land or structure, and especially
2 affecting such land or structure, but not affecting
3 generally the zoning district in which it is located.

4 I think it's almost self-evident that that
5 requirement is not being satisfied. And we've discussed
6 this during the presentation.

7 And that desirable relief may be granted without
8 substantial detriment to the public good, or nullifying or
9 substantially derogating from the intent or purpose of this
10 ordinance. In this regard, the Chair would note that
11 signage is a sensitive issue in Cambridge, particularly in
12 this area.

13 And that the -- what is being proposed is a
14 substantial departure from what our zoning bylaw permits.
15 Anyone else on this Board have anything?

16 Brendan, how do you vote?

17 BRENDAN SULLIVAN: I -- no, I would support your
18 previous comments on the reason for denial.

19 CONSTANTINE ALEXANDER: Thank you. Jim?

20 JIM MONTEVERDE: I support the Chair's statement.

21 CONSTANTINE ALEXANDER: Andrea?

22 ANDREA HICKEY: I support the Chair's statement,

1 and do not feel that the petitioners have satisfied the
2 requirements of hardship.

3 CONSTANTINE ALEXANDER: Thank you. Wendy?

4 WENDY LEISERSON: I would also support the Chair's
5 reasoning for denying the motion, or the variance -- sorry.

6 CONSTANTINE ALEXANDER: And I -- I've already
7 expressed -- made the motion. So I don't think I have to
8 comment further. All in favor? So we have five votes in
9 favor of sending forth or adopting the reasons why we have
10 denied the variance.

11 [All vote NO]

12 That I think concludes this case. Thank you for
13 taking the time to make the presentation. That's how the
14 law works in Cambridge when it comes to signage.

15 KEN FILOSI: Thank you very much. We appreciate
16 your time.

17

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1 * * * * *

2 (7:05 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Andrea A. Hickey, Wendy Leiserson and Jim
5 Monteverde

6 CONSTANTINE ALEXANDER: Okay. The Chair will now
7 call Case Number 131935 -- 12 Corporal Burns Road. Is
8 anyone here wishing to be heard on this matter?

9 OLIVIA WEISSER: Yep, me. Olivia Weisser.

10 CONSTANTINE ALEXANDER: Okay.

11 OLIVIA WEISSER: Hi.

12 CONSTANTINE ALEXANDER: Hi. Welcome to our
13 meeting.

14 OLIVIA WEISSER: Thank you.

15 CONSTANTINE ALEXANDER: The floor is yours. What
16 do you want to do and why --

17 OLIVIA WEISSER: Oh.

18 CONSTANTINE ALEXANDER: -- should we grant the
19 relief you're seeking?

20 OLIVIA WEISSER: Sure. We are enclosing -- we
21 want to enclose our front porch. And in order to comply
22 with the City's zoning requirement to -- [noise] -- sorry,

1 children.

2 CONSTANTINE ALEXANDER: That's all right. You'll
3 do anything to get us --

4 OLIVIA WEISSER: Literally the minute I have to be
5 -- yep, okay. [Talking to children: "Go watch another
6 one."]

7 So in order to comply with the zoning requirements
8 about a front landing, we have to move the front steps three
9 feet closer to the sidewalk. And that's the variance that
10 we are applying for.

11 CONSTANTINE ALEXANDER: Okay. Short and sweet.
12 Thank you.

13 OLIVIA WEISSER: Sure.

14 CONSTANTINE ALEXANDER: Any questions from members
15 of the Board? I have none. Brendan?

16 BRENDAN SULLIVAN: No, I have no questions at all.

17 CONSTANTINE ALEXANDER: Jim?

18 JIM MONTEVERDE: No questions, thank you.

19 CONSTANTINE ALEXANDER: Andrea?

20 ANDREA HICKEY: I have nothing, thank you.

21 CONSTANTINE ALEXANDER: And Wendy?

22 WENDY LEISERSON: No questions.

1 CONSTANTINE ALEXANDER: And the Chair has no
2 questions as well.

3 So I'm now going to open the matter up to public
4 testimony. I should mention that before we do that, that we
5 do have letters of support from -- we have two letters --
6 two letters of support from neighbors. Okay. So with that
7 I will open the matter up to public testimony.

8 Any members of the public who wish to speak should
9 now click the icon at the bottom of your Zoom screen that
10 says, "Raise hand."

11 If you're calling in by phone, you can raise your
12 hand by pressing *9 and unmute or mute by pressing *6.
13 We'll take a moment to see if anyone wishes to speak.

14 [Pause]

15 CONSTANTINE ALEXANDER: Apparently not, so we will
16 close public testimony. And again, I'm going to make a
17 motion to grant the relief being sought. And then we can
18 discuss that and vote yes, no or whatever.

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

21 That the requirements --

22 JIM MONTEVERDE: Excuse me.

1 CONSTANTINE ALEXANDER: -- of this ordinance
2 cannot be met without the special permit that's being
3 requested.

4 That traffic generated or patterns of access or
5 egress resulting from what the proposed relief will not
6 cause congestion, hazard, or substantial change in
7 established neighborhood character.

8 And again, as indicated, the modification to the
9 structure is rather modest in nature and has no neighborhood
10 impact.

11 That the continued operation of or development of
12 adjacent uses, as permitted in the zoning ordinance, will
13 not be adversely affected by what is proposed. And once
14 again, it's the nature of modest relief, and the fact that
15 there's been no opposition from neighbors.

16 No nuisance or hazard will be created to the
17 detriment of the health, safety and/or welfare of the
18 occupant of the proposed use, or the citizens of the city.
19 I think -- again -- the facts speak for themselves. We're
20 talking about a modest modification to another -- a
21 noncovered stairway.

22 And that generally, what is being proposed will

1 not impair the integrity of the district or adjoining
2 district, or otherwise derogate from the intent and purpose
3 of this ordinance.

4 In addition, we have to make another finding
5 that's required by a recent amendment to our zoning
6 ordinance resulting from a court case -- the so-called
7 Baratta case -- and we have to make a finding that what is
8 being proposed is not more detrimental than the existing
9 structure of the neighborhood.

10 So Brendan, how do you vote?

11 BRENDAN SULLIVAN: Yes for granting the
12 continuance.

13 CONSTANTINE ALEXANDER: I should -- before we move
14 --

15 BRENDAN SULLIVAN: I'm sorry, yes to --

16 CONSTANTINE ALEXANDER: Yeah, no. The motion
17 should continue to say that we grant the relief being sought
18 on the condition that the work proceed in accordance with
19 the plans -- there are two pages which -- both of which have
20 been initialed by the Chair and dated October 27, 2020. And
21 it's not sure who prepared them, from what I'm seeing.

22 But anyway, they are identified and they have been

1 initialialed by the Chair.

2 Now Brendan, go ahead.

3 BRENDAN SULLIVAN: Brendan Sullivan yes to
4 granting the special permit.

5 CONSTANTINE ALEXANDER: Jim?

6 JIM MONTEVERDE: [Jim Monteverde] I vote no to
7 granting the special permit.

8 CONSTANTINE ALEXANDER: Andrea?

9 ANDREA HICKEY: Andrea Hickey yes in favor of the
10 special permit.

11 CONSTANTINE ALEXANDER: Wendy?

12 WENDY LEISERSON: Wendy Leiserson yes in favor of
13 the special permit.

14 CONSTANTINE ALEXANDER: And the Chair is in favor
15 of the special permit as well. That's a unanimous vote.
16 Special permit granted.

17 ANDREA HICKEY: Mr. Chair, it's Andrea Hickey. It
18 was not unanimous. I believe Mr. Monteverde did not vote in
19 favor.

20 CONSTANTINE ALEXANDER: He did not vote? I
21 misunderstood then. Jim, did you not vote --

22 JIM MONTEVERDE: Yes. I did not vote in favor.

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CONSTANTINE ALEXANDER: I'm sorry. I
misunderstood.

JIM MONTEVERDE: That's all right. No problem.

[FOUR VOTE YES, ONE NO]

CONSTANTINE ALEXANDER: Still the relief is
granted; four votes in favor, and that is what's required to
grant the special permit. So nevertheless, relief has been
granted. Thank you, Andrea.

ANDREA HICKEY: Thank you.

CONSTANTINE ALEXANDER: Congratulations.

OLIVIA WEISSER: Thank you.

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(7:12 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Andrea A. Hickey, Wendy Leiserson and Jim
Monteverde

CONSTANTINE ALEXANDER: The Chair will now
call Case Number 148948 -- 34 Buckingham Street. Anyone
here wishing to be heard on this matter?

EDRICK VANBEUZEKOM: Yes. My name is Edrick
VanBeuzekom. I'm the architect for the project, and my
company is EvB Design in Somerville, Massachusetts. Also
attending is one of the owners of the property, David
Lakatos.

David, you are muted. You might want to --

DAVID LAKATOS: Hi there. Yep. Good evening.

EDRICK VAN BEUZEKOM: To begin with, I'd like,
just David, to give a quick overview of sort of how we
arrived, where we are, and then I will walk you through the
plans.

DAVID LAKATOS: Good. Good evening and first time
here, so hopefully I'm going to do this right, but a short
history. My wife is on the phone listening in as well with

1 our daughter, but just wanted to keep this as quick as
2 possible.

3 So the long story short is I moved here from
4 Hungary about 10 years ago; went to school in Cambridge,
5 actually. Worked here. We moved to Boston, but we've been
6 trying to move back for a long time, and finally found a --
7 last year a house, 34 Buckingham Street. Anybody who knows
8 this house I think has a memory; it's a very unique
9 Victorian house.

10 We went through an offer process and was able to
11 get a -- get to a place where we were working on closing.
12 And tragically, there was a fire that you may have heard of
13 last year. It was very tragic and unfortunately, the
14 owner's uncle has passed away shortly after it.

15 We were really in love with this house, so even
16 though the process has dragged on because of the case went
17 to Probate Court, we stuck with the property, and after
18 almost a year of waiting for it, we were able to close on
19 the property earlier this year.

20 And now we are very eager to restore it and with
21 the help of Edrick, we're very, very excited to have made a
22 plan that keeps the essence of the house I think very much

1 in place, while also making some modernizations in extending
2 it.

3 So that's what we are here to talk to you about,
4 and I'm really looking forward to after. It's going to
5 still take a little bit of time if we're able to make this
6 plan work to build the house, but we're all eagerly waiting
7 to move in, because our daughter is now 1 year old and is
8 very much looking forward to using the beautiful back yard
9 and hopefully the restored house.

10 And I'm happy to answer any questions. I think
11 probably you're more interested in what Edrick has to say.
12 Thank you very much for the attention.

13 CONSTANTINE ALEXANDER: Thank you. Before we
14 open it up to questions from members of the Board, I want to
15 make it clear that you are seeking two forms of relief here;
16 both a variance and a special permit. The special permit
17 relates to windows, I believe -- let me just check.

18 DAVID LAKATOS: Yes, that's correct.

19 CONSTANTINE ALEXANDER: It does, yeah. The
20 addition of windows on the side of the house, which is
21 nonconforming?

22 DAVID LAKATOS: Yes.

1 CONSTANTINE ALEXANDER: When we get to a vote,
2 we'll have to take two votes. Questions from members of the
3 Board? Brendan?

4 BRENDAN SULLIVAN: Yeah. If you could just -- if
5 you could pull it down, Olivia? That way we can --

6 DAVID LAKATOS: Yeah. We can go -- let's go to
7 the site plan, the second page. What you see here is -- at
8 the bottom of the page is the existing site plan at the top
9 of the page is what we're proposing.

10 The house is a beautiful Victorian house. It had
11 suffered significant damage in the fire; significant
12 structural damage; a lot of damage to the exterior as well.
13 But we are trying to preserve and restore the bulk of the
14 existing portion of the house, the main original portion of
15 the house in the front.

16 And what we're proposing is in addition to the
17 rear of the house, which wraps around a little bit of the
18 existing portion of the house as well. The lot is an odd-
19 shaped lot. It gets narrower as you go back from the front
20 lot line.

21 And it's a very long and deep lot. There are some
22 very large trees on this property. You almost feel like

1 you're out in the countryside when you go deep into the lot
2 there.

3 The proposed additions are basically to expand the
4 first-floor in order to get a decent-sized kitchen, and
5 also, to have a deck area that's oriented more toward the
6 back yard instead of the current deck, which is a curved-
7 shaped deck which is oriented to the side yard -- and which,
8 by the way, had a tree growing through it, which has been
9 removed, as that was a bit of a danger to the house.

10 If we -- so you can see the setback lines are
11 drawn on both plans. And basically, only a small portion of
12 the house is nonconforming to the setbacks. It's the bay
13 window on the bottom of the plan there in the little corner
14 just past that.

15 The rest of the house is conforming to the
16 setbacks. We are well under the allowable floor area ratio.
17 And all of the additions we're proposing are within the
18 setbacks.

19 The front of the house does not conform to the
20 front yard setback, although it does match up sort of with
21 the other houses along the street, in terms of its distance
22 from the street.

1 If we can go to the next page?

2 Here, this is just a quick overview of where we're
3 adding additional floor area. You can see on the -- on the
4 top left is the basement plan. Basically, most of that is
5 basement, but at the back we have a deck. The site slopes
6 down, so that by that time you get to the back of the house,
7 it's basically at basement level.

8 So the new deck that we're proposing in the back
9 creates FAR beneath it. So that's the shaded area that you
10 see there.

11 The plan right below that is the first-floor plan.
12 You can see the darker shaded area is the footprint of the
13 existing house, and the lighter shaded area is the proposed
14 addition, where you see we're expanding the kitchen back
15 there and creating a mudroom entrance on the side.

16 There's also some additional FAR created by the
17 footprint of a deck that is projecting up on the second
18 floor above the rear deck there.

19 If we go to the upper right hand, here we see the
20 existing second-floor plan is this dark shaded area. And
21 you can see it's a relatively small addition to the back to
22 extend the rear of the house to create a master bedroom back

1 there.

2 And then if we scroll down to the bottom plan
3 there, basically most of that is existing floor area ratio,
4 except for the rear portion there. You can see where we're
5 proposing a new dormer to create enough headroom to create a
6 bedroom up there.

7 The intention up there is basically not only
8 bedrooms for kids, but also for visiting family and a
9 possible nanny up in the front bedroom there. So that's why
10 we have two bathrooms there.

11 We're also proposing a small dormer, which is set
12 farther in from the side over portions of the bathroom in
13 order to have enough headroom there. But that's already
14 currently in the area that would have counted for FAR
15 anyways.

16 We can move to the next page.

17 Here you can see the basement space. We're
18 digging the basement down in order to get adequate headroom
19 and repair some structural issues. And of course with the
20 fire too, there was a lot of water damage down there. So
21 we're just trying to take care of all those things.

22 Next page?

1 This is the proposed first-floor plan. I think we
2 can skip ahead maybe to the elevations. So here you see on
3 the right-hand side is the front elevation, which is
4 basically unchanged from existing, other than we'll be
5 restoring any damaged portions, replacing windows, and you
6 can see the dormers on the right-hand side beyond that we're
7 adding.

8 On the left-hand side of that front, you see
9 there's a dormer. That is an existing dormer that's over
10 the stair that goes up to the third floor for head room
11 there.

12 CONSTANTINE ALEXANDER: Excuse me, let me
13 interrupt you for a second and I apologize.

14 EDRICK VAN BEUZEKOM: Mm-hm.

15 CONSTANTINE ALEXANDER: The new dormer that you're
16 proposing to erect, does it comply with the dormer
17 guidelines?

18 EDRICK VAN BEUZEKOM: It does. It's less than 15
19 feet. They're both set down from the ridge. And you can
20 see -- we can go to the -- two sheets down, yeah, there.

21 CONSTANTINE ALEXANDER: Oh, there it is.

22 EDRICK VAN BEUZEKOM: Here you can see the two new

1 dormers. So there's the one on the left is the one that's
2 over the bathrooms, and the one on the right is the one
3 that's over the bedroom up there.

4 BRENDAN SULLIVAN: This is Brendan Sullivan.
5 Maybe -- just reading the dormer guidelines, Edrick, but
6 it's 15 feet on any one side.

7 EDRICK VAN BEUZEKOM: Okay. I thought that when
8 you -- you can go up to a certain amount of total length on
9 the roof area as well. But maybe I misread that too.

10 I will say that we've had these plans reviewed by
11 the Historical Commission, and had an enthusiastic response
12 from Charles Sullivan, who saw no issues with what we're
13 proposing here. And I think by setting the smaller dormer
14 way back, it's really -- you know, it's pretty -- pretty
15 small and inconspicuous.

16 So, you know, we have a fairly large roof area
17 there. So even if we're exceeding the 15 feet total, I
18 think it's a reasonable approach to creating useable space
19 up there.

20 JIM MONTEVERDE: Mr. Chair, this is Jim
21 Monteverde.

22 CONSTANTINE ALEXANDER: Yes, Jim?

1 JIM MONTEVERDE: I would have the same concern as
2 Mr. Sullivan expressed, relative to the overall total length
3 of the dormers. I just -- I have the same concern. Oh,
4 Brendan -- sorry -- Brendan -- Edrick, sorry to interrupt,
5 but.

6 EDRICK VAN BEUZEKOM: Okay. That's all right. So
7 anyways, as you can see in this view and in the other
8 elevations you have -- let's go to the one above that --
9 this is the other side of the house. We are preserving the
10 historical detail of the house and trying to carry the
11 character of that through with the somewhat more modern rear
12 addition of the house.

13 What you can also see here is the window that
14 we're adding on this side. This is the side of the house
15 that has the portions that are nonconforming to the side
16 yard setback.

17 And we're proposing a small window, which is
18 basically at the landing of the stairs on your way up to the
19 second floor. That's the small square window you see on the
20 -- right there. Yep, exactly.

21 So yeah. That's -- that's basically what we've
22 got. We are making the house -- basically the house has to

1 be completely gutted. It actually already has been gutted.
2 And there's a temporary structure in there because -- you
3 know, due to all the fire damage. But we'll be bringing
4 this up to exceed code for energy code.

5 We're actually trying to make this as close to Net
6 Zero as we can in terms of high insulation value for all the
7 walls and roof and high-performance windows. And I'm open
8 to any additional questions.

9 CONSTANTINE ALEXANDER: Questions from members of
10 the Board? I have none. Brendan?

11 BRENDAN SULLIVAN: Brendan Sullivan no additional
12 comments.

13 CONSTANTINE ALEXANDER: Jim?

14 JIM MONTEVERDE: I have no additional comments
15 either.

16 CONSTANTINE ALEXANDER: Okay.

17 EDRICK VAN BEUZEKOM: Can I --

18 CONSTANTINE ALEXANDER: Andrea?

19 ANDREA HICKEY: I have no questions, thank you.

20 CONSTANTINE ALEXANDER: Wendy?

21 WENDY LEISERSON: Wendy Leiserson no questions,
22 thank you.

1 CONSTANTINE ALEXANDER: Okay. And the Chair has
2 no questions as well. That's your presentation with regard
3 to the -- we've heard with regard to the variance. You want
4 to speak to the special permit that you're seeking?

5 EDRICK VAN BEUZEKOM: Yes, which I just did,
6 actually, which is that window that's in this elevation
7 we're adding right there.

8 CONSTANTINE ALEXANDER: That's the only new
9 window?

10 EDRICK VAN BEUZEKOM: I believe so, yes.

11 CONSTANTINE ALEXANDER: Okay. And where does that
12 window face?

13 EDRICK VAN BEUZEKOM: It faces the side yard. It
14 faces a neighbor's property. If you look at the -- I think
15 we have a street view. There is a house next door --

16 CONSTANTINE ALEXANDER: Right.

17 EDRICK VAN BEUZEKOM: -- with the driveway in
18 between. Yeah. Here we have shadow studies. If we look at
19 the top one, you can see there's a little bit of separation
20 to the house next door. You see the light gray; you can see
21 the driveway they have there. So.

22 CONSTANTINE ALEXANDER: The concern that we might

1 have as a Board -- or at least I would have -- would be
2 whether adding a new sign, a nonconforming wall, would
3 invade the privacy of the neighbor who's wall --

4 EDRICK VAN BEUZEKOM: Mm-hm.

5 CONSTANTINE ALEXANDER: -- who faces the wall.

6 But you already have --

7 EDRICK VAN BEUZEKOM: Yeah.

8 CONSTANTINE ALEXANDER: -- signs on these larger
9 windows in the side. So I can't see that will be a problem.

10 EDRICK VAN BEUZEKOM: Yeah.

11 CONSTANTINE ALEXANDER: Or if it's a problem, it's
12 a problem that's there now.

13 EDRICK VAN BEUZEKOM: And as you see, the houses
14 are displayed in their orientation to each other. So you --

15 CONSTANTINE ALEXANDER: Right.

16 EDRICK VAN BEUZEKOM: -- when you look out their
17 window, you're actually looking a little bit more out toward
18 the street. And my clients have spoken to most of the
19 abutters, and we have -- I believe we've filed a number of
20 signed petitions in support of this project, and we have not
21 had any opposition to it.

22 CONSTANTINE ALEXANDER: The troubling aspect of

1 your petition is the dormer guidelines. You're talking
2 about 26 feet of dormer on one side of the house, when, as
3 the guidelines say, in total they should not be more than 15
4 feet.

5 EDRICK VAN BEUZEKOM: Mm-hm.

6 CONSTANTINE ALEXANDER: It's a substantial
7 departure.

8 EDRICK VAN BEUZEKOM: I understand. It's a big
9 roof. So we felt like this was within scale of what we're
10 dealing with here.

11 If this is a sticking point, I would propose we
12 agree to remove the smaller dormer and -- you know, we would
13 be willing to make that compromise and try to figure out
14 some other ways to get bathrooms here.

15 CONSTANTINE ALEXANDER: So you would eliminate the
16 new dormer that you're proposing?

17 EDRICK VAN BEUZEKOM: The smaller.

18 CONSTANTINE ALEXANDER: Just the smaller one?

19 EDRICK VAN BEUZEKOM: It's set way back from the
20 side.

21 CONSTANTINE ALEXANDER: Okay.

22 EDRICK VAN BEUZEKOM: The one on the -- the one on

1 the left of these two.

2 CONSTANTINE ALEXANDER: Yeah. The one on the
3 left?

4 EDRICK VAN BEUZEKOM: Yep. I mean, we tried to
5 fit two bathrooms up there without adding that dormer in,
6 and it was impossible. There was just not enough head room.
7 So that's really what spurred us to add that in. And, you
8 know, it would be a shame if we can't get bathrooms up
9 there.

10 But if that's the -- you know, if that would
11 torpedo our petition, we're willing to remove that.

12 BRENDAN SULLIVAN: This is Brendan Sullivan.
13 Olivia, could you pull up the floor plan of the third floor?

14 [Pause]

15 Yeah. I mean that's a nice plan. You've got two
16 bedrooms, but then each one has its own bathroom so you got
17 --

18 EDRICK VAN BEUZEKOM: Right.

19 BRENDAN SULLIVAN: -- two bathrooms up there.

20 EDRICK VAN BEUZEKOM: Yep.

21 BRENDAN SULLIVAN: And again, it's -- I think
22 you're really trying to max out everything here. You're

1 going to [what], 5 bedrooms in the house?

2 EDRICK VAN BEUZEKOM: Yeah. I mean, the owners
3 are planning a large family. And they -- you know, up here
4 the idea was that some of their parents would be staying
5 with them of course another time. And that's what the rear
6 bedroom would be for.

7 But they also are considering having a live-in
8 nanny, and so they wanted to have a private bathroom for the
9 nanny. So that's the reason for the two bathrooms up here.

10 CONSTANTINE ALEXANDER: Okay. Anybody -- Jim, do
11 you have any further questions or comments before I open the
12 matter up to public testimony?

13 JIM MONTEVERDE: No, thank you.

14 CONSTANTINE ALEXANDER: Andrea?

15 ANDREA HICKEY: No. I have nothing.

16 CONSTANTINE ALEXANDER: Wendy?

17 WENDY LEISERSON: No.

18 CONSTANTINE ALEXANDER: Okay. And I -- I have
19 none, other than to repeat the offer by Mr. Edrick that you
20 would remove the dormer -- the proposed new dormer -- if
21 necessary to get the zoning relief that's being sought. And
22 they would do so because of the noncompliance with our

1 dormer guidelines.

2 And I emphasize, "guidelines" because they're not
3 hard and fast. But we do pay a lot of attention to the
4 guidelines, and we're talking about a substantial departure
5 from the guidelines. 26 feet, as compared to the only the
6 15 feet that's permitted.

7 EDRICK VAN BEUZEKOM: I understand.

8 BRENDAN SULLIVAN: Edrick, rather than just
9 saying, "Okay, you know, as a compromise we'll do away with
10 it," do you -- would you feel that given some additional
11 time to rework the drawing it would be more advantageous
12 just -- rather than just saying, "Well, we'll eliminate it"?

13 EDRICK VAN BEUZEKOM: Well, I would assume -- I
14 would assume you're not willing to give us anything larger
15 than a 15-foot dormer here. So that being the case, I don't
16 see any advantage -- you know, if we eliminate the dormer,
17 it's really just reworking the plan inside the space, which
18 doesn't --

19 BRENDAN SULLIVAN: So it's just internal at that
20 particular?

21 EDRICK VAN BEUZEKOM: Yeah. Yeah. So I'd rather
22 -- you know, we're eager to get this project in

1 construction. It's been a long, long wait due to the fire.
2 So I think, you, whatever we need to make this happen, I
3 think we're willing to do.

4 CONSTANTINE ALEXANDER: Okay. Let me open the
5 matter up to public testimony. I should mention before I do
6 that that we have a number of letters in support from the
7 neighborhood for the project, and no letters of opposition
8 that I could recall seeing. I'm looking for the
9 instructions right now for public testimony.

10 [Pause]

11 CONSTANTINE ALEXANDER: Okay. Any members of the
12 public who wish to speak should now click the icon at the
13 bottom of your Zoom screen that says, "Raise hand."

14 If you're calling in by phone, you can raise your
15 hand by pressing *9 and unmute or mute by pressing *6.
16 We'll take a moment to see if anyone wishes to speak.

17 [Pause]

18 CONSTANTINE ALEXANDER: No one does, so we can now
19 finally close public testimony and proceed to a vote. I'm
20 going to make a motion, as we always do, to grant the
21 relief.

22 And I'm going to make the motion, unless any

1 members of the public feel otherwise, be on the condition
2 that the -- the smaller dormer be eliminated, so that there
3 is no departure from the dormer guidelines.

4 Is anyone on the Board opposed to that?

5 JIM MONTEVERDE: No.

6 CONSTANTINE ALEXANDER: Okay. All right. So the
7 Chair moves that we make the following findings with regard
8 to the variance that's being sought:

9 That a literal enforcement of the provisions of
10 the ordinance would involve a substantial hardship -- such
11 hardship being this is a fire damaged building, it's an
12 older building -- and that the relief being sought is very
13 modest in nature in terms of just setbacks with no
14 neighborhood opposition.

15 The hardship is owing to the fact that this is a
16 nonconforming structure at the outset, and so any
17 modification requires a variance.

18 And that desirable relief may be granted without
19 substantial detriment to the public good, or nullifying or
20 substantially derogating from the intent or purpose of this
21 ordinance.

22 In this regard, the Chair would again refer to the

1 neighborhood support for what is being proposed, and the
2 fact that what we're talking about is repairing a fire
3 damaged building.

4 So on the basis of all these findings, the Chair
5 moves that we grant the variance sought on the condition
6 that the work proceeds in accordance with plans prepared by
7 EVB Design, dated 11/08/21, except that the smaller dormer -
8 - the new dormer, small dormer that is reflected on these
9 plans will be eliminated.

10 So the final plans, if you will, will have only
11 the -- there will be no change in the dormer situation on
12 the structure.

13 Brendan, how do you vote?

14 BRENDAN SULLIVAN: Brendan Sullivan yes to
15 granting the relief and the condition as proposed by the
16 Chair.

17 CONSTANTINE ALEXANDER: Jim?

18 JIM MONTEVERDE: And Jim Monteverde voting in
19 favor of the relief and the condition.

20 CONSTANTINE ALEXANDER: Okay. Andrea?

21 ANDREA HICKEY: Andrea Hickey yes, voting in favor
22 of the relief for the single dormer and the condition.

1 CONSTANTINE ALEXANDER: And Wendy?

2 WENDY LEISERSON: Wendy Leiserson voting in favor
3 of the relief sought with the condition and the dormer.

4 CONSTANTINE ALEXANDER: Okay. So the variance has
5 been -- and the Chair votes in favor as well, I should say.
6 It's unanimous on the variance.

7 [All vote YES]

8 CONSTANTINE ALEXANDER: So the variance has been
9 granted.

10 Now, turning to the special permit, the Chair
11 moves that we make the following findings:

12 That the requirements of the Ordinance cannot be
13 met unless we grant the special permit.

14 That traffic generated or patterns of access or
15 egress resulting from what is being proposed will not cause
16 congestion, hazard, or substantial change in established
17 neighborhood character. What we're talking about here is
18 modifying and repairing, if you will, an older structure
19 that has been fire damaged, and which repairs and changes
20 have the support of the neighborhood.

21 That the continued operation of or development of
22 adjacent uses, as permitted in the zoning ordinance, will

1 not be adversely affected by what is being proposed. Again,
2 that is borne out by the neighborhood support for the
3 project.

4 No nuisance or hazard will be created to the
5 detriment of the health, safety and/or welfare of the
6 occupant of the proposed use, or the citizens of the city.

7 And generally, what is being proposed will not
8 impair the integrity of the district or adjoining district,
9 or otherwise derogate from the intent and purpose of this
10 ordinance.

11 So on the basis of these findings, the Chair moves
12 that we grant the special permit requested with regard to
13 the addition of the single window on the nonconforming wall,
14 on the condition that the work proceed in accordance with
15 the plans referred to with regard to the variance we just
16 granted.

17 Brendan?

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

20 CONSTANTINE ALEXANDER: Jim?

21 JIM MONTEVERDE: Jim Monteverde yes to granting
22 the special permit.

1 CONSTANTINE ALEXANDER: Andrea?

2 ANDREA HICKEY: Andrea Hickey yes in favor of
3 granting the special permit.

4 CONSTANTINE ALEXANDER: Wendy?

5 WENDY LEISERSON: Wendy Leiserson yes in favor of
6 granting the special permit.

7 CONSTANTINE ALEXANDER: And the Chair votes yes as
8 well.

9 [All vote YES]

10 CONSTANTINE ALEXANDER: Special permit granted.
11 Thank you. The case is over.

12 EDRICK VAN BEUZEKOM: Thanks very much.

13 DAVID LAKATOS: Thank you very much.

14 CONSTANTINE ALEXANDER: Thank you.

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(7:38 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Andrea A. Hickey, Wendy Leiserson and Jim
Monteverde

CONSTANTINE ALEXANDER: The Chair will now call
Case Number 143277 -- 123 Hancock Street. And I will report
to the Board and to the listening audience that the
petitioner has withdrawn this request for zoning relief. So
I think we need to vote to accept that withdrawal. Brendan?

BRENDAN SULLIVAN: Brendan Sullivan yes to
accepting the motion to withdraw.

CONSTANTINE ALEXANDER: Jim?

[Pause]

CONSTANTINE ALEXANDER: Jim?

JIM MONTEVERDE: Jim Monteverde I vote in favor to
accept the request to --

CONSTANTINE ALEXANDER: Withdraw?

JIM MONTEVERDE: -- request to withdraw.

CONSTANTINE ALEXANDER: Andrea?

ANDREA HICKEY: Andrea Hickey yes in favor of
granting the withdrawal.

1 CONSTANTINE ALEXANDER: Wendy?

2 WENDY LEISERSON: Wendy Leiserson yes in favor of
3 the withdrawal.

4 CONSTANTINE ALEXANDER: And the Chair votes yes as
5 well.

6 [All vote YES]

7 So this case will be withdrawn -- it has been
8 withdrawn. Okay. Let me just sign the paperwork with
9 regard to that. Just give me a few minutes before I resume
10 the hearing. Amazing the number of pages I have to sign
11 just to have a case withdrawn. However, that's how it is.

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(7:41 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Andrea A. Hickey, Wendy Leiserson and Jim
Monteverde

CONSTANTINE ALEXANDER: The Chair will now
call Case Number 149721 -- 54 Park Avenue. Anyone wishing
to be heard on this matter?

SARAH RHATIGAN: Yes, Mr. Chairman. This is Sarah
Rhatigan from Trilogy Law. Members of the Board, thank you
for hearing us this evening.

CONSTANTINE ALEXANDER: We have no choice.

SARAH RHATIGAN: [Laughter]. That is true.

CONSTANTINE ALEXANDER: I mean, you filed an
application, so anyway.

SARAH RHATIGAN: We did. We did. I am here
representing the Rothfuchs Development Company, which is
Bill or William and David Rothfuchs. David and William, I
think you're both at Bill's house.

Do you mind -- just turn your camera on so the
folks can see you? And thanks very much for hearing this
petition. This is a petition for both a variance and a

1 special permit.

2 Olivia, would you mind opening up the presentation
3 slides that we sent to you? I just wanted to introduce my
4 clients briefly. We've got some photos. I'll try to be as
5 concise as I can, so that we can get through the meat of
6 this.

7 But the Rothfuchs brothers, who actually grew up
8 in the neighborhood, incidentally, and know the neighborhood
9 well including the previous owners of the home -- the
10 Sullivan family -- are experienced developers who've
11 developed single-family homes in the Greater Boston metro
12 area for over 25 years.

13 And this was a project where the owners were aware
14 that the home had some real structural issues or -- you
15 know, was in need of a lot of work.

16 And Bill and David agreed to sort of take this on.
17 And the initial plans -- the expectation or hope -- was that
18 they could tackle this as a substantial renovation. And as
19 they got further into their diligence, they realized
20 unfortunately that the structural problems were too much to
21 be able to overcome.

22 I know that the Board received as part of the

1 application process some of the due diligence materials that
2 included soils, testing and structural engineers' reports.

3 I'm not going to try to summarize those, but if
4 you have questions, I know that Bill and David can answer
5 them. But the gist of the -- of the big, substantial issues
6 are that the soil underneath the structure has got a --
7 layers of materials and then a lot of peat, which is
8 compressible. This has resulted in the house sinking.

9 I think the report said something as much as 10
10 inches. As the house sank, portions of the -- Bill you're
11 going to help me -- portions of the structure were
12 separating from the main beam. And there are some cracks in
13 the foundation as well.

14 Olivia, do you mind? We're going to just take a
15 quick trip through some of these photos. If you could --
16 you could just page through and I'll just comment along the
17 way.

18 So this is just showing you the front and its
19 location on the lot.

20 The next slide, please?

21 This is showing the driveway, the existing garage
22 -- we'll talk about that a little bit more as we go along.

1 Next picture, please?

2 CONSTANTINE ALEXANDER: I'm sorry, go back to that
3 slide?

4 SARAH RHATIGAN: Yes.

5 CONSTANTINE ALEXANDER: Which is --

6 SARAH RHATIGAN: Would you like me to --

7 CONSTANTINE ALEXANDER: -- your client's house,
8 and which is the house of the neighbors?

9 SARAH RHATIGAN: Oh, thank you. I apologize. So
10 the house -- our client's house is 54.

11 CONSTANTINE ALEXANDER: Okay.

12 SARAH RHATIGAN: Yep. Got Olivia circling the
13 number there. And the --

14 CONSTANTINE ALEXANDER: 56 --

15 SARAH RHATIGAN: -- garage at the back -- yep, and
16 56-58 is the neighbor, exactly.

17 CONSTANTINE ALEXANDER: Okay, thank you.

18 SARAH RHATIGAN: Yep. Thank you. This is a view
19 of the front setbacks from -- of the house. Our house is
20 the one in the foreground, and then the neighbors along the
21 street heading to the left.

22 Next slide, please?

1 This is heading in the other direction -- again,
2 just showing the neighborhood setbacks.

3 Next photo, please? Just a view of the street.

4 Other direction, please? And heading in the other
5 direction.

6 And if you could go to the next one. Okay. So
7 here's the rear of the house.

8 Next slide, please?

9 This is probably the most dramatic one, just to
10 show what the existing foundation is like. We do have
11 additional photos of the inside of the house, but we didn't
12 want to go overkill and demonstrate into the issues.

13 But I hope you'll agree that the reports that
14 we've provided to the Board do provide some pretty dramatic
15 information about what the conditions of the house are.

16 Next slide, please?

17 This is the existing concrete garage. It's a two-
18 bay garage. And as you can see, it's -- you know, sited up
19 pretty close to the existing house. The plans are to
20 actually reduce the width of it to a one-bay garage.

21 Next slide, please? But continue to keep it in
22 its current corner of the lot.

1 This -- we're at the back of the house or looking
2 to the front street. And this is the right -- I'm sorry,
3 this is actually the left lot line. It's just showing you
4 that the current conditions -- the property is, you know,
5 preexisting, nonconforming. It's three feet four inches
6 from the side lot line.

7 And there's also a retaining wall that benefits
8 the neighbor on that side. And the conditions are really
9 close.

10 And the proposal for the new structure which is
11 going to be built is to have it complying on this side and
12 be seven feet, seven and a half feet from that lot line,
13 maintaining the retaining wall for the neighbor, of course.

14 This is a view of the back -- the current back
15 yard, existing back yard, that looks back out to the -- the
16 Greenway, the Watertown Cambridge Greenway. So that's a
17 bike path right at the edge of the grass that you see in the
18 distance.

19 Next slide, please?

20 You can go two ahead to the site plan 15, page 15?
21 Thanks. And do you mind just blowing that up a little bit?

22 So for the reasons that I described in terms of

1 what the existing structure's like, the Rothfuchs learned
2 that they would need to construct new -- that there was not
3 a feasible way to do underpinning that would be sufficient,
4 and also, safely able to be accomplished in such close
5 quarters with the neighboring houses.

6 And so for proposing the new building, they needed
7 and wanted to keep, you know, two stories of living -- the
8 two-story house, and essentially the same width of house.
9 But they wanted to make it as conforming as possible. So,
10 again, we shifted over to the right, to allow for a seven-
11 and-a-half-foot side lot line.

12 And I'm sorry, let me just -- I know you can kind
13 of see this, but the street is on the left side, which is a
14 little bit -- not the way you usually see a plot plan, and I
15 apologize, but this is the way our surveyor prepared this.
16 So the street is on the left, and we're looking at a side
17 view of the lot.

18 So, again, so shifting the new -- so the new
19 structure is in that bold dotted line in a more conforming
20 location, so now conforming to the front setbacks, the rear
21 setback, and both side setbacks for the main house.

22 And the new house would be a bit smaller by I

1 think it's 400 square feet. So smaller, but still not under
2 the 0.5 square footage for the Residential B district.

3 The other thing just to point out on this plot
4 plan since we're here and we'll talk about this again is the
5 -- we talked about the proposed garage being in its current
6 location at the right rear of the lot, because they don't
7 want to knock down and build new but narrower, to be a one-
8 bay garage.

9 And the benefits of this are they're still
10 providing some covered parking for the owner. It also
11 provides some screening and privacy for the neighbor to the
12 right. But because it's smaller, they're capturing a large
13 chunk of grass there to improve the yard situation.

14 CONSTANTINE ALEXANDER: There's no --

15 SARAH RHATIGAN: And the new site plan does
16 conform to the -- I'm sorry? I'm sorry --

17 CONSTANTINE ALEXANDER: I'm sorry to interrupt
18 you.

19 SARAH RHATIGAN: What's that?

20 CONSTANTINE ALEXANDER: But even though the garage
21 will be smaller, you still need setback relief for the
22 driveway?

1 SARAH RHATIGAN: Correct. Correct, exactly.

2 CONSTANTINE ALEXANDER: Okay. And we'll get to it
3 in a second --

4 SARAH RHATIGAN: Yep.

5 CONSTANTINE ALEXANDER: But are you aware of the
6 neighbor who is most affected by the relief you're seeking;
7 opposes the relief you're seeking? And in doing so -- and I
8 think a very good letter -- which I'm going to read into the
9 record in due course.. You might want to address it now or
10 not, but I'll leave it up to you.

11 SARAH RHATIGAN: I will definitely address it as
12 we're talking. If you don't mind, I'll keep going through
13 the slides. I'm absolutely top of the list that I will
14 address it.

15 CONSTANTINE ALEXANDER: Okay.

16 SARAH RHATIGAN: And just so you are aware, we had
17 absolutely no information at all in advance of receiving the
18 e-mail, which I believe -- I can't remember if we received
19 it late yesterday or early today, but I think it was today
20 that we received the letter from our neighbor to the right
21 of the project.

22 Which, you know, we're sorry that we didn't get it

1 sooner, because we probably could have talked and maybe
2 resolved some of this. But I will address that.

3 If it's okay, let me just run through the plans
4 quickly, and then, and then --

5 CONSTANTINE ALEXANDER: Go ahead.

6 SARAH RHATIGAN: -- we'll get to that?

7 CONSTANTINE ALEXANDER: Go ahead.

8 SARAH RHATIGAN: Okay, great. So then next, page
9 16? Thanks Olivia.

10 So this is just showing the four elevations for
11 the new structure. The front elevation, the porches -- the
12 front entry is on the right side. The little stairs that
13 you're seeing jutting out is just a side entrance to the
14 middle of the house that comes off of the driveway.

15 The plan at the rear of the property is a small
16 balcony at the second level, but they're getting rid of the
17 covered porch, if you remember, from the view of the rear
18 building -- there was sort of a covered porch system. These
19 are open porches, a small balcony, and then an open porch
20 with steps down to the yard.

21 And then unless anybody has any questions on the
22 plans, I was just going to skip ahead actually. But, again,

1 I'm happy to go through floor by floor. Maybe we'll just
2 page through and if there's anything that comes up as
3 questions, perhaps you could let me know.

4 JIM MONTEVERDE: Just --

5 SARAH RHATIGAN: We can always go back to them.

6 JIM MONTEVERDE: Excuse me. This is Jim
7 Monteverde.

8 SARAH RHATIGAN: Yes. Yes, Jim.

9 JIM MONTEVERDE: The sheet you were just on -- not
10 this one, the -- I believe it's the basement plan. That
11 one.

12 SARAH RHATIGAN: That I think is a foundation
13 plan. I think --

14 JIM MONTEVERDE: Yep.

15 SARAH RHATIGAN: -- 18 is the basement plan?

16 JIM MONTEVERDE: Oh, I'm sorry, no. So that sheet
17 you're on now?

18 SARAH RHATIGAN: Yes.

19 JIM MONTEVERDE: So I just want to confirm that it
20 has an area calculation in about the middle? Yep. Up --
21 just go up. And it says it's the new area, gross area. And
22 it comes to --

1 SARAH RHATIGAN: Yep.

2 JIM MONTEVERDE: -- 23, not the existing, but the
3 new comes to 2312?

4 SARAH RHATIGAN: Correct.

5 JIM MONTEVERDE: And I think the dimensional form
6 has a number -- am I wrong -- significantly above that, or
7 did I misread it?

8 SARAH RHATIGAN: I'm going to look at it right
9 now. No, this --

10 JIM MONTEVERDE: No, total -- right, 23 one two
11 (sic), you're right. Yep.

12 SARAH RHATIGAN: 23 one two (sic), yeah.

13 JIM MONTEVERDE: Okay, thank you.

14 SARAH RHATIGAN: Okay, great. Thank you. I'm
15 glad -- I was starting to get worried there.

16 JIM MONTEVERDE: No, no, no.

17 SARAH RHATIGAN: I'm glad we got it right. So
18 this is the foundation plan. The basement has a mechanical
19 room, family room, small bedroom.

20 JIM MONTEVERDE: So can I --

21 SARAH RHATIGAN: The next floor --

22 JIM MONTEVERDE: Can I --

1 SARAH RHATIGAN: Yes.

2 JIM MONTEVERDE: -- ask one question on that
3 basement plan then? When I do look at the elevation, and if
4 you go back to that area calculation, that area calculation
5 showed the basement as 0.

6 I believe the building elevation implies, if I
7 read it correctly, that the basement clear height is eight
8 feet. And then the plan you were just showing has some
9 living space in the basement -- nonmechanical space,
10 correct?

11 SARAH RHATIGAN: Correct.

12 JIM MONTEVERDE: Bedroom --

13 SARAH RHATIGAN: Single-family --

14 JIM MONTEVERDE: Yeah.

15 SARAH RHATIGAN: -- single-family dwelling. So
16 we've got 0 reported in terms of gross floor area per the
17 ordinance definition.

18 JIM MONTEVERDE: Because it's an accessory?

19 SARAH RHATIGAN: Because this is a single-family
20 home. So the basement --

21 JIM MONTEVERDE: Doesn't count.

22 SARAH RHATIGAN: -- floor area in the basement

1 doesn't count.

2 JIM MONTEVERDE: Okay. Thank you.

3 SARAH RHATIGAN: Yep. You're welcome. And this
4 is just showing the main floor of the house. And again, we
5 talked about that there's a porch at the front. There's a
6 side entry to access the house, and then there's a deck at
7 the back.

8 Second floor just has a master bedroom and two
9 smaller bedrooms. The master bedroom has a small balcony at
10 the rear. And that's it. That's the roof plan.

11 And then if you could click on the landscape plan
12 #24, the green?

13 Now, I am also going to ask the Board's permission
14 to show a slightly revised version of this landscape plan
15 that we scrambled to prepare today that is a response to the
16 letters that we received last night and today from abutters,
17 which --

18 CONSTANTINE ALEXANDER: You don't need zoning
19 relief with regard to the landscape plan, am I right?

20 SARAH RHATIGAN: We do not. No.

21 CONSTANTINE ALEXANDER: You don't need it. That's
22 our --

1 SARAH RHATIGAN: We do need relief for the
2 driveway. And so I think that the comments that we had I
3 think were responsive to the neighbor on the right's concern
4 about privacy and such on the right boundary. And so I'll
5 just describe the plan that we wanted to submit to you shows
6 more clearly.

7 There's -- this is a hand-drawn plan, and I think
8 in our scanning we didn't adequately show the right margin.
9 They're trying to show that there's a fence proposed along
10 the boundary line between our lot and the neighbor on the
11 right. So the little dots that are shown -- if you see
12 those black dots that go along that border?

13 CONSTANTINE ALEXANDER: The bottom line --

14 SARAH RHATIGAN: There's an arrow pointing to it.
15 The word that's supposed to be there is, "fence" and it --

16 CONSTANTINE ALEXANDER: -- the bottom line is that
17 you're seeking setback relief for the driveway, regardless--

18 SARAH RHATIGAN: It is, correct.

19 CONSTANTINE ALEXANDER: -- of what the landscape -
20 -

21 SARAH RHATIGAN: Correct.

22 CONSTANTINE ALEXANDER: -- plan shows. The fact

1 of the matter is --

2 SARAH RHATIGAN: Correct.

3 CONSTANTINE ALEXANDER: -- you'll be too close to
4 the lot line. And that's the problem.

5 SARAH RHATIGAN: We are asking -- we are asking
6 for relief for that driveway. Yes. That is correct. So
7 just one thing I wanted to point out to you -- this is maybe
8 just a factual, you know, piece of information that we want
9 to make sure is clear is that the proposal is to install a
10 fence that runs from the garage -- corner of the garage at
11 the right lot line.

12 And it's six -- proposed at six feet tall and to
13 taper down to four feet closer to the street level. That
14 was mainly just for purposes of having some visual -- you
15 know, easier for people to see coming in and out of the
16 driveway, but it could be at six feet the whole length if
17 the neighbor preferred it.

18 But again, the proposal is that there's a fence
19 that runs along that boundary line.

20 BRENDAN SULLIVAN: This is Brendan Sullivan.

21 Whose idea was it --

22 SARAH RHATIGAN: Yes.

1 BRENDAN SULLIVAN: The fence?

2 SARAH RHATIGAN: It was the owners' plan to have a
3 fence installed there. And to be honest with you, I think
4 it was clear from previous correspondence with the neighbors
5 that there was a fence there, from what we provided to them.
6 But it's possible that maybe they aren't aware that there's
7 a fence plan there.

8 BRENDAN SULLIVAN: Yeah.

9 SARAH RHATIGAN: Which is why if we had heard the
10 -- if we got the letter earlier, we would have been able to
11 have a conversation and hopefully, you know, resolve --

12 BRENDAN SULLIVAN: Yeah. From the lot line --

13 SARAH RHATIGAN: -- but [simultaneous speech], so
14 --

15 BRENDAN SULLIVAN: -- to the house on the right is
16 four feet; to put a six-foot fence there would create a
17 bowling alley type of effect, as far as I'm concerned. But
18 that's -- that's not a zoning --

19 SARAH RHATIGAN: It's something that could -- it's
20 something that could absolutely be discussed. You know,
21 from our client's point of view, the relief that they need.

22 And one thing I do also want to just clarify,

1 Olivia, do you mind going to the next page, number 25?

2 This is just another copy of the plot plan where
3 we had some of our calculations on here. So the existing
4 driveway -- and you've seen -- you will see that from the
5 photo that we included -- the existing driveway goes up to
6 the boundary line.

7 There is -- maybe there is something under a foot
8 of distance between the edge of the pavement and the lot
9 line. And the proposal is not to change that preexisting
10 condition, if you will.

11 If this were a renovation of the house, that
12 preexisting driveway condition wouldn't be an issue. It's
13 because the house is being demolished that the driveway then
14 becomes an issue that requires in this case a special
15 permit.

16 Similarly, the garage setback -- if this were not
17 a demolition of the main house, the garage as an accessory
18 structure could remain, you know, within five feet of the
19 boundary line. But because the main house is being
20 demolished, it creates a need to seek relief for the garage
21 to continue to remain in the same place.

22 I think just the point we're trying to make is

1 that we're not try to make anything worse; we're just asking
2 to keep the current condition. The owner proposed a fence
3 along the driveway, because we thought it was beneficial to
4 both owners.

5 But if there's a consensus among Board members and
6 the neighbor that they don't want to see a fence, I'm sure
7 that my client would -- you know, we should talk about it,
8 but I'm going to guess that they're not going to feel
9 strongly that it needs to be there.

10 BRENDAN SULLIVAN: Yeah. This is Brendan Sullivan
11 again. The location of that driveway is a pattern all along
12 that side of the street.

13 And every house has a driveway to the right of it
14 and continues to the right of the next one, to the right of
15 the next one. Except maybe you go three houses down, and
16 they do not have a driveway on the right, because they have
17 a telephone pole in the way. But that driveway is a pattern
18 consistent all the way down, which is -- goes back years.

19 I guess I, myself, don't seem to have a problem
20 with that driveway, because it's been there for since the
21 house was built, and it's a consistent pattern along that
22 streetscape. And I understand the technicality of you could

1 maintain it there if you renovated the house, but once the
2 house comes down, then you lose the protection of the
3 grandfathering and of a nonconforming, located driveway.
4 So. That's sort of my thought on that.

5 The only other issue I have is that the design of
6 the house is a dramatic departure from the other houses in
7 the neighborhood. And not that we should all have cookie
8 cutter houses, and that's what adds the flavor to the city
9 and the diversity and aesthetic appeal, but this one here
10 right smack dab in the middle of the block is to me quite
11 dramatic.

12 So I am -- yeah, those are my comments for the
13 moment.

14 SARAH RHATIGAN: Okay, thank you. Olivia, would
15 you mind just advancing the slide one more? Just really
16 briefly, we just wanted to mention a little bit about public
17 outreach. I'm showing you the Assessor's map -- the
18 abutter's map that was prepared by the Zoning administrators
19 to determine, you know, who would get notice.

20 So I just wanted to point out that from the very
21 get go, once plans were sort of formulated, Bill and David
22 Rothfuchs began outreach to their neighbors. And their

1 outreach began with the people who they expected would be
2 most impacted, and also the ones that we expected from an
3 abutter's list would be contacted. So we looked at houses
4 essentially two away on either side, and then directly
5 across the street.

6 Next page, please?

7 Letters were sent out to all of those neighbors.
8 This is from September 13, which is a nice letter, which
9 basically goes through and describes -- this, by the way we
10 don't need to -- like, we don't need to read the content of
11 this, I'm just trying to give you the flavor of what went on
12 -- describes the reasons for realizing they needed to take
13 the house down and they were going to build new.

14 Next page, please?

15 This was an artist depiction that was provided to
16 all those owners. And again, the owners wanted everyone to
17 be aware it was going to be -- you know, the aesthetic is a
18 modern home. So that wasn't something that was, you know,
19 hidden or, you know, not disclosed to folks. They had all
20 the elevations and floor plans as well.

21 You can skip ahead to page 31. Sorry, those got
22 tilted the wrong way. Basically, there's a follow-up letter

1 that was sent a little later in September, where essentially
2 they said, "We hope you got this" even though they did send
3 it Priority Mail. Like, "We'd love to hear from you if you
4 have any questions or comments -- " you know, "-- please let
5 us know" giving their contact information.

6 I think there was one -- the owner to the left,
7 directly to the left of us did comment by e-mail something
8 with a general comment of, like, "This looks really nice"
9 and then some questions about the construction timeline,
10 because obviously construction would be -- you know,
11 important for her.

12 Next page, please?

13 And then again in November, when we had to adjust
14 the plot plan to maintain a 10-foot driveway, which we --
15 just a technicality that we hadn't realized, we again
16 forwarded a follow-up letter to everyone with that
17 information, with the revised plot plan.

18 So -- and then I'm all set if you want to just
19 turn the slides off for right now, Olivia, that would be
20 fine.

21 I think there were two other letters. We talked a
22 bit about the concerns for the neighbor immediately to the

1 right, which I think were largely about the driveway. In
2 fact, I think that was the main issue. There were two other
3 letters that we received. And again, we just received them
4 -- one last night and one today.

5 And the -- you know, I know, folks may be on the
6 call, so I also don't want to -- you know, not allow them to
7 have a full hearing here, but the neighbor immediately to
8 the right, we talked about I wonder if they're not aware of
9 the fence. I think that the fence may help in terms of
10 their concerns about the safety of their children, use of
11 cars in that driveway.

12 Then the neighbor at 55 Park Avenue, which is
13 located across the street wrote a letter. And it seems like
14 their first comment was perhaps similar to Mr. Sullivan just
15 being surprised by the aesthetics of the project.

16 But, you know, respectfully, there are some
17 examples of contemporary homes -- I think there's one a
18 little further down the street, I feel like -- do you
19 recall? I think just further down Park Avenue -- as Park
20 Ave turns, there's an example of another property.

21 But I think the Board will agree that the -- you
22 know, there isn't a Design Review process for a project like

1 this.

2 There is a request to use permeable materials.
3 And some concerns about flooding and stormwater. And
4 although that is not generally the Zoning Board's purview,
5 we did just want to point out that we did check in with
6 Inspectional Services to understand that yes, this project
7 will have to go through stormwater and erosion control
8 permitting.

9 And the owners are very concerned about these
10 issues as well, and will make sure that they're doing
11 everything that's required.

12 In terms of using permeable materials for the
13 driveways and walkways, they're willing to do that. They
14 haven't gotten to the level of chosen materials for these
15 types of things, but that's something that seems like a good
16 idea.

17 There was a request to reduce the driveway, and we
18 can't reduce the driveway with -- and still comply with
19 zoning. And we think that a less than 10-foot driveway is
20 probably not a great idea for the owners of the property.

21 There were some additional comments from the owner
22 further down the street at 70 Park.

1 And I feel like I've been talking for too long, so
2 I want to turn things over to you for any questions, but it
3 did mention stormwater drainage, which I mentioned to you.
4 There was a comment about New England species and
5 pollinator-friendly landscaping, which the Rothfuchs are
6 happy to pass along to their landscaper for comments, but
7 not a zoning matter, I wouldn't think.

8 Similarly, with, like, electric heat pumps, that's
9 the type of thing that has not been figured out yet, but is
10 not, I don't think, a matter for Zoning.

11 There was a concern about the design of the back
12 porch not being sort of amenable to open greetings or
13 something. And it wasn't quite clear what they meant. The
14 porch is an open porch, with steps down to a yard. It seems
15 pretty open and friendly to the back to me. But I'm not
16 sure what that is about.

17 And there was a question about putting a green
18 roof on the house. But for a project of this type, I don't
19 think that a green roof is going to be feasible, either
20 financially or structurally in terms of, you know, bearing
21 loads of -- trays of green on top of a roof.

22 And the Green Roof Ordinance does apply to

1 projects that are, like, 10 times the size of this house.

2 So hopefully that's not a concern.

3 And lastly, a comment about a bike rack: I think
4 a bike rack probably wouldn't work for a project like this,
5 an outside bike rack. I expect that the owners will
6 probably store bikes in their garage. But if the Board felt
7 strongly about it, we could look at that.

8 I haven't spoken directly to all of the -- the
9 sort of the elements of the variance and the special permit.
10 But the application does speak to this pretty clearly. I
11 think that -- I'll sort of summarize, and then want to be
12 able to respond to Board members on this.

13 But this is a project where the hardship is
14 clearly the issue of soils and the structural -- essentially
15 the structural, you know, structurally compromised house
16 that just has to be replaced, because it's not structurally
17 safe.

18 The only way to do that is to, you know,
19 unfortunately is to demolish and to build new, so that there
20 can be proper footings and foundation and a new structure.

21 And so the intent and the design of this is to --
22 is to essentially rebuild a new structure that is somewhat

1 smaller and is more zoning compliant, but not absolutely
2 zoning compliant in that it continues to be a little bit
3 over the FAR.

4 And then the dimensional -- the relief that's
5 requested for the garage that we've talked about, which kind
6 of flows from the fact that the garage can't be moved over
7 closer to the existing structure because of the tight
8 constrained lot -- narrow lot that we've got.

9 And then with the special permit for the existing,
10 maintaining the existing driveway, on a special permit
11 standard, there's nothing about what we're proposing that is
12 really a change of conditions. If anything, by adding a
13 fence we're improving conditions.

14 But there's no traffic or -- you know, traffic
15 being changed or created. No hazards or nuisance to
16 neighbors that we think flows from that, from maintaining
17 the existing driveway.

18 And I think I'm going to keep it there for now,
19 and turn this over for questions.

20 CONSTANTINE ALEXANDER: Questions from members of
21 the Board?

22 BRENDAN SULLIVAN: No questions or comments. This

1 is Brendan Sullivan. No questions, no comments at this
2 time.

3 CONSTANTINE ALEXANDER: Jim?

4 JIM MONTEVERDE: No questions or comments at this
5 time.

6 CONSTANTINE ALEXANDER: Andrea?

7 ANDREA HICKEY: I have nothing at this moment,
8 thank you.

9 CONSTANTINE ALEXANDER: Wendy?

10 WENDY LEISERSON: I have no questions at this
11 moment.

12 CONSTANTINE ALEXANDER: I have no questions at
13 this point, but I do want to return to the driveway issue,
14 or the setback on the driveway.

15 And I do want to read into the record a letter
16 that we received from a Chris Tolles -- T-o-l-l-e-s, who
17 lives at 56-58 Park Avenue; obviously an adjacent neighbor.
18 And he writes,

19 "As a directly adjacent neighbor/owner at 56-58
20 Park Avenue, I respectfully oppose maintaining a driveway
21 within five feet of my property line on the north side of my
22 home.

1 "As a parent of three young children, who often
2 move along the north side of our home, from the back yard to
3 the street, vehicle traffic so close to our very narrow
4 walkway provides an unsafe pedestrian circumstance; doubly
5 so when considering the young age of my children.

6 "As well, the bedrooms of both units in my home
7 are on the north side of the home. On the ground floor,
8 that means cars which park in that driveway are literally
9 two feet from the windows of my bedrooms. This compromises
10 safety and privacy, is noisy and obstructs light when
11 vehicles are parked in the driveway.

12 "The current design creates these obvious issues,
13 which Mr. Rothfuchs and his team have not discussed with me
14 prior. I have zero desire to be obstructive for his intent
15 to improve his property, but maintain a large driveway so
16 close to my home in violation of zoning rules is not an
17 acceptable path forward for me and my young family."

18 And he says he's going to be on the call tonight;
19 we'll see.

20 I'm very moved by this -- personally -- by this
21 letter. Setbacks are designed for two purposes: To provide
22 safety to the adjoining property, and to preserve privacy to

1 the adjoining property. What is being proposed here
2 violates both of those bases for setbacks.

3 Erecting a six-foot fence doesn't solve anything.
4 Maybe for safety a little bit, but -- as I think Mr.
5 Sullivan points out -- a tunnel; a long thing and it impacts
6 the neighbor, whose house is right on the other side.

7 So all to get a place to park your car, you're
8 going to have to build a garage and use that garage for
9 whatever purpose. But park on the street is my view.

10 That's how Cambridge works. Everybody doesn't have a
11 driveway. So to be very clear, I propose to vote against
12 the special permit for the setback relief.

13 But with that, I'll open the matter up to public
14 testimony, unless other members of the Board wish to speak
15 right now?

16 [Pause]

17 CONSTANTINE ALEXANDER: I guess not. So we will
18 open the matter up to public testimony. As Ms. Rhatigan has
19 indicated, there are a number of letters in the file; some
20 of them in opposition, one of which I just read, and some of
21 which are in support.

22 Okay. For public comment, any members of the

1 public who wish to speak should now click the icon at the
2 bottom of your Zoom screen that says, "Raise hand."

3 If you're calling in by phone, you can raise your
4 hand by pressing *9 and unmute or mute by pressing *6.
5 We'll take a moment to see if anyone's calling in.

6 [Pause]

7 OLIVIA RATAY: Chris Tolles?

8 CONSTANTINE ALEXANDER: I'm sorry?

9 OLIVIA RATAY: Chris Tolles?

10 CONSTANTINE ALEXANDER: Okay, that's the fellow
11 whose letter I just read. Mr. Tolles, the floor is yours.

12 CHRIS TOLLES: Hello. This is Chris. Thank you
13 for reading my letter. I don't have much to add to it,
14 except to say I'm showing up tonight with an interest to
15 discuss this solution in the future.

16 This is not in ill will, and I am sorry for the
17 late notice; I just literally didn't realize how this works
18 or exactly what was proposed until recently.

19 I also do want to add an observation that some of
20 the site plans submitted in the packet that Ms. Rhatigan
21 went through also suggest that the driveway itself is
22 encroaching over my property line, and that the existing

1 garage is also encroaching. I am not a specialist in -- you
2 know, property GIS data, so I could be mistaken, but that
3 may also be something to discuss in the future.

4 CONSTANTINE ALEXANDER: If there are these
5 encroachments, even if we granted relief for the zoning
6 relief, that would not justify or legalize the
7 encroachments. You would have recourse against your
8 neighbor with regard to encroachments.

9 So let's be clear about that. You want to avoid
10 that, and I'm sure your neighbor wants to avoid that as
11 well. But it's not an issue -- a zoning issue, for
12 encroachments. That's basically a land use issue.

13 CHRIS TOLLES: Understood. Thank you. And yeah,
14 I would like to seek a resolution to that together.

15 My only last comment is it was previously
16 mentioned that a driveway on the south side of each property
17 was consistent along with the street. That is broadly
18 correct, but I do want to point out that my driveway at 56
19 and 58 actually does not exist; I only have a side yard.
20 And the next house further south along the street has a
21 truncated driveway.

22 So I think there's also already evidence of unique

1 treatment of driveways in the neighborhood, considering
2 different parcel kind of plot circumstances.

3 CONSTANTINE ALEXANDER: Thank you.

4 CHRIS TOLLES: Thank you.

5 CONSTANTINE ALEXANDER: Anyone else, do we have
6 anything else? No other persons wish to speak, so I will
7 close public testimony. As has been indicated so far during
8 the presentation in our comments, there are letters of
9 support for the project; there are letters of opposition to
10 my mind at least of varying persuasiveness. I've chosen the
11 one that I think is the most relevant.

12 Others are more design oriented, and frankly we're
13 not -- in my opinion anyway -- we're not a Design Review
14 Board. Our job is much more mundane than reviewing the
15 aesthetics of new structures.

16 With that, however, I will close public testimony.
17 And I'm going to start as we do -- I'll deal with the
18 variance first, make a motion to grant the variance, and
19 then we'll see how people vote; whether they want to change
20 that --

21 SARAH RHATIGAN: Mr. Chairman?

22 CONSTANTINE ALEXANDER: Yes.

1 SARAH RHATIGAN: Would you mind if we just
2 responded briefly to the discussion about the driveway --

3 CONSTANTINE ALEXANDER: No, go right ahead.

4 SARAH RHATIGAN: -- a little further? Okay, thank
5 you.

6 Olivia, would you mind just bring up the plot
7 plan, the first plot plan in the slide deck?

8 The -- one thing, I know we've talked about that
9 this is a special permit, but one thing I just want to
10 remind the Board and just sort of clarify is that the
11 special permit -- obviously the special permit standard is
12 quite different than a variance.

13 And it's difficult to see how an existing
14 condition that has been here since the property was
15 developed as far as we know could be -- that maintaining
16 that existing condition could be creating a nuisance or a
17 substantial hazard, and --

18 CONSTANTINE ALEXANDER: Why did you --

19 SARAH RHATIGAN: -- particularly where --

20 CONSTANTINE ALEXANDER: -- seek the special
21 permit? You're seeking --

22 SARAH RHATIGAN: We sought this --

1 CONSTANTINE ALEXANDER: -- the special permit
2 tonight because you believe --

3 SARAH RHATIGAN: -- we sought this --

4 CONSTANTINE ALEXANDER: -- you need it, and you're
5 right. You need zoning relief, given the fact of what
6 you're doing to the site in general; the construction of a
7 new home. That --

8 SARAH RHATIGAN: I do understand that, but --
9 right. But the -- but the -- but the driveway has been in
10 existence. So it's just very difficult to see how we are
11 creating -- I mean, the special permit standard is that
12 you're not creating a substantial hazard or detriment to the
13 neighborhood.

14 And I think with the existence of a fence -- and,
15 you know, maybe we can talk to Mr. Tolles about this and ask
16 how he feels about this, but an existence of a fence -- and
17 it could be discussed with the height of a fence is.

18 But the concerns that he has raised about safety
19 are ameliorated, there are plenty of homes that have side
20 yard setback that are bordered by a fence and the children
21 can play happily without being concerned about their safety
22 or -- you know, people can pass along, you know, narrow

1 stretches between homes without danger.

2 The concerns about light, you know, light from
3 cars that might be in the driveway -- you know, note also
4 that there is a -- there will be a single bay garage for the
5 property, and the homeowner, you know, presumably is going
6 to -- will certainly have one car.

7 If there is a second car, maybe they will park in
8 the driveway. But, you know, this is common throughout the
9 whole entire city. And I think it will be very difficult to
10 say that this is somehow a hazardous nuisance situation.

11 One thing I did -- the reason I wanted to bring
12 the plot plan up is just to explore something with the
13 Board, which is we provided a 10-foot driveway because the
14 ordinance requires a 10-foot driveway. The existing
15 driveway is seven feet in width. To create a 10-foot
16 driveway, we extended the width of the driveway to the left,
17 towards the -- towards our house.

18 So, again, the lot line conditions are exactly the
19 same as they exist today, but we widened it to the left.

20 And one question would be whether the Board -- you
21 know, one, I don't know if everybody's in agreement with Mr.
22 Chairman about the special permit, but if other members are

1 in agreement that they're concerned about the special permit
2 for the driveway, I guess the question would be would you
3 consider allowing a seven-foot driveway that created some
4 space on the right side of the boundary of the lots?

5 Would that -- I don't know, I personally don't
6 see that that's that meaningful if there's going to be a
7 fence there. I mean, who's going to see the three-foot
8 boundary between the driveway and the lot line?

9 I also didn't see who's going to see the five-foot
10 boundary between the driveway and the lot line if there's a
11 fence there. But I understand that -- you know, the
12 ordinance is the ordinance.

13 So I'm just trying to explore what the harm is,
14 and, you know, if there's anything that could be done?

15 CONSTANTINE ALEXANDER: Well, I mean, I think what
16 can be done from our point of view -- I don't mean to be
17 flip -- is to deal with the driveway and the structure in a
18 way that doesn't require a special permit for a less than
19 five-foot wide driveway.

20 That's the -- beyond that, it's a matter of what -
21 - that will get the case off our -- we won't have to deal
22 with the special permit for the driveway. I think that's

1 what you have to do.

2 Any other solution is something you might have to
3 work out with your neighbor, who strongly objects to what
4 you're proposing now.

5 BRENDAN SULLIVAN: This is Brendan Sullivan. I
6 have an inclination to support the special permit for the
7 driveway, because to me it's existing -- has existed,
8 there's been operation by the previous owner for years and
9 years. And so that's a given. And the location of the
10 house to the right has also been there, and they have
11 coexisted somewhat for many years.

12 However, that support for the driveway gives me
13 cause when I consider the treatment of the boundary line.
14 And the fence I think is going to have a horrendous adverse
15 effect on the adjoining property to the right. It will
16 create a very narrow little walkway.

17 You know, and again, I'm thinking of leaves
18 accumulating, snow, ice, and there's no way of getting that
19 off, especially with the children using it.

20 And I think that a fence -- six-foot fence --
21 would have an adverse effect regarding air, light on those
22 adjoining bedrooms. That the presence of cars -- and one of

1 the reasons for the five-foot buffer is to ameliorate some
2 of the exhaust, maybe the lights and so on and so forth --
3 the difference between five feet and, because right now it's
4 probably four feet, four and a half feet or something -- to
5 me doesn't really make that much of a difference as far as
6 fumes are concerned -- you know, the comings and goings, the
7 noise that's pointed out by the neighbor.

8 I think that is really not really measurable, as
9 far as moving it a few feet one way or the other.

10 But I would support the special permit, but I am
11 very, very concerned as to the treatment of the boundary
12 line. And of course the issue came up about the boundary
13 line, and some concern by the next-door neighbor that
14 there's already some infringement going on.

15 I'm just wondering if it doesn't require one more
16 sit down with the next-door neighbor to try and hash out
17 some of these issues or details, than an up and down vote.

18 CONSTANTINE ALEXANDER: For myself, I have no
19 problem with continuing the space to give the neighbor and
20 the petitioner time to sit down and come up with a common
21 solution. I'm always in favor of neighbors resolving
22 things, not having the result imposed on them by a Board

1 like ours. So I'm in favor of that. I don't know what
2 other members of the Board feel, or the petitioner.

3 Sir, what do you feel about Brendan's proposal,
4 that we continue this case and give you the opportunity to
5 sit down with the neighbor next door and see if some
6 solutions can be -- some mutual solutions that deal with the
7 boundary issues and the width of the driveway? Are you
8 willing to continue the case?

9 SARAH RHATIGAN: Um-- yeah, I'm just -- sort of by
10 text I'm confirming with the client because we can, you
11 know, speak to each other in the same room with our Zoom
12 hearings these days.

13 While I'm just sort of waiting for that
14 confirmation, just one -- I mean, not to put Mr. Sully (sic)
15 on the spot, but one question might be does he share the --
16 Mr. Sullivan's feelings about the effect of the fence, and
17 whether that's a positive or a negative?

18 I mean, the fence could be slatted so that it's --
19 you know, got air, you know, for not a big ball, but it
20 could be nice airy fence if that were something beneficial.

21 BRENDAN SULLIVAN: Well, that's --

22 SARAH RHATIGAN: I mean, if we need to do a

1 continuance, obviously we will, because we very much want --
2 you know, we want to resolve the, you know, the issues where
3 we're not thinking that it's a good thing for anyone in the
4 neighborhood to lose the whole driveway on the lot. And,
5 you know, hoping to kind of resolve this as quickly as we
6 can.

7 So I don't know if Mr. Sully (sic) has any
8 comments.

9 BRENDAN SULLIVAN: Yeah. This is Brendan
10 Sullivan. I think your comments are right on point. Is
11 (sic) that I thought as far as the treatment of the boundary
12 driveway to the adjoining house was anything from a berm to
13 a six-foot fence or something in between.

14 And I think a much lower type of structure that
15 would allow -- give some protection for pedestrians on that
16 narrow walkway -- children especially, obviously -- would be
17 probably welcome and necessary, but not a six-foot fence,
18 which would -- to me, I think have a terrible adverse effect
19 on the adjoining property.

20 CONSTANTINE ALEXANDER: Let me ask other members
21 of the Board -- of our Board -- if they have any thoughts or
22 comments with regard to Brendan's suggestion that we

1 continue the case to allow the petitioner to have further
2 discussions or -- maybe not further, but discussions with
3 the abutter.

4 Jim, do you have any thoughts?

5 JIM MONTEVERDE: Yeah. This is Jim Monteverde. I
6 certainly would favor the proponent and the abutter having a
7 discussion about what may be desired along that line.
8 Looking at the survey, I don't think it's a driveway that's
9 over the property line.

10 If I believe the survey, I think the garage is
11 over the property line to the back of the lot. I don't
12 think it has anything to do with the driveway.

13 But -- so I would support the proponent and the
14 neighbor getting together to see if they can come to some
15 agreement on what that demise should be.

16 CONSTANTINE ALEXANDER: Thank you. Andy? Do you
17 have any thoughts that you want to express?

18 ANDREA HICKEY: Yes.

19 CONSTANTINE ALEXANDER: Andrea?

20 ANDREA HICKEY: Yes. So this is Andrea Hickey. I
21 never think it's a bad idea for an applicant and a neighbor
22 to --

1 CONSTANTINE ALEXANDER: Right.

2 ANDREA HICKEY: -- get together and continue to
3 talk if there's any disagreement. So I would be in favor of
4 that. I'd also like to say that I sort of endorse Mr.
5 Sullivan's take on the proposal. If the driveway has been
6 used as a driveway historically for many, many years, I
7 don't have an issue with the continuation of that use.

8 I also agree with Mr. Sullivan that putting a high
9 fence up along that bound of the property is probably not a
10 great solution. But I would leave that up to the applicant
11 and the neighbor to work out to their satisfaction.

12 So to sum it up, I am in favor of granting a
13 continuance to give the applicant and the direct abutter
14 another opportunity to try to work something out.

15 CONSTANTINE ALEXANDER: Thank you, Andrea. Wendy?

16 SARAH RHATIGAN: Could I -- could I actually make,
17 and it's a question, I don't know if this works, but in the
18 days of in-person hearings, we might have the opportunity to
19 be kicked out into the hallway for discussion. This to me
20 doesn't feel like an issue that would -- here's my concern.

21 I know that this Board is only meeting once in
22 December. And I'm fearful that your continued case docket

1 may be full.

2 CONSTANTINE ALEXANDER: It is, by the way.

3 SARAH RHATIGAN: And if this is something that --

4 CONSTANTINE ALEXANDER: It should be filled.

5 SARAH RHATIGAN: -- yeah, and if this --

6 CONSTANTINE ALEXANDER: It would be in January if
7 we had the hearing --

8 SARAH RHATIGAN: Right.

9 CONSTANTINE ALEXANDER: -- and we resume this
10 case, it would be one of the two dates -- both January dates
11 open? January 6 would be the earliest. And that assumes,
12 by the way, that everybody -- I mean, it's a case heard.

13 SARAH RHATIGAN: Mm-hm.

14 CONSTANTINE ALEXANDER: So all five of us would
15 have to be available on January 6. We'll find out in a
16 second, if it's relevant.

17 SARAH RHATIGAN: Right. So I guess what I was
18 going to suggest: Is there an opportunity for us to at
19 least try to have a conversation this evening and come back
20 to this Board later in your agenda? I'm not sure how much
21 longer you're going to be online?

22 CONSTANTINE ALEXANDER: We only have a few more

1 cases on the agenda.

2 SARAH RHATIGAN: Okay.

3 CONSTANTINE ALEXANDER: I don't propose to sit
4 around tonight while you have your conversations. I don't
5 know if you --

6 SARAH RHATIGAN: No, we would never suggest that.
7 But it could be that if we have -- I don't know, maybe a 15-
8 20-minute conversation; it's a type of modification that
9 seems like it could potentially be amenable to a quick
10 resolution. Maybe not, but I guess what I would ask is if
11 --

12 CONSTANTINE ALEXANDER: Let me say this. I will
13 --

14 SARAH RHATIGAN: -- we're able to, could we come
15 back to you this evening?

16 CONSTANTINE ALEXANDER: -- I will -- we'll recess
17 this case. We'll finish the agenda, and I'll come back. If
18 you can -- if you track down your neighbor and the neighbor
19 and you have come up, and your client have come up with a
20 solution, fine. I don't mean to cut it off.

21 But I don't think it's probably feasible, when you
22 can do what you want to do in the time that's left in our

1 hearing. That's all.

2 BRENDAN SULLIVAN: Yeah. This is Brendan
3 Sullivan. On a personal note, I would like to do a revisit
4 to the site. I just have some questions in my own head that
5 I can't connect the dots too.

6 And so this continuance to January will give me
7 some time to revisit the site, walk the site, and I was
8 there today; I was there last week. But there were still
9 some unresolved issues. Took me a little bit longer to
10 connect the dots on this one.

11 CONSTANTINE ALEXANDER: Given Brendan's reluctance
12 -- understandable, and the facts of the likelihood that in
13 the next 15 to 20 minutes you're going to find a solution
14 with the neighbor are rather remote, so I think it was a
15 good suggestion, Sarah; I think we continue this case until
16 January 6.

17 So --

18 SARAH RHATIGAN: That's -- okay, so Bill and David
19 are you both in town? Does that --

20 BILL OR DAVID: Yes.

21 SARAH RHATIGAN: -- work for you?

22 DAVID OR BILL: Yes.

1 SARAH RHATIGAN: Excellent.

2 CONSTANTINE ALEXANDER: Okay. So I'll make a
3 motion. The Chair moves that we continue this case as a
4 case heard until 6:00 p.m. on January -- January?

5 BILL OR DAVID: Six.

6 CONSTANTINE ALEXANDER: On January 6, subject to
7 the following conditions:

8 First, that the petitioner sign a waiver of time
9 for decision. And that signature must be by no later than
10 5:00 p.m. a week from Monday.

11 That's required by law if we are not to
12 automatically grant relief, and it's a very standard, simple
13 document -- Sarah's familiar with it -- and so that's the
14 first condition: That you must sign that waiver of time for
15 a decision by 5:00 p.m. a week from Monday. Failure to do
16 that will mean this case will be dismissed.

17 The second condition is that a new posting sign
18 has to be erected and maintained for the 14 days prior to
19 the hearing -- to January 6; the same sign that you posted
20 right now, you can take that sign as a matter of fact with a
21 magic marker or what have you, -- just change the date and
22 the time to 6:00 p.m. on January 6.

1 And lastly, this may be relevant, to the extent
2 that there are going to be new or modified plans,
3 specifications or the like, particularly with regard to the
4 issues that are raised tonight, they must be in our files no
5 later than 5:00 p.m. on the Monday before January 6. That's
6 to enable our Board members and any neighbors to review
7 those in advance of the hearing.

8 Brendan, how do you vote?

9 BRENDAN SULLIVAN: Brendan Sullivan yes to the
10 continuance.

11 CONSTANTINE ALEXANDER: Jim?

12 JIM MONTEVERDE: Jim Monteverde yes to the
13 continuance.

14 CONSTANTINE ALEXANDER: Andrea?

15 ANDREA HICKEY: Andrea Hickey yes in favor of the
16 continuance.

17 CONSTANTINE ALEXANDER: Wendy?

18 WENDY LEISERSON: Wendy Leiserson yes in favor of
19 the continuance.

20 CONSTANTINE ALEXANDER: And the Chair votes yes as
21 well.

22 [All vote YES]

1 This case will be continued until January 6,
2 subject to the conditions I outlined a few moments ago
3 regarding the need to maintain new signs, and to filing --
4 timely filing -- of revised plans and specifications. And
5 the fact that the petitioner must sign a waiver of time for
6 decision no later than 5:00 p.m. on a week from Monday.

7 The case is continued.

8 SARAH RHATIGAN: Thank you.

9 CHRIS TOLLES: Thank you very much.

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(8:18 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Andrea A. Hickey, Wendy Leiserson and Jim
Monteverde

CONSTANTINE ALEXANDER: The Chair will now
call Case Number 149665 -- 1 -- I'm sorry, 38 Mount Pleasant
Street. Anyone here wishing to be heard?

CHRISTOPHER ALPHEN: Thank you, Mr. Chairman.
Attorney Christopher Alphen for the applicants Matt Russell
and Lindsey Russell. They are with us today. Also with us
--

CONSTANTINE ALEXANDER: Okay. Before you go any
further sir, I'm sorry to interrupt you, we have a letter in
our -- I'm doing this because I want to avoid having a case
heard, which would require longer time to get the case
reconsidered.

CHRISTOPHER ALPHEN: Understood.

CONSTANTINE ALEXANDER: We are in receipt -- this
Board -- if I can find it -- of a memo from the Planning
Board. And -- just give me a second to find it and to read
it. I've got to go through this file for a second.

1 CHRISTOPHER ALPHEN: It may not be this
2 application, only because I'm also representing the next
3 applicant, and they received a letter from the Planning
4 Board.

5 CONSTANTINE ALEXANDER: I guess I have it wrong,
6 yeah.

7 CHRISTOPHER ALPHEN: [Laughter]

8 CONSTANTINE ALEXANDER: Frost Street. I'm sorry,
9 you're right, sir.

10 CHRISTOPHER ALPHEN: We'll deal with that on the
11 next one.

12 CONSTANTINE ALEXANDER: Okay.

13 CHRISTOPHER ALPHEN: No letter in (sic) the
14 Planning Board on this case.

15 CONSTANTINE ALEXANDER: Okay. I'm sorry. Go
16 ahead.

17 CHRISTOPHER ALPHEN: So with me are the applicants
18 Matt and Lindsey Russell. Also with us are the members --
19 the entire team, it looks like, over there at SKA, including
20 Axel, who is the architect; and Sam, the architect who
21 worked on this project, who will present the modifications.

22 The applicants are looking to renovate their

1 house. They need some more space. They're looking to add
2 265 square feet to the back portion of their townhouse.

3 The purpose of adding the additional living space
4 is to add a live-in area for Matt's Mom so that she can stay
5 for extended periods of times -- he's currently a Cambridge
6 resident today -- and to add a little bit of an office
7 space. Because in the new world of working at home, Matthew
8 needs some more space for an office.

9 The structure is a preexisting nonconforming
10 structure. The existing FAR is preexisting, nonconforming.
11 The minimum allowed is 0.75 as it exists today, it's 0.98.
12 And so the renovations -- the 620 -- the 265 square feet to
13 be added to the back, would increase that preexisting,
14 nonconforming FAR to 1.12.

15 And accordingly, the applicant needs a special
16 permit to do so under Section 822.2 d, the new ordinance
17 section that requires a special permit for extending
18 preexisting, nonconforming dimensions.

19 In addition, there are going to be some additions
20 and some removal of some windows that also require a special
21 permit for a modification to a preexisting, nonconforming
22 structure.

1 The Russells did a terrific job of reaching out to
2 their neighbors. And they've spoken to everybody that they
3 could possibly speak to, and they received an impressive 15
4 letters in support for their modification.

5 We believe that it's a modest modification that
6 really makes an improvement to the structure, and is
7 something that is appropriate for a couple that wants to
8 remain in Cambridge, but at the same time have a little bit
9 more living space.

10 With that, I will turn it over to Axel, who will
11 review the plans in detail and give you an exact idea of
12 what we are proposing.

13 AXEL: Thank you, Chris. But I'm in the next
14 project. My colleagues --

15 CHRISTOPHER ALPHEN: Oh, I'm sorry, I'm sorry.
16 Michael Fields?

17 MICHAEL FIELDS: Axel will cede the portion this
18 time to -- if the Chair will recognize -- so yes, thank you,
19 Chris.

20 Thank you, members of the Board, for your time
21 this evening. My name is Michael Fields and I'm here with
22 Axel and many others in support of Lindsey and Matt tonight.

1 Just a brief history. This project is an update to a
2 townhouse built around 1880 -- it's at the south end of a
3 Row 4. The two center sections were developed and
4 reapportioned in 2007, but this renovation maintained the
5 fundamental footprint and layouts of the original.

6 As stated by Chris, our request before you this
7 evening is in several parts. We want to relocate windows --
8 the back of the building that fall outside the existing
9 noncompliant setbacks.

10 We want to provide an egress window well at the
11 front of the building and an excavated egress stair at the
12 back to serve the lower level, which are outside of the
13 existing noncompliant setbacks, expand the second floor by
14 265 square feet over the footprint of the existing first
15 floor in line with the existing noncompliant setbacks, and
16 then increase the existing noncompliant FAR by 0.14.

17 And before we go through the plans and elevations,
18 I want to give Matt and Lindsey a moment to introduce
19 themselves and their families' connection to the
20 neighborhood.

21 LINDSEY RUSSELL: Thank you. And thank you to the
22 Board for hearing us tonight. I'm a Cambridge lifer. I was

1 born in North Cambridge on Fairfield Street off of Rindge
2 Ave. And my parents then moved 30 years ago to Lexington
3 Avenue. And we moved here in 2001.

4 And we are -- our children are moving out; we have
5 one in college and one in high school and we're
6 transitioning to this next phase of our lives.

7 We also both lost our fathers recently, and as a
8 result my mother is actually a Cambridge resident. She just
9 moved out of the big house she and my dad had lived in for
10 30 years. She remains a Cambridge resident, but the hosting
11 of family gatherings naturally has been passed to us, and
12 Matt's mother who is also a widow, lives in Florida and
13 comes up for extended periods. And we'd like to be able to
14 host her for some of the time.

15 And those are really the fundamental reasons for
16 our application. As we looked around, after having lived
17 here for 20 years, we thought about moving, and got pretty
18 close to doing so. And at every moment we came back and
19 looked at the each other and said, "We really want to live
20 here."

21 So I would say that our commitment to this
22 neighborhood and, you know, I live -- I was born on

1 Fairfield Street, which is about half a mile from where we
2 live now. So our commitment and our roots in this area run
3 deep. So thank you for considering.

4 CHRISTOPHER ALPHEN: Thank you, Lindsey and Matt.

5 And Olivia, if you could put our presentation up
6 that would be great.

7 This is just showing the -- at left, the existing
8 townhouse on the end, and a rendering of the front. You
9 know, essentially, it's going to remain the same.

10 Next slide, please?

11 This slide outlines the zoning calculations of the
12 building and its location in the neighborhood. This 1880
13 building falls outside of the C1 calculated and minimum
14 setbacks. But the project will maintain the original
15 footprint, apart from the requested egress from the lower
16 level.

17 The current FAR of 0.98 already exceeds the
18 allottable FAR of 0.75, and we're requesting a slight
19 increase to this FAR by 0.14, or 265 square feet for a total
20 of 1.12, to allow for a home office and a grandparent suite.

21 Finally, the windows were replaced on the first
22 and second floor in their existing locations, and new

1 windows in the addition will complement the scale and
2 proportions of the remainder of the townhouse.

3 Next slide, please?

4 The streetscape will remain unchanged. The wood
5 exterior of the townhouse will be repaired as needed and
6 repainted, matching the adjacent townhouses. Windows on the
7 first and second floors will be replaced in their current
8 locations with energy efficient windows, and the new egress
9 window well will be screened and set apart from the street
10 with plantings.

11 Next slide, please?

12 Since there's no change to the street side, here
13 we are showing the massing of the existing townhouses from
14 the back, with 38 Mount Pleasant at the lower left-hand
15 corner.

16 Next slide, please?

17 Here we see the expansion of the second floor over
18 the existing footprint. The existing deck has been removed,
19 and the egress stair from the basement has held tight to the
20 back of the house, to provide more usable open space.

21 Next slide, please?

22 In the existing site plan, we see the existing

1 first-floor kitchen and deck off the rear of the townhouse.

2 Next slide, please?

3 And in the proposed site plan, we've highlighted
4 the area contributing to increased FAR and the proposed
5 egress ways from the lower level.

6 Next slide, please?

7 In our shadow studies, we are showing the direct
8 impact of the existing structure in red, and any additional
9 shadows created by the expansion in purple.

10 For much of the year, the shadows that would be
11 cast by the expansion are captured within the shadows of the
12 existing townhouse and the surrounding structures. This is
13 not included in the shadows cast by the mature tree canopy,
14 and there will be some modest additional shadow cast in the
15 winter mornings when the sun's at its lowest.

16 Next slide, please?

17 In the basement level, the slab is being lowered
18 to approximately the same level as the adjacent townhouse.
19 Our design includes the creation of an egress window at the
20 front, at the location of an existing smaller window.

21 And at the back, we're proposing an egress stair
22 up to the back yard at the location of the existing window

1 into the basement.

2 Next slide, please?

3 On the first floor, the adjusted layout remains
4 within the existing footprint. The windows of the kitchen
5 are reorganized to serve the layout and better match the
6 style of the windows that persist throughout the row of
7 townhouses.

8 Next slide, please?

9 The second floor shows the expansion over the
10 existing footprint on the first floor. Here we see the home
11 office and the grandparents' suite that are driving the
12 expansion of this floor.

13 Next slide, please?

14 The third-floor plan is unchanged by this request.

15 Next slide, please?

16 The roof plan shows the proposed skylights within
17 the allowable building area. Water from the new roof, as
18 well as from the upper roofs will be gathered through new
19 gutters and brought down to a dry well in the rear yard.

20 Next slide, please?

21 As seen earlier in the streetscape slide, the
22 front elevation will remain unchanged, apart from the

1 screened window well.

2 Next slide, please?

3 As we come around to the south elevation, the main
4 building remains unchanged. And the setback portion will
5 carry the line of the existing trim around the extension,
6 below the main egress. The size and scale of the windows in
7 the setback portion are in keeping with the main structure.

8 Next slide, please?

9 At the east elevation in the rear, shows the area
10 contributing to increased far. The egress stair from the
11 basement is tucked behind a fixed railing-height planter,
12 and is open to the sky. Then we see a new window
13 configuration of the back.

14 Next slide, please?

15 And that concludes our presentation. You can scan
16 the barcode below with your phone camera for a video render
17 of the exterior, and the additional slides that follow show
18 more views of the existing house, our survey site plan and
19 we have some of the letters of support -- 15 letters of
20 support -- from the people up and down the street and near
21 and far.

22 And that is it. We'll take any questions you

1 might have.

2 BRENDAN SULLIVAN: This is Brendan Sullivan.
3 Olivia, could you go back to the east elevation, please?
4 Which would be the rear.

5 [Pause]

6 BRENDAN SULLIVAN: The lower -- the lower left
7 there. This -- my concern if you -- yeah -- is, obviously,
8 to the right of your addition is the next-door unit, right?

9 CHRISTOPHER ALPHEN: Mm-hm.

10 BRENDAN SULLIVAN: And what your proposed second-
11 floor addition does to those windows in that area, which --
12 what are those rooms there, in their units? Are those
13 bedrooms?

14 CHRISTOPHER ALPHEN: I believe that the one on the
15 back wall is a bedroom, and then the ones that wrap the
16 living space of the condoized addition are living space.

17 BRENDAN SULLIVAN: And the shadow study shows that
18 it has no effect?

19 CHRISTOPHER ALPHEN: It has some effect in the
20 winter, in the more.

21 BRENDAN SULLIVAN: Because the sun is lower?

22 CHRISTOPHER ALPHEN: Yeah, just at 9:00 a.m. You

1 know, by noon the main building is casting a shadow over
2 that area.

3 BRENDAN SULLIVAN: Okay. So the proposed at
4 12:00? Yeah, okay. Okay, so it's coming up in the east and
5 -- okay, no other questions.

6 CONSTANTINE ALEXANDER: Jim, do you have any
7 questions?

8 JIM MONTEVERDE: Yeah. This is Jim Monteverde. I
9 have one question, please. If you could -- I'm looking at
10 your sheet -- I'm on another screen with your plans, and I'm
11 on your drawing 102, which is your second-floor client.

12 Could you bring that back up?

13 And if I count correctly, the house currently has
14 four bedrooms, and when you're done, you'll have four
15 bedrooms, am I correct?

16 CHRISTOPHER ALPHEN: That is correct.

17 JIM MONTEVERDE: Okay. And in the proposed plan,
18 the visitor suite, or the grandmother suite is the one to
19 the front of the house, I'm assuming?

20 CHRISTOPHER ALPHEN: Correct, yep.

21 JIM MONTEVERDE: Right. So are you -- it -- what
22 I'm trying to confirm is during the course of the

1 presentation, I heard the discussion about, you know, moving
2 family in -- that's a very nice thing to do, moving
3 someone's Mom in, I mean that's terrific, noteworthy. When
4 I look at the plan in terms of what you're actually
5 creating, you create a rather nice, new master suite, and
6 I'm assuming a home office?

7 CHRISTOPHER ALPHEN: Correct.

8 JIM MONTEVERDE: Which exists already on the third
9 floor? Third floor.

10 CHRISTOPHER ALPHEN: There's -- so both Matt and
11 Lindsey work from home.

12 JIM MONTEVERDE: Okay.

13 CHRISTOPHER ALPHEN: Yeah. So the one on the
14 third floor is Lindsey's office, and the one on the --

15 JIM MONTEVERDE: Yep.

16 CHRISTOPHER ALPHEN: -- second floor would be
17 Matt's office.

18 LINDSEY RUSSELL: And currently --

19 JIM MONTEVERDE: Okay, so just -- if I'm reading
20 the plan correctly, it's really the -- I would say mother
21 suite kind of is there plus a bathroom; it's really the main
22 master suite that's the addition?

1 CHRISTOPHER ALPHEN: Right. Yeah. We have --

2 JIM MONTEVERDE: Okay.

3 CHRISTOPHER ALPHEN: We're moving the laundry up
4 from the basement.

5 JIM MONTEVERDE: Yep.

6 CHRISTOPHER ALPHEN: Bring in the -- the office
7 into that central section, and then yeah, there's a little
8 bit of closet space.

9 JIM MONTEVERDE: Mm-hm.

10 CHRISTOPHER ALPHEN: And then the main suite,
11 yeah.

12 JIM MONTEVERDE: Okay. Thank you.

13 CHRISTOPHER ALPHEN: Mm-hm.

14 CONSTANTINE ALEXANDER: Andrea?

15 ANDREA HICKEY: I have no questions. Thank you,
16 Mr. Chair.

17 CONSTANTINE ALEXANDER: Wendy?

18 WENDY LEISERSON: I have no questions. Thank you.

19 CONSTANTINE ALEXANDER: Okay. The Chair has no
20 questions either. So we'll open the matter up to public
21 testimony. We have a number of letters in our file, both
22 pro and con, with regard to the relief being sought,

1 although the strong majority of the letters are pro. But I
2 just want to express that there are some negatives in our
3 files.

4 So with that, we'll open the matter up to public
5 testimony. Any members of the public who wish to speak
6 should now click the icon at the bottom of your Zoom screen
7 that 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.

10 We'll take a moment to see if anyone wishing to calling in.

11 [Pause]

12 OLIVIA RATAY: Anne Norris?

13 CONSTANTINE ALEXANDER: Ms. Norris?

14 ANNE NORRIS: Yes. I'm here. Can you hear me?

15 CONSTANTINE ALEXANDER: Yes.

16 ANNE NORRIS: Hi. Yes. You received a letter
17 from me today, and I have been in detailed conversations
18 with Matt and Lindsey, so I don't think they'll be surprised
19 that I'm on this call -- at least I hope not.

20 I hope that the architect actually has with them
21 the more detailed shadow study that was shared with me on
22 Tuesday evening of this week, as I feel like the one that's

1 been proposed to this Board does not accurately -- or not
2 completely, let me rephrase that -- represent the impact of
3 the shadowing from this addition at this point.

4 So I'm going to ask the architectural firm if they
5 have the one that details the sort of winter months by
6 hours, showing 9:00, 10:00, 11:00 and 12:00 and doesn't skip
7 over those critical morning times?

8 CHRISTOPHER ALPHEN: We may have that, but I think
9 that, you know, we could sort of read it into the record
10 that, you know, we recognize that -- you know, that morning
11 time, you know, 9:00, 10:00, 11:00, 12:00 is a time that,
12 you know, the shadow does increase in that section, and
13 casts -- you know, it does cast shadow, you know, through
14 the morning.

15 ANNE NORRIS: Yeah. So what it does, for the
16 Board, since that shadow study is not pulled up right now,
17 is, as the Board pointed out, the back of our building --
18 and I am the direct abutter; you saw on slide 16 the back of
19 my roof, which has a skylight.

20 And then you also questioned Adam's unit, which is
21 above me, which does directly impact his living room and
22 bedroom when the addition is built..

1 But I have the roof that is currently directly
2 adjacent to Matt and Lindsey's. That roof is directly over
3 the living area of my unit. And when this addition is
4 added, unfortunately -- because I would like to figure out a
5 way to make it work -- the time that we receive light is
6 between 9:00 in the morning and 12:00 in the afternoon, as
7 they correctly pointed out, when the sun sort of heads west.
8 The front of the building blocks that.

9 So when this is added, all of the direct sunlight
10 that is accessed by the skylight added by me as the direct
11 abutter and unit owner to bring direct light into my unit is
12 shadowed by this addition.

13 So it is a significant quality of life issue that,
14 you know, I'm hoping we can do kind of what you did in the
15 last hearing and move this off to January to try to figure
16 out something feasible to help rectify that. But it's a
17 substantial impact on a unit.

18 And the challenges are we are in connected
19 rowhouses. So there really isn't any space in between our
20 units to pull from here.

21 CONSTANTINE ALEXANDER: So are you amenable to
22 continuing the case?

1 CHRISTOPHER ALPHEN: Well, I'd be interested to
2 see what the Board has -- opinion about this is. You know,
3 you know, this is a modest addition.

4 And under the special permit, you know, when
5 you're extending a preexisting, nonconforming, you know,
6 dimensional issue -- you know, modest additions are usually
7 held up in court as finding, you know, not detrimental to
8 the neighborhood as is. This is a small, modest addition.

9 CONSTANTINE ALEXANDER: Modest it may be, sir, but
10 if it is -- does have an impact of someone in the
11 neighborhood who is concerned and upset by what you've
12 proposed, we do -- we can take a vote on it, but we do
13 encourage people to sit down and try to work something out.

14 CHRISTOPHER ALPHEN: Absolutely. And if the Board
15 feels that that is necessary, then that's what we will do.
16 We will meet with the neighbors and trying to figure
17 something out that works for them.

18 You know, I just think -- and, you know, I just
19 think that this might be something where any sort of
20 addition is going to cause maybe some shadows on the
21 abutting condominium, and they're not part of the
22 Condominium.

1 So it may be difficult for SKA to come up with
2 something that would be workable or amenable to the
3 neighbors. So I'd be curious to see what the other Board
4 members feel about it.

5 UNIDENTIFIED SPEAKER/SAM KACHMAR?: Mr. Chairman?

6 CONSTANTINE ALEXANDER: Yes.

7 SAM KACHMAR: Our clients did meet with the
8 neighbors multiple times to review some different options in
9 regards to the addition. And we did cut off the cornice
10 that kind of comes around the building in an effort to
11 reduce any shadows in there. So we have made efforts to try
12 to compromise on the addition where we can.

13 You know, aside from not doing the -- you know,
14 the expansion out over the existing footprint, I don't know
15 that there's a lot of options as to how to further reduce
16 it. Like, right now there's a cornice that wraps around the
17 outside of the building.

18 And originally, we were going to carry that
19 historical detail around the house, but pulled it back in an
20 effort to reduce further shadowing on the house, from the
21 neighbors in there.

22 Or, at least that is something that we can do. I

1 think that here we are showing that cornice wrapping.

2 But, you know, in an effort to, you know, try to -
3 - you know, increase the amount of time that light gets
4 through, there are potentially some items that we can do
5 there in terms of the cornice.

6 BRENDAN SULLIVAN: This is Brendan Sullivan.

7 Counsel, I usually like to quote Mark in the land use
8 manual, because I always find nuggets in there. I won't be
9 quoting him in this particular instance, but in a landmark
10 case, Blackman v. the Board of Zoning Appeal of Barnstable,
11 the Massachusetts Supreme Judicial Court has stated,

12 "This court has said repeatedly that the power to
13 vary the application of a zoning ordinance must be sparingly
14 exercised, and only in rare instances, and under exceptional
15 circumstances particular (sic)" -- I'm sorry, "peculiar,"
16 -- "in their nature, and with due regard to the main purpose
17 of the zoning ordinance to preserve the property rights of
18 others."

19 [Which is your next-door neighbor.]

20 CHRISTOPHER ALPHEN: No dispute. I think this is
21 something that -- you know, we will -- we want to make sure
22 that everybody's happy. You know, the applicants have done

1 their best to talk to their neighbors as much as they can.

2 And if the Board feels that we should continue
3 those conversations, then, you know, we would love to
4 continue this hearing and have an opportunity to try to
5 appease everybody.

6 CONSTANTINE ALEXANDER: I'm not a member of the
7 Board, but I would like to see this case continued as well.
8 I do think it's not a good idea for this Board to force
9 things on neighbors that they object to without the full
10 opportunity for the parties to sit down and see if they can
11 convince each other or work out a mutually satisfactory
12 resolution.

13 So I, like, Brendan, would like to see you
14 continue the case.

15 JIM MONTEVERDE: Yeah, this is Jim Monteverde.

16 CONSTANTINE ALEXANDER: By the way the case --

17 JIM MONTEVERDE: I would -- I will throw my -- I
18 will throw in with both Brendan and the Chair, and I would
19 strongly advocate that you try and reach some agreement with
20 your abutter.

21 CONSTANTINE ALEXANDER: Let me be clear. I'm
22 sorry, Jim, I didn't mean to --

1 JIM MONTEVERDE: It's all right.

2 CONSTANTINE ALEXANDER: -- interrupt you. If we
3 continue this case, it will be until January 27. Because
4 that's the next opening we have in our docket. Just so you
5 know, the petitioner knows that that's when we're talking
6 about.

7 And other -- since it's a case heard, we've got to
8 be sure that all five members can be present on January 27,
9 because this will be a case heard. I can be present.
10 Brendan?

11 BRENDAN SULLIVAN: Yes. [Brendan Sullivan]; I can
12 be here.

13 CONSTANTINE ALEXANDER: Jim?

14 JIM MONTEVERDE: [Jim Monteverde]; I will be
15 present.

16 CONSTANTINE ALEXANDER: Andrea?

17 ANDREA HICKEY: I'm checking my calendar right now
18 if you give me one moment.

19 CONSTANTINE ALEXANDER: Go ahead.

20 [Pause]

21 CONSTANTINE ALEXANDER: While she's doing that,
22 Wendy, can you be available on the twenty-seventh?

1 WENDY LEISERSON: [Wendy Leiserson]; yes, I can be
2 available on the twenty-seventh.

3 ANDREA HICKEY: Mr. Chair, [Andrea Hickey]; I'm
4 back and yes, I am available on that date.

5 CONSTANTINE ALEXANDER: Okay. So I will make a
6 motion to continue this case until January 27. The Chair
7 moves that we continue this case as a case heard until 6:00
8 p.m. on January 27, subject to the following conditions:

9 One, that the petitioner sign a waiver of time to
10 decide the case -- in other words an extension of time for
11 us to decide this case. That waiver is a standard waiver
12 and a very simple document that the City of Cambridge uses,
13 and everybody in the past has signed it without any problem.
14 That's just to advise Counsel in particular, who may not be
15 familiar with Cambridge zoning issues.

16 The case will be -- if that waiver of time for
17 decision, which can be obtained from the Inspectional
18 Services Department -- is not signed and returned by 5:00
19 p.m. on a week from Monday, this case will be dismissed. So
20 with that in mind, make sure that that waiver for time for
21 decision is signed before 5:00 p.m. a week from Monday.

22 Second, that the posting sign -- that there will

1 be a posting sign as there was for tonight's hearing -- be
2 maintained for 14 days prior to the January hearing.

3 What -- you can get a new sign, or you can take
4 the existing sign with a magic marker, change the time and
5 date -- as long as the sign is otherwise readable and in
6 good condition. But you don't have to get a -- necessarily
7 a brand-new sign if that's an imposition.

8 And lastly, to the extent that there will be new
9 or modified plans, specifications and other technical data,
10 they must be in our files no later than 5:00 p.m. on the
11 Monday before the January hearing date. If that is not
12 done, we will not hear the case in January.

13 Brendan, how do you vote?

14 BRENDAN SULLIVAN: Brendan Sullivan yes to the
15 continuance.

16 CONSTANTINE ALEXANDER: Jim?

17 JIM MONTEVERDE: Jim Monteverde yes to the
18 continuance.

19 CONSTANTINE ALEXANDER: Andrea?

20 ANDREA HICKEY: Andrea Hickey yes to the
21 continuance.

22 CONSTANTINE ALEXANDER: Wendy?

1 WENDY LEISERSON: Wendy Leiserson yes to the
2 continuance.

3 CONSTANTINE ALEXANDER: and the Chair votes yes to
4 the continuance as well.

5 [All vote YES]

6 CONSTANTINE ALEXANDER: This case is continued
7 until the January date.

8 CHRISTOPHER ALPHEN: Thank you.

9 SAM KACHMAR: Thank you, Mr. Chair.

10 CHRISTOPHER ALPHEN: And I want to thank the Board
11 member for not quoting Bobrowski.

12 CONSTANTINE ALEXANDER: [Laughter]. All right.
13
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1 * * * * *

2 (9:08 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Andrea A. Hickey, Wendy Leiserson and Jim
5 Monteverde

6 CONSTANTINE ALEXANDER: All right. The Chair will
7 call the case I thought I was calling a moment ago, but you
8 corrected me sir. 2 Frost Street, Unit 2 -- Case Number
9 149683. And you're aware, obviously, and I was about to
10 say, we have a memo in our files from the Planning Board.

11 And the reason I'm bringing this up now is I'm
12 trying to avoid making this a case -- if we have to continue
13 it -- a case heard, and we have to make sure we've got all
14 five people available.

15 But anyway, if I can dig it out of the files here
16 -- yeah, here it is -- we have a memo from the Planning
17 Board, which says,

18 "The Planning Board reviewed this BZA application
19 during a meeting on November 9, 2021, and decided to the
20 following comments to the BZA.

21 "After consideration of these requests, and after
22 hearing testimony from the applicants representing and

1 architect, the Planning Board, both favorable to the
2 proposed request for an addition to the existing structure,
3 recommends the BZA continue the hearing to allow further
4 design refinements of the roof of the proposed addition to
5 complement the existing mansard roof."

6 So I, for one, would like to work with the
7 Planning Board. If they ask that they need time for more
8 discussion with the applicant, I think it's a good idea.
9 And I would recommend that you can agree to continue this
10 case as a case not heard. I think the earliest date we
11 would continue it to will be January 27.

12 SAM KACHMAR: Mr. Chair?

13 CONSTANTINE ALEXANDER: Yes.

14 SAM KACHMAR: We did go to the Planning Board
15 hearing, and we did make some updates based upon the
16 Planning Board's feedback and submitted those to the Zoning
17 Board before this Monday. So I don't know if it makes sense
18 to present or not, but we did make updates based upon their
19 recommendations.

20 CONSTANTINE ALEXANDER: The memo we got from the
21 Planning Board is dated January -- I'm sorry, November 12.

22 SAM KACHMAR: Yeah, exactly. Yep.

1 CONSTANTINE ALEXANDER: I'm sorry?

2 SAM KACHMAR: And so after that hearing, we then
3 made updates to the drawings and the plans, based upon the
4 recommendations, submitted them to the Zoning Board before
5 this hearing on the -- before the Monday of 5:00 p.m. on
6 this hearing -- and so you guys have in your files the
7 updated drawings and the updated plans that we made in
8 response to the Planning Board's recommendations.

9 I don't know if it makes sense to present tonight
10 or not. I'm posing the question.

11 CONSTANTINE ALEXANDER: Yep. And you believe that
12 the Planning Board now accepts the revised plans, or do they
13 still have an issue?

14 SAM KACHMAR: I can't speak to the Planning Board.
15 They asked us to move in accordance, which we did, to align
16 it with an existing one on the mansard roof. And we -- you
17 know, heard those comments -- made some of those updates.

18 And then I don't know if we're supposed to go back
19 to the Planning Board, or if we're supposed to be heard by
20 the Zoning Board for making those -- you know, I've never --
21 I've never had a project be heard by the Planning Board
22 before and --

1 CONSTANTINE ALEXANDER: Well, same here. And like
2 you, I don't know --

3 SAM KACHMAR: Yes.

4 CONSTANTINE ALEXANDER: All I know is what we have
5 in our files.

6 SAM KACHMAR: Yeah.

7 CONSTANTINE ALEXANDER: And what we have in our
8 files is a memo on November 12.

9 SAM KACHMAR: Yeah. Yeah.

10 CONSTANTINE ALEXANDER: Seeking a continuance.

11 SAM KACHMAR: Right. I've been -- you know, I've
12 been presenting in front of this Board for 15 years, and
13 I've never been in front of the Planning Board. And they
14 seem like they're in an advisory capacity. I wasn't sure
15 how to proceed to go back to them, or if we then present
16 here once we made those changes. So we --

17 CONSTANTINE ALEXANDER: I --

18 SAM KACHMAR: -- made the updates.

19 CONSTANTINE ALEXANDER: -- this is -- like you,
20 I've been on the Board longer than you --

21 SAM KACHMAR: Sure.

22 CONSTANTINE ALEXANDER: -- than you've been

1 practicing before the Board.

2 SAM KACHMAR: Certainly.

3 CONSTANTINE ALEXANDER: We never had a letter from
4 the Planning Board on a residential structure.

5 SAM KACHMAR: Oh, really? First time?

6 CONSTANTINE ALEXANDER: Let me go -- I think we
7 have no choice but to continue the case.

8 ANDREA HICKEY: Mr. --

9 CONSTANTINE ALEXANDER: You could find out from
10 the Planning Board, and you can ask the Planning Board to
11 give us something in writing to update the memo that I just
12 read.

13 CHRISTOPHER ALPHEN: Mr. Chairman, if I would?

14 CONSTANTINE ALEXANDER: Yes.

15 CHRISTOPHER ALPHEN: Attorney Christopher Alphen
16 -- Blatman, Bobrowski & Haverty -- you know, I have seen
17 this happen in other municipalities where the Planning Board
18 might offer their opinions about a project or about a plan.

19 But ultimately, it's up to the Zoning Board of
20 Appeals to make sure that the project meets or does not meet
21 the criteria of the zoning ordinance.

22 And to be frank, we understand the Planning

1 Board's comments, and if the Zoning Board after our
2 presentation -- after opening the public hearing -- agrees
3 with those comments, then, you know, we would be open to a
4 continuance to have further discussions with the Planning
5 Board.

6 But I think for the time being, we would like to
7 present to the Zoning Board of Appeals to get your opinion
8 about the project that we think is a great project that
9 meets the intent and the purpose of the zoning ordinance.

10 CONSTANTINE ALEXANDER: I appreciate what you're
11 saying, sir, but I don't want to do that. I want to know
12 what the Planning Board's final thoughts are. And I think
13 this Board wants to know before we make our decision.

14 You're asking us to basically make a decision or
15 give you a read in advance of hearing the final word from
16 the Planning Board. And that's not the way I want to
17 operate.

18 ANDREA HICKEY: Mr. --

19 CONSTANTINE ALEXANDER: I respect what you're
20 saying, sir, but I do think we should wait until we have the
21 Planning Board one way or another sign off on this project
22 or any modifications that result from discussions with the

1 Planning Board.

2 ANDREA HICKEY: Mr. Chair, it's Andrea Hickey. If
3 I could ask a question?

4 CONSTANTINE ALEXANDER: Go ahead.

5 ANDREA HICKEY: Were the revised plans submitted
6 or given to the Planning Board, or was it just assumed that
7 if they're filed with zoning, if Planning wants to see them,
8 they'll go see them?

9 SAM KACHMAR: I've never submitted plans to the
10 Planning Board. So honestly, I just don't -- I wouldn't
11 know where to submit them. We sent them to Maria Pacheco.
12 If there's somewhere else we should have sent them, I
13 apologize we didn't send them to them at that time.

14 ANDREA HICKEY: So we don't know that the Planning
15 Board has seen the revised submission?

16 SAM KACHMAR: That's correct.

17 ANDREA HICKEY: Thank you.

18 SAM KACHMAR: We sent them to [connection
19 interference] and we sent them to Maria. If the Planning
20 Board saw them, great; if they didn't, I don't know. I
21 don't want to make any claims that we do or don't know that.

22 ANDREA HICKEY: Right. I thank you for your

1 honest response there. And I acknowledge that the sort of
2 order of things or the path may not be clear in this
3 particular case.

4 But I have to say I agree with the Chair, and I
5 think it would be premature for us to hear this case in full
6 without giving the Planning Board the opportunity to sort of
7 give a second opinion on the revision.

8 So I would support a continuance, based on that.

9 SAM KACHMAR: We would ask that since we've
10 already made revisions that the continuance be to the
11 earliest possible public hearing, and that somehow the
12 Planning Department communicate to the Planning Board that,
13 you know, we have a -- we'll have a ZBA (sic) hearing, and
14 that they should act on that, or give an opinion about our
15 revised plans prior to the next ZBA hearing?

16 ANDREA HICKEY: Or say that they have no opinion
17 or no response, if --

18 SAM KACHMAR: Sure.

19 ANDREA HICKEY: -- this is Andrea Hickey again.
20 I'd be satisfied just to have an acknowledgment that they've
21 received it. Many times, we don't get a response. So I
22 don't think we necessarily need a substantive response.

1 From my perspective, I would just want to know that they've
2 seen them.

3 SAM KACHMAR: Is there anyplace specific to send
4 it to the Planning Board, or are the plans we submitted to
5 Maria, should we assume that they will somehow get to the
6 Planning Board? Just so that we can make sure we do our due
7 diligence?

8 CHRISTOPHER ALPHEN: Yeah, I'll take care of it to
9 make sure the Planning Board gets a copy.

10 CONSTANTINE ALEXANDER: I don't know the answer to
11 that question. Thank you, sir. I don't know the answer.
12 But I think the problem -- the issue is you've got to file
13 it directly with the Planning Board.

14 SAM KACHMAR: We'd be glad to give it a try.

15 CONSTANTINE ALEXANDER: We don't want to have --
16 you have to get it, deliver it and give her the
17 responsibility.

18 SAM KACHMAR: We will definitely search that out.

19 CONSTANTINE ALEXANDER: All right. So --

20 BRENDAN SULLIVAN: This is Brendan Sullivan. One
21 other issue is in your dimensional form, that the existing
22 condition is .45, requested at 0.51. The ordinance requires

1 0.05.

2 And Attorney Alphen's letter to us, paragraph 3,
3 under, "Variance" it reads, "The property is located in the
4 Residence B Zoning District pursuant to Section 5.31.

5 And the Table of Dimensional Requirements, the
6 maximum ratio Floor Area -- FAR -- is 50 percent. The
7 existing FAR of the dwelling is 45 percent. With the
8 proposed renovation, the FAR for the dwelling will increase
9 to 61 percent. That's --

10 BRENDAN SULLIVAN: There's a clerical error in one
11 of the other documents.

12 SAM KACHMAR: Yeah, the clerical error is with the
13 attorney's memo.

14 BRENDAN SULLIVAN: Okay.

15 SAM KACHMAR: It's 51 percent.

16 BRENDAN SULLIVAN: Right, okay.

17 SAM KACHMAR: It's a de minimis request of 0.1
18 over the allowable FAR, or 0.01, I'm sorry.

19 BRENDAN SULLIVAN: Okay. Duly noted.

20 CONSTANTINE ALEXANDER: And again, I would
21 apologize for we have to continue this case, but we're all
22 in the same boat. I mean, we have a request from the

1 Planning Board, and we have nothing more. So we have to
2 find out.

3 CHRISTOPHER ALPHEN: It's exciting to have
4 something that's never been before.

5 CONSTANTINE ALEXANDER: I'm sorry?

6 CHRISTOPHER ALPHEN: It's exciting to have
7 something that's never been before.

8 CONSTANTINE ALEXANDER: [Laughter]

9 CHRISTOPHER ALPHEN: I mean, it's frustrating and
10 exciting.

11 CONSTANTINE ALEXANDER: Okay. So we'll see you on
12 -- in January again. Thank you very much.

13 SAM KACHMAR: Thank you, Mr. Chairman.

14 COLLECTIVE: Thank you.

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2 (9:18 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Andrea A. Hickey, Wendy Leiserson and Jim
5 Monteverde

6 CONSTANTINE ALEXANDER: Moving on to our
7 last case on the agenda --

8 BRENDAN SULLIVAN: The previous matter was
9 continued January what? Twenty-seventh?

10 CONSTANTINE ALEXANDER: Twenty-seventh. Twenty-
11 seventh, yeah. Both cases are 27. The Chair will now call
12 Case Number 150580 -- 1815 Massachusetts Avenue. Anyone
13 here wishing to be heard on this matter?

14 TIMOTHY TWARDOWSKI: Yes. Thank you, Mr.
15 Chairman, members of the Board. Good evening. My name is
16 Tim Twardowski. I'm an attorney with Robinson and Cole in
17 Boston representing the applicant, Verizon Wireless.

18 As indicated in the materials, this is an
19 application to modify an existing wireless facility located
20 at 1815 Massachusetts Avenue. This is the Lesley College
21 building.

22 The Verizon facility was initially approved by

1 this Board in September of 2017. This proposal is submitted
2 both as a modification to that special permit and as an
3 Eligible Facilities Request under Section 6409 of the
4 Spectrum Act, which this Board is certainly well aware of.

5 Also, we want to point out that Verizon Wireless
6 is indeed licensed by the FCC as a wireless service provider
7 in the area that includes the city of Cambridge.

8 If Staff could bring up the photo simulations that
9 were submitted earlier this week, I'd like to go through
10 them, as we normally do in these types of applications.
11 Thank you. So skip ahead to Slide number 10? Thank you.

12 So this is showing the existing view of the
13 facility. You can see that there are actually three sets of
14 antennas.

15 The Verizon Wireless antennas are the lowest of
16 the three sets of antennas on this building. Above is I
17 believe are AT&T and Sprint. This photograph is showing the
18 existing conditions, and if we move to the next slide, this
19 will show the proposed conditions. It's a little difficult
20 to see on this particular screen.

21 But I will say that we did receive a copy of Staff
22 comments from CDD last week, and we did attend a meeting

1 with the Planning Board on Tuesday of this week, and prior
2 thereto in connection with or in response to the comments we
3 received from CDD, we revised the photo sims to make sure
4 that the proposed new antennas are colored in a solid red,
5 brick color -- in a flat, matter color to match the
6 background.

7 I think the existing antennas in the initial set
8 of photo sims that we had filed with -- in connection with
9 this application -- showed our continuing brick pattern.

10 But in response to CDD comments, we have changed that too to
11 the flat red color.

12 Next slide?

13 Again, you can see this is the existing
14 conditions. The Verizon antennas are the lowest of three
15 arrays on the tower.

16 Next slide?

17 And again, this is the proposed replacement
18 antennas. I should clarify that in this case we have a
19 four-sided tower structure. The antenna arrays are arranged
20 in four arrays of three antennas each. This particular
21 proposal would replace a total of eight antennas -- two
22 antennas per sector -- and simply relocate one of the three

1 existing antennas on each of the four arrays.

2 I do want to point out that the alignment of the
3 antennas -- they're kind of located and situated such that
4 the tops of all of the antennas are in alignment.

5 You can also see this photograph shows a good view
6 that -- actually not looking at the antennas that are facing
7 the camera, but the two arrays that are on the sides of the
8 buildings -- you can see that the Verizon antennas are
9 installed using very low-profile mounts.

10 But they do maintain a very low profile within
11 that recessed red area on the tower. And I think the
12 difference between our antenna arrays and the other
13 carriers' antenna arrays is obvious in looking at the
14 difference in the protrusion of the other antennas, but not
15 in ours.

16 Next slide?

17 And this is the last view facing northeast on Mass Ave --
18 again showing the existing conditions.

19 Next slide?

20 And the proposed conditions -- again, replacing
21 two antennas and moving one antenna, and then changing the
22 color pattern to a solid red color to match the red

1 background of the existing building.

2 With that, I'll wrap things up. I know you all
3 have had a very long and busy evening. So I will stop our
4 presentation here, and be willing to answer any questions
5 that the Board may have.

6 CONSTANTINE ALEXANDER: Questions from members of
7 the Board? Brendan?

8 BRENDAN SULLIVAN: Brendan Sullivan no questions.

9 CONSTANTINE ALEXANDER: Jim?

10 JIM MONTEVERDE: Jim Monteverde no questions.

11 CONSTANTINE ALEXANDER: Andrea?

12 ANDREA HICKEY: Andrea Hickey no, it was a very
13 clear presentation. I have no questions.

14 CONSTANTINE ALEXANDER: Thank you. Lesley? I
15 mean, Wendy. I'm sorry. Wendy.

16 WENDY LEISERSON: Wendy Leiserson no questions.

17 CONSTANTINE ALEXANDER: I've done this before,
18 Wendy. I apologize again. And the Chair has no questions
19 as well. So I'll now -- we have nothing in the files other
20 than a memo from the Planning Board, which the petitioner's
21 counsel has already addressed.

22 So I will open the matter up to public testimony.

1 Let me read the instructions.

2 Any members of the public who wish to speak should
3 now click the icon at the bottom of your Zoom screen that
4 says, "Raise hand."

5 If you're calling in by phone, you can raise your
6 hand by pressing *9 and unmute or mute by pressing *6.
7 We'll take a second to see if anyone is really interested in
8 this to call in.

9 [Pause]

10 CONSTANTINE ALEXANDER: And no one is. Thank you
11 very much. Okay. We'll close public testimony. There is
12 nothing in our files other than a memo from the Planning
13 Board, which, as I said, the petitioner's counsel has dealt
14 with.

15 So I will make a motion -- it's long, as is always
16 the case with telecom cases, and we can then take a vote up,
17 down or whatever. The Chair moves that this Board make the
18 following findings:

19 That the requirements of the ordinance cannot be
20 met without a special permit being sought.

21 That traffic generated or patterns of access or
22 egress resulting from what is being proposed will not cause

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

3 The changes that are involved here are modest in
4 nature. They're far above the street level, and they're not
5 very discernible to a pedestrian walking down the street.

6 That the continued operation of or development of
7 adjacent uses, as permitted in the zoning ordinance, will
8 not be adversely affected by the nature of the proposed use.
9 Again, the nature of what is being proposed does not have
10 any impact on adjacent uses.

11 No nuisance or hazard will be created to the
12 detriment of the health, safety and/or welfare of the
13 occupant of the proposed use, or the citizens of the city.

14 And generally, what is being proposed will not
15 impair the integrity of the district or adjoining district,
16 or otherwise derogate from the intent and purpose of this
17 ordinance.

18 And lastly, the Board also finds that the
19 modification of its existing telecommunication facility at
20 the site proposed by the petitioner does not substantially
21 change the physical dimensions of the existing wireless
22 tower or base station at such facility within the meaning of

1 Section 6409(a) of the Middle Class Tax Relief and Job
2 Creation Act of 2012, also known as the Spectrum Act.

3 Based on these findings, the Chair moves that the
4 petitioner be granted the special permit it is seeking,
5 subject to the following conditions:

6 One, that the work proceed in accordance with the
7 plans submitted by the petitioner, and initialed by the
8 Chair.

9 Two, that upon completion of the work, the
10 physical appearance and visual impact of the proposed work
11 will be consistent with the photo simulations submitted by
12 the petitioner, and initialed by the Chair, as well as those
13 submitted by -- attached to a memo supplied by the Planning
14 Board, which has been initialed by the Chair as well.

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

19 Four, that should the petitioner cease to utilize
20 the equipment approved tonight for a continuous period of
21 six months or more, it shall promptly thereafter remove such
22 equipment and restore the building on which it is located to

1 its prior condition and appearance, to the extent reasonably
2 practicable.

3 And five, that the petitioner is in compliance
4 with and will continue to comply with in all respects, the
5 conditions imposed by this board with regard to previous
6 special permits granted to the petitioner with regard to the
7 site in question.

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

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

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

21 Failure to timely file any such report with the
22 Inspectional Services Department shall ipso facto terminate

1 the special permit granted tonight.

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

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

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

1 Any such application shall not be deemed a
2 repetitive petition, and therefore will not be subject to
3 the two-year period during which repetitive petitions may
4 not be filed.

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

12 a) he or she has such responsibility, and

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

21 Brendan, how do you vote?

22 BRENDAN SULLIVAN: Yes to granting the special

1 permit.

2 CONSTANTINE ALEXANDER: Jim?

3 JIM MONTEVERDE: Jim Monteverde yes to granting
4 the special permit.

5 CONSTANTINE ALEXANDER: Andrea?

6 ANDREA HICKEY: Andrea Hickey yes in favor of
7 granting the special permit.

8 CONSTANTINE ALEXANDER: Wendy?

9 WENDY LEISERSON: Wendy Leiserson yes in favor of
10 granting the special permit.

11 CONSTANTINE ALEXANDER: The Chair votes yes as
12 well.

13 [All vote YES]

14 CONSTANTINE ALEXANDER: The special permit is
15 granted. Case dismissed.

16 COLLECTIVE: Thank you, everyone.

17 CONSTANTINE ALEXANDER: Thank you. That's it for
18 tonight.

19 BRENDAN SULLIVAN: Goodnight, all, stay well.

20 ANDREA HICKEY: Goodnight, everyone.

21 CONSTANTINE ALEXANDER: Yep.

22 WENDY LEISERSON: Goodnight.

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CONSTANTINE ALEXANDER: Goodnight.

WENDY LEISERSON: Thank you.

ANDREA HICKEY: Happy Thanksgiving.

CONSTANTINE ALEXANDER: Have a happy Thanksgiving.

JIM MONTEVERDE: Thank you. You too. Bye-bye.

CONSTANTINE ALEXANDER: Bye-bye.

[9:30 p.m. End of Proceedings]

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CERTIFICATE

Commonwealth of Massachusetts

Middlesex, ss.

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

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

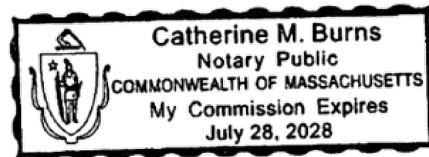
In witness whereof, I have hereunto set my hand this 30th day of November, 2021.



Notary Public

My commission expires:

July 28, 2028



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