

February 11, 2021

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, FEBRUARY 11, 2021

6:00 p.m.

Remote Meeting

via

831 Massachusetts Avenue
Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Brendan Sullivan, Vice Chair

Andrea A. Hickey

Jim Monteverde

Alison Hammer

Matina Williams

Jason Marshall

City Employees

Maria Pacheco

Ranjit Singanayagam

Sisia Daglian



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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, Jim Monteverde, Alison
6 Hammer, Matina Williams and Jason Marshall

7 CONSTANTINE ALEXANDER: Welcome to the February
8 11, 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
11 statewide emergency orders limiting the size of public
12 gatherings in response to COVID-19, and in accordance with
13 Governor Charles D. Baker's Executive Order of March 12,
14 2020, temporarily amending certain requirements of the Open
15 Meeting Law, as well as the City of Cambridge temporary
16 emergency restrictions on city meetings, city events, and
17 city permitted events, due to COVID-19, dated May 27, 2020.

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

22 All Board members, applicants, and members of the

1 public will state their name before speaking. All votes
2 will be taken by roll call.

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

7 Generally you'll have up to three minutes to
8 speak, but that might change based on the number of
9 speakers. I'll start by asking the Staff to take Board
10 member attendance and verify that all members are audible.

11 SISIA DAGLAN: Jim Monteverde?

12 JIM MONTEVERDE: Jim Monteverde here, present.

13 SISIA DAGLIAN: Jason Marshall?

14 JASON MARSHALL: Jason Marshall here.

15 SISIA DAGLIAN: Matina Williams?

16 MATINA WILLIAMS: Matina Williams here.

17 SISIA DAGLIAN: Alison Hammer?

18 ALISON HAMMER: Alison Hammer present.

19 SISIA DAGLIAN: Andrea? Andrea's not here yet.

20 And Brendan?

21 BRENDAN SULLIVAN: Brendan Sullivan here; present,
22 audible.

1 SISIA DAGLIAN: And Gus?

2 CONSTANTINE ALEXANDER: Yep. Okay. Tonight, we
3 have both continued cases -- these are cases that started at
4 an earlier date, and for one reason or another have been
5 deferred until this evening, and then we'll have our regular
6 agenda. The regular agenda will follow the continued cases.

7 At the outset, we also -- it's that time of year,
8 early meeting, is to elect a Chair and a Vice Chair for this
9 coming year of the Board. So let me stop with that.

10 Huh?

11 SISIA DAGLIAN: [Side conversation with Gus about
12 who's on.]

13 CONSTANTINE ALEXANDER: We're trying to -- one of
14 the three members who will be voting on that is not on the
15 call right now, and she's not going to be on the first case.
16 So we'll defer the election until that time.

17 With that, I will call the first continued case.

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2 (6:04 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Matina Williams and Jason Marshall

5 CONSTANTINE ALEXANDER: With that, I will call the
6 first continued case, Case Number 96057 -- 9 Oakland Street
7 #2. Anyone here wishing to be heard on this matter?

8 SEAN HOPE: Good evening Mr. Chairman and members
9 of the Board. For the record, Attorney Sean Hope, Hope
10 Legal Law Offices in Cambridge. I'm here on behalf of the
11 petitioners, and we submitted a continuance request in the
12 file. And we would like to be continued to a date in March.
13 I believe there is a hearing date on March 25.

14 And the backdrop is after -- since the previous
15 hearing, we have met with some neighbors and abutters about
16 a revised proposal. We believe that we have come up with a
17 proposal that would be supported by the neighbors, but it
18 has differing relief than our original application.

19 And to avoid any issues of a repetitive
20 prevention, we would like to be continued to the March 25
21 date. That would also allow us sufficient time to submit
22 and application. And we have been in contact with Maria

1 Pacheco at ISD, so that we believe that we can file an
2 application and then also have it heard the same evening.

3 CONSTANTINE ALEXANDER: It's my understanding,
4 Sean, that on March 25, assuming -- and we will continue
5 this case until March 25, we will hear the new file -- the
6 new filed case. We grant the relief, we'll quickly dismiss
7 -- I'll assume you withdraw the continued case, since you no
8 longer need it.

9 On the other hand, if for some reason we deny
10 relief on March 25, then it's your option; we'll proceed
11 with the continued case at that time. Do I have it right?

12 SEAN HOPE: That is correct.

13 CONSTANTINE ALEXANDER: Okay. One of the issues
14 with that is this is a case heard, and we need the first of
15 the five members who were sitting when we first heard this
16 case in November to attend. So I don't know. Sisia, do you
17 know?

18 SISIA DAGLIAN: I do not, because Laura and Slater
19 were on there.

20 CONSTANTINE ALEXANDER: Okay.

21 SISIA DAGLIAN: Matina, you were on there too.

22 CONSTANTINE ALEXANDER: So we'll continue it until

1 that time.

2 If for some reason -- it's actually Laura Wernick
3 and Slater Anderson -- cannot be there at that meeting, we
4 may have to continue that case further, again assuming that
5 we have denied relief in your new filed case.

6 So the Chair moves -- is that okay with you Mr.
7 Hope?

8 SEAN HOPE: Yes. Just to clarify, you bring up
9 the idea that if we can't have the same five Board members
10 on the twenty-fifth that we might have to continue again
11 because it's a case heard?

12 CONSTANTINE ALEXANDER: Well, it will be your call
13 if the case -- if we don't have all five. Let's say we have
14 only four --

15 SEAN HOPE: All right.

16 CONSTANTINE ALEXANDER: You can -- it'll be up --
17 if you want to continue so you'll have five members voting,
18 and that increases your odds of success, this Board has
19 always accommodated that kind of request, because the
20 problem originates with the Board itself. It can't get all
21 the numbers together. So we'll not make a decision at that
22 point.

1 But yeah, the idea would be that we would then
2 further continue the case -- again, this assumes we don't
3 grant relief in the new filed case.

4 But we'll continue the case into a date when all
5 five members who are there for the original case can attend,
6 and it's convenient for you and your client as well, let's
7 just say.

8 SEAN HOPE: Yes. I understand. And yes, we're
9 agreeable to that.

10 CONSTANTINE ALEXANDER: Okay. All right. The
11 Chair moves that we continue this case as a case heard until
12 7:00 p.m. on March 25?

13 SISIA DAGLIAN: Mm-hm.

14 CONSTANTINE ALEXANDER: March 25, subject to the
15 following conditions:

16 One, that the petitioner signs a waiver of time
17 for a decision, and that has already been done since the
18 petitioner had to do that for this hearing tonight. That's
19 been satisfied.

20 The second condition is that a new posting sign,
21 or a modified posting sign, must be maintained, which
22 discloses the new date -- March 25 -- and the new time --

1 7:00 p.m. -- and it has to be posted for the 14 days
2 required for the original posting, as it also is required by
3 our zoning ordinance.

4 And lastly, to the extent that there are new
5 plans, revised plans, specifications, specific information
6 that is not in our files now, that information must be in
7 our file no later than 5:00 p.m. on the Monday before the
8 March 25 hearing.

9 If that is not done, we will not hear the case on
10 March 25. And we'll either dismiss it or further continue
11 it. But we all worry about that when the time comes.

12 All those in favor? Brendan?

13 BRENDAN SULLIVAN: Brendan Sullivan, yes to the
14 continuance.

15 CONSTANTINE ALEXANDER: Matina?

16 MATINA WILLIAMS: Matina Williams, yes to the
17 continuance.

18 CONSTANTINE ALEXANDER: Jim?

19 JIM MONTEVERDE: I believe I've recused myself
20 from this one.

21 BRENDAN SULLIVAN: Jim has recused himself from
22 this one.

1 CONSTANTINE ALEXANDER: I'm sorry?

2 BRENDAN SULLIVAN: Jim has recused himself from
3 this one.

4 CONSTANTINE ALEXANDER: I thought -- okay, you
5 recused yourself. Okay. Who are we now missing?

6 SISIA DAGLIAN: Slater and Laura are not here on
7 the phone.

8 CONSTANTINE ALEXANDER: They aren't?

9 SISIA DAGLIAN: No. So Jason and Alison will have
10 to --

11 CONSTANTINE ALEXANDER: We need one more vote.
12 I'm going to vote to continue the case. We need three.

13 BRENDAN SULLIVAN: Jason.

14 CONSTANTINE ALEXANDER: Have they -- they haven't
15 had a vote. Jason?

16 SISIA DAGLIAN: Jason? Okay, Alison?

17 CONSTANTINE ALEXANDER: Alison? I think we read
18 Alison.

19 JASON MARSHALL: Let me come off video. I mean,
20 am I on? I didn't think I was on this case, but if you need
21 me to vote for a continuance, I can do that.

22 CONSTANTINE ALEXANDER: Yeah. That's all we need.

1 And that's okay.

2 JASON MARSHALL: Okay.

3 CONSTANTINE ALEXANDER: You're not on this case.

4 JASON MARSHALL: All right. Jason Marshall, yes
5 for the continuance.

6 CONSTANTINE ALEXANDER: Okay. Do we have the
7 necessary votes?

8 [THREE VOTE YES]

9 Case is continued until March 25, subject to the
10 all five members who were here for the original case are
11 available and sitting that night.

12 Thank you, Sean.

13 SEAN HOPE: Thank you.

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(6:10 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Jim Monteverde, Alison Hammer, and Jason
Marshall

CONSTANTINE ALEXANDER: The Chair will now call
Case Number 017279 -- 370-372 Windsor Street. Anyone here
wishing to be heard on this matter?

SISIA DAGLIAN: He's here. Jose, can you unmute
yourself? Jose?

CONSTANTINE ALEXANDER: If we don't have anyone on
the call, then --

SISIA DAGLIAN: He's on the call. I don't know
why we can't hear him.

[Pause]

Jose, we can't hear you.

[Pause]

SISIA DAGLIAN: I don't know what to say. He's on
there, but we can't hear him. He's not mute.

CONSTANTINE ALEXANDER: Can he hear us? Does he
know?

SISIA DAGLIAN: I don't know.

1 CONSTANTINE ALEXANDER: Mr. Costa, we cannot hear
2 you. Hopefully you can hear us.

3 [Pause]

4 I don't know why we can't hear you, but somehow
5 something is not working on your end.

6 [Pause]

7 SISIA DAGLIAN: Ask for a continuance anyway.

8 CONSTANTINE ALEXANDER: I don't know. I was going
9 to hear the case tonight. Okay. When's the next time we
10 can continue the case?

11 SISIA DAGLIAN: Alison --

12 CONSTANTINE ALEXANDER: This is a case heard, so
13 we have to get -- yeah. Alison, Jason, we don't know when
14 they're available.

15 SISIA DAGLIAN: No.

16 BRENDAN SULLIVAN: Jason we do, or we can find
17 out.

18 CONSTANTINE ALEXANDER: Jason, are you on?

19 JASON MARSHALL: Yes, Mr. Chairman. I'm here.

20 CONSTANTINE ALEXANDER: Okay, we're going to find
21 a date to continue this case again.

22 JASON MARSHALL: Okay.

1 CONSTANTINE ALEXANDER: Are any dates in the --
2 let's say we wanted to continue this to the first meeting in
3 March -- regular meeting. Are you available?

4 JASON MARSHALL: I don't have any foreseeable
5 travel plans, Mr. Chairman. Yes. That's fine.

6 COLLECTIVE: [Laughter]

7 CONSTANTINE ALEXANDER: Okay. And we don't know
8 about Alison since she's not on.

9 SISIA DAGLIAN: She's on there.

10 CONSTANTINE ALEXANDER: Oh you are? I'm sorry,
11 Alison.

12 ALISON HAMMER: No, no problem. I can definitely
13 make it.

14 CONSTANTINE ALEXANDER: No problem?

15 ALISON HAMMER: Mm-hm.

16 CONSTANTINE ALEXANDER: Okay. I'll make a motion.

17 SISIA DAGLIAN: Should we give them more time than
18 that?

19 CONSTANTINE ALEXANDER: Why do they need more
20 time? No, this case has dragged on long enough. I mean,
21 he's not here. If he wanted more time, he should be somehow
22 able to speak to us.

1 SISIA DAGLIAN: Yeah.

2 CONSTANTINE ALEXANDER: Nope, nope, he's not on.

3 We can't --

4 SISIA DAGLIAN: No. We have an Eva Kochanski
5 who's raised her hand. I don't imagine that's the -- a
6 related comment.

7 EVA KOCHANSKI: May I speak?

8 SISIA DAGLIAN: Sure. Are you the petitioner?

9 EVA KOCHANSKI: No, I'm not. I am opposed to
10 this. And it's gone on quite long enough.

11 SISIA DAGLIAN: Okay. We're actually not going to
12 hear any comments.

13 EVA KOCHANSKI: Oh, I apologize. I was asked to
14 unmute.

15 SISIA DAGLIAN: Okay. You don't want to?

16 CONSTANTINE ALEXANDER: No.

17 JOSE COSTA: Can you hear me now?

18 CONSTANTINE ALEXANDER: Yes. Mr. Costa?

19 JOSE COSTA: Yes.

20 CONSTANTINE ALEXANDER: Good. All right. Did you
21 want to say something, sir? I didn't mean to interrupt you.

22 JOSE COSTA: No, I just want to make sure you guys

1 can hear me. My son just came in because my computer wasn't
2 going -- you guys weren't able to hear me. I could hear you
3 guys, though, I just couldn't -- you guys couldn't hear me.

4 CONSTANTINE ALEXANDER: Okay. At the outset,
5 there was a problem and I know you were made aware of it, as
6 to whether you had satisfied the posting requirements for
7 your sign with tonight's meeting. Because if you had not,
8 we would not hear the case.

9 Now, a neighbor has reported to us that you did
10 not. I went and inspected the property over the weekend --
11 several days ago, and I didn't see a sign, but I may have
12 been mistaken.

13 I went back and I saw the sign, yesterday or the
14 day before yesterday. So I am of a mind that we should go
15 forward with the case. This has been continued for too many
16 times. And I assume, sir, you're prepared to go forward
17 with the case on the merits?

18 JOSE COSTA: I'm prepared to go forward with this.
19 Like I said, I'm just -- I just want to get this done.
20 Whatever you guys decide. This is going a little too long
21 for me.

22 CONSTANTINE ALEXANDER: And for me, as well.

1 JOSE COSTA: And then, like I said, I got my
2 neighbor which is just on the phone that's kind of making
3 false accusations with the sign not being up. The sign's
4 been up since March. It hasn't moved from the same spot.

5 It fell one time during a snowstorm. When I
6 cleaned the snow, I put it back up. Other than that, the
7 sign has been there. It hasn't been removed; it hasn't been
8 touched. So I don't know where she's getting these ideas
9 the sign has been taken down.

10 I'm not trying to hide anything from anybody.

11 CONSTANTINE ALEXANDER: I understand and --

12 JOSE COSTA: You know.

13 CONSTANTINE ALEXANDER: -- and all right, we're
14 beyond the sign. There's an issue, but I'm prepared to rule
15 tonight that we'll accept that the sign has been posted in
16 the period of time required by our ordinance. And let's go
17 on to the merits. Again, unless you don't want to go ahead
18 with the merits tonight.

19 JOSE COSTA: Well, like I said this has gone on
20 long enough for me.

21 CONSTANTINE ALEXANDER: All right, let's do it
22 then. Let's do it.

1 JOSE COSTA: I'm at a point, like I said, I
2 submitted a new proposal to make the deck smaller, if that
3 satisfies you guys.

4 Again, I didn't do any architectural drawing, only
5 because I spent a lot of money on this deck, and if it turns
6 out today you're telling me I've got to tear it down, I'm
7 going to spent another \$4000 on architectural drawings. I
8 put a drawing together to make the deck smaller. I
9 submitted that to Maria. I sent pictures of the existing
10 deck.

11 I think you guys were under the impression that I
12 built the 450 square feet deck, which I didn't. The deck
13 that I had added on was only 125 square feet. What I did
14 change on the paperwork that I had; I gave it to you guys.

15 CONSTANTINE ALEXANDER: Let me -- okay. If you're
16 willing to -- if you're -- I suggest what you do is that we
17 dismiss your case tonight --

18 JOSE COSTA: Mm-hm.

19 CONSTANTINE ALEXANDER: -- which means your case
20 for a variance is over, at least for two years.

21 JOSE COSTA: Okay.

22 CONSTANTINE ALEXANDER: And then you'll have to

1 work with the Building Department to come up with plans that
2 comply with the -- our zoning ordinance, a building permit
3 for that --

4 JOSE COSTA: Uh-huh.

5 CONSTANTINE ALEXANDER: Or if they don't, and if
6 what you want to do now is different from what you did
7 before, you can file a new variance request then, and we'll
8 hear that case.

9 But this case, the case that's based on the deck
10 and stairs that are now there will be dismissed tonight, and
11 we will not be able to go forward with it. Understand?

12 JOSE COSTA: Yes.

13 CONSTANTINE ALEXANDER: Okay. All right. The
14 Chair moves that we accept the petitioner's request to
15 withdraw this appeal, as indicated in this case, or as
16 seeking a variance, as proposed in this case. Brendan?

17 BRENDAN SULLIVAN: I would vote to yes to denying
18 the relief that is requested in the variance application.

19 CONSTANTINE ALEXANDER: Okay. Jim?

20 JIM MONTEVERDE: Jim Monteverde, yes, I vote to
21 deny.

22 CONSTANTINE ALEXANDER: Okay. And who are the

1 other members?

2 SISIA DAGLIAN: Alison?

3 CONSTANTINE ALEXANDER: Alison?

4 ALISON HAMMER: [Alison Hammer]; I vote to deny.

5 CONSTANTINE ALEXANDER: And Jason?

6 JIM MONTEVERDE: And Jason.

7 JASON MARSHALL: Jason Marshall, I'll make it
8 unanimous. I vote yes to deny the relief requested.

9 CONSTANTINE ALEXANDER: Okay. You can't make it
10 unanimous, because I haven't yet.

11 JASON MARSHALL: Oh, apologies, Mr. Chair.

12 CONSTANTINE ALEXANDER: But all right, that's
13 okay.

14 JASON MARSHALL: I think I started it off.

15 CONSTANTINE ALEXANDER: I will make you an honest
16 man. I vote as well, and so this case was dismissed.

17 [All vote YES]

18 The variance request is dismissed, and the
19 petitioner now has to deal with the Building Department to
20 come up with a solution either that complies with our
21 ordinance as it is written, or requires a different variance
22 than the one we would have heard tonight.

1 Brendan? Everybody's voted for it, that's right.
2 Everybody's voted for it.

3 BRENDAN SULLIVAN: Yep.

4 CONSTANTINE ALEXANDER: The case is over. Good
5 luck, Mr. Costa, and I hope we don't have to see you again.

6 JOSE COSTA: Thank you. Thank you very much. I
7 appreciate it and, like I said, I'll work with the Building
8 Department, whatever it takes, to make this -- to get this
9 resolved.

10 And hopefully we can all move on and my neighbor
11 gets happy about it. She's most likely not going to be
12 happy no matter what I decide to do, but I'm going to do
13 what I can do to make -- resolve this.

14 CONSTANTINE ALEXANDER: Okay. Let's move on.

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(6:19 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Jim Monteverde, and Matina Williams and
Jason Marshall

CONSTANTINE ALEXANDER: The next case I'm going to
call is Case No.97333 -- 263 Elm Street. Anyone here
wishing to be heard on this matter?

[Pause]

Anyone here for Elm Street?

DAVID FREED: Yes, hello. My name is David Freed.
I am an architect at Choo and Company. I'm here to
represent John Pinto -- John and Maria Pinto -- for a BZA
case 97333.

CONSTANTINE ALEXANDER: Okay. The floor is yours,
sir. Okay. I'm looking for the paper. You're seeking a
variance, with regard to certain additions you've made to
the structure at -- or you want to make -- at 263 Elm
Street. So the floor is yours.

DAVID FREED: All right. The owners can call up
the presentation. Do I need to share my presentation?

CONSTANTINE ALEXANDER: I think it would be a good

1 idea, yes.

2 DAVID FREED: Okay. Just give me a second.

3 SISIA DAGLIAN: We'll be projecting it. So I have
4 it on the screen.

5 DAVID FREED: Thank you. Okay. So this is an
6 existing two-family house located on Elm Street between
7 Cambridge Street and Hampshire Street.

8 The owner is seeking to do a full renovation to
9 the building, and to extend -- to take off the rear addition
10 from the back and square up the building by adding another
11 eight and a half feet to the rear -- to the existing rear of
12 the -- excuse me, rear of the building.

13 And then additionally raise the roof a couple feet
14 and add a couple dormers to extend living space to the
15 attic, and also into the basement.

16 And then on the back we are looking to add a
17 couple small decks, one for each unit, and an egress stair.

18 CONSTANTINE ALEXANDER: In fact, the zoning relief
19 relates to the front and back of the building, am I correct?

20 DAVID FREED: And the sides as well. It's
21 nonconforming basically on all sides.

22 CONSTANTINE ALEXANDER: Okay. All right. Thank

1 you.

2 DAVID FREED: And until -- we are seeking to
3 create two better units here, two better duplex units.
4 Right now there are -- there's one floor through (sic) and
5 then a sort of one and a half story unit on the second and
6 third floors.

7 CONSTANTINE ALEXANDER: When we first heard this
8 case, we had -- I think it was an abutter, but a gentleman
9 who spoke about it rather vociferously against granting the
10 relief. He was most upset about the way that building has
11 been treated.

12 It's my understanding -- I haven't heard from him,
13 or we haven't heard from him since -- it's my understanding
14 that you have reached out to this gentleman and he's now in
15 support?

16 DAVID FREED: I haven't heard about this
17 gentleman. There was another -- there was an e-mail in the
18 file from a Margarita Rivera and we reached out to her. And
19 we also got -- we also e-mailed Maria some letters of
20 support today from the immediate abutters on either side, at
21 269 and 2 -- sorry, I think it's 269 and 257.

22 CONSTANTINE ALEXANDER: Okay, yes. We have those

1 letters. They're in our file.

2 DAVID FREED: Yeah. The owner is on the call
3 here. I -- neither -- I don't think either of you had heard
4 about that person's --

5 CONSTANTINE ALEXANDER: Well, let me ask --
6 rephrase the question, have you heard any have you heard any
7 objection as of now or currently? We have the letters of
8 support. Are you -- and we -- I don't see any letter of
9 opposition... are you aware of any opposition to what you're
10 proposing to do?

11 DAVID FREED: No. I'm not aware of any
12 ophthalmologist to this.

13 CONSTANTINE ALEXANDER: Thank you. Questions from
14 members of the Board? Brendan?

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

17 CONSTANTINE ALEXANDER: Jim?

18 [Pause]

19 Jim? Turn it on.

20 JIM MONTEVERDE: Quick question, sorry. Sisia.
21 Can you just go to the -- I think it's the ground-floor
22 plan, or the site plan? If I recall correctly -- yeah,

1 there you go. On the right-hand side of the plan, I think
2 those are new area ways, basically, so you can egress from
3 the basement. Is that correct?

4 DAVID FREED: Yes. We're adding three egress
5 windows for the bedrooms that are located in the basement.
6 The windows are sized so that they actually exceed the light
7 and air requirements by building code.

8 Unfortunately, you know, just because of the
9 grade, we have to keep it small. We have to do the egress
10 windows. Because the sill height is -- the sill height
11 would be lower than grade if we did provide an egress
12 window.

13 JIM MONTEVERDE: Yeah, no, understood. And then
14 what's the condition -- what do you do on top of the --
15 that's your pathway along the side of the building, correct?
16 Up against the property line?

17 DAVID FREED: Yes.

18 JIM MONTEVERDE: So is that areaway flush? Is
19 there a cover to it? What happens to it?

20 DAVID FREED: Yes. There would be a flush bar
21 grade that would be operable from below. It would always be
22 available to be opened if you -- if there was an emergency.

1

JIM MONTEVERDE: Right. Okay. Thank you. That's the only question I have.

2

CONSTANTINE ALEXANDER: All right. Alison? Any questions, comments?

3

BRENDAN SULLIVAN: No, it's --

4

SISIA DAGLIAN: No, Matina's on.

5

BRIGID WILLIAMS: Matina.

6

CONSTANTINE ALEXANDER: Oh, I hit the wrong one.

7

I'm sorry. Matina?

8

MATINA WILLIAMS: I don't have any questions at this time. The rear stair, where is that going? Down from the basement?

9

DAVID FREED: The rear stair in the back is going from the second-floor deck down to grade. So it's -- that stair is exclusive use to Unit 2.

10

CONSTANTINE ALEXANDER:

11

MATINA WILLIAMS: Okay.

12

DAVID FREED: That can be seen more clearly if you go to the next -- I'm sorry, the second-floor plans. Right there. You can see my cursor.

13

MATINA WILLIAMS: Thank you.

1 CONSTANTINE ALEXANDER: Thank you. And Jason?

2 JASON MARSHALL: No questions at this time.

3 CONSTANTINE ALEXANDER: Okay. Thank you all. I
4 have no questions. So I'll open the matter up to public
5 testimony. Any member of the public who wishes to speak
6 should now click the icon at the bottom of your Zoom screen
7 that says, "Raise hand." If you're calling in by phone, you
8 can raise your hand by pressing *9 and unmute or mute by
9 pressing *6.

10 I'll wait to see if anyone wishes to speak.

11 [Pause -- audio cut out to 36:59]

12 BRENDAN SULLIVAN: -- refined and now all of the
13 dormer guidelines, there's kind of a lot there, but yet
14 probably doable. So.

15 CONSTANTINE ALEXANDER: Okay. Jim?

16 JIM MONTEVERDE: No questions, no comments.

17 CONSTANTINE ALEXANDER: All right. What about
18 your vote?

19 JIM MONTEVERDE: Ready for a vote. I would
20 support it.

21 CONSTANTINE ALEXANDER: Okay, thank you. Matina?

22 JIM MONTEVERDE: You're making a motion?

1 MATINA WILLIAMS: I vote yes.

2 CONSTANTINE ALEXANDER: Okay. Jason?

3 JASON MARSHALL: I didn't know if we were ready
4 for a vote. I am ready for a vote, and I am --

5 CONSTANTINE ALEXANDER: Okay, yeah, I'm sorry. I
6 jumped the gun there a little bit. I need to make a motion,
7 and then we'll take the vote. I'm sorry. Okay, the Chair
8 moves that we make the following findings with regard to the
9 relief being sought:

10 That a literal enforcement of the provisions of
11 the ordinance would involve a substantial hardship, such
12 hardship being that this is a very old building in very poor
13 condition, and sort of squeezed in between other buildings,
14 and therefore for this building to continue to be
15 essentially an inhabitable building, there is a need for
16 zoning relief.

17 That the hardship is owing to basically the shape
18 of the lot. It's a very narrow, elongated, narrow lot,
19 which creates zoning problems in terms of complying with
20 setback requirements.

21 And that desirable relief may be granted without
22 substantial detriment to the public good, or nullifying or

1 substantially derogating from the intent or purpose of the
2 ordinance.

3 In this regard, the Chair would note that there is
4 apparently unanimous neighborhood support for the project,
5 that the city's housing stock will be improved with the work
6 that's being proposed, and that I can see at least no
7 negative or downside.

8 So on the basis of all these findings, the Chair
9 moves that we grant the zoning relief sought on the
10 condition that the work proceed in accordance with plans
11 prepared by Choo; C-h-o-o and Company, Inc, dated February
12 8,2021 and the cover page of which has been initialed by the
13 Chair.

14 Brendan?

15 BRENDAN SULLIVAN: Brendan Sullivan, yes to
16 granting the -- you know, relief.

17 CONSTANTINE ALEXANDER: Jim?

18 JIM MONTEVERDE: And Jim Monteverde, yes for
19 granting the relief.

20 CONSTANTINE ALEXANDER: Matina?

21 MATINA WILLIAMS: Matina Williams, yes for
22 granting the relief.

1 CONSTANTINE ALEXANDER: And Jason?

2 JASON MARSHALL: Jason Marshall, yes in favor of
3 granting the relief.

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

6 [All vote YES]

7 DAVID FREED: Thank you very much, everyone.
8 Thank you very much.

9 CONSTANTINE ALEXANDER: Thank you.

10 COLLECTIVE: Thank you.

11 DAVID FREED: Have a good night.

12 CONSTANTINE ALEXANDER: We'll try.

13 SISIA DAGLIAN: It's 6:30, do you want to do the
14 vote. It's 6:30, Andrea --

15 CONSTANTINE ALEXANDER: Okay. Well now, Andrea
16 you're on?

17 ANDREA HICKEY: I am. Can you hear me okay?

18 CONSTANTINE ALEXANDER: Yep.

19 ANDREA HICKEY: Great.

20 CONSTANTINE ALEXANDER: Hear you loud and clear.

21

22

1 * * * * *

2 (6:32 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Andrea Hickey, Jim Monteverde, Matina
5 Williams and Jason Marshall

6 Okay, now before we move on with our regular
7 agenda, it's time for our annual ritual of electing a new
8 chair and a new Vice Chair for the coming year.

9 And pursuant to state law, as well as our or no
10 rule, only regular members can vote on this, not the
11 Associate Members. And at this point, unfortunately we only
12 have three regular members: myself, Brendan Sullivan and
13 Andrea. So those are the -- we have our three voters. I'll
14 now open the floor to nominations for election as Chair.

15 BRENDAN SULLIVAN: Brendan Sullivan, I would
16 nominate Constantine Alexander to be Chair -- serve as Chair
17 for the ensuing year.

18 ANDREA HICKEY: Second that motion.

19 CONSTANTINE ALEXANDER: Any other nominees?

20 BRENDAN SULLIVAN: I hear none.

21 CONSTANTINE ALEXANDER: Okay, let me say it before
22 we take the vote, which obviously it's going to be a

1 foregone conclusion.

2 But I want to go on record, that this is the last
3 time I'm going to serve as -- last year I will serve as
4 Chairman. I've done it too many years, and I think it's
5 time for other people to enjoy the pleasures of sharing
6 these meetings, especially online.

7 So just a note, if it's come to the Chairman, if
8 nominated, I will not serve, and if elected I will not take
9 office. This is all relating to the current -- next year,
10 which will be 2022. So I guess I -- and I vote -- I mean I
11 guess I'll abstain. How's that? So we have two votes in
12 favor, no votes against.

13 [TWO VOTE YES, CHAIR ABSTAINS]

14 I am now the Chair for the coming year. I will
15 now take nominations for Vice Chair.

16 BRENDAN SULLIVAN: Andrea, would you be --

17 ANDREA HICKEY: I would like to nominate Brendan
18 Sullivan for Vice Chair.

19 CONSTANTINE ALEXANDER: I'll second that.

20 BRENDAN SULLIVAN: I will abstain from the vote.

21 CONSTANTINE ALEXANDER: Okay. All those in favor
22 of electing Brendan as the Vice Chair? Brendan, you want to

1 vote for yourself?

2 ANDREA HICKEY: Andrea Hickey, yes.

3 BRENDAN SULLIVAN: Thank you.

4 CONSTANTINE ALEXANDER: Constantine Alexander,
5 yes, Mr. Sullivan. You can vote for yourself, if you want?

6 BRENDAN SULLIVAN: No, I will vote present.

7 CONSTANTINE ALEXANDER: Two votes present. Two in
8 favor, no opposition. The majority we have. Mr. Sullivan
9 will be the Chair -- Vice Chair -- for the coming year.

10 [TWO VOTE YES, BRENDAN SULLIVAN ABSTAINS.]

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(6:34 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Andrea Hickey, Jim Monteverde, and Jason
Marshall

CONSTANTINE ALEXANDER: Okay, with that we'll now
move on to our regular agenda for tonight. And the first
case we have is Case Number 102564 -- 2485 Massachusetts
Avenue. Anyone wishing to be heard on this matter?

Mr. Rafferty? Okay.

BRENDAN SULLIVAN: Mr. Chairman, what is the
lineup of the Board members serving the rest of the evening,
do we have?

CONSTANTINE ALEXANDER: I don't have it.

SISIA DAGLIAN: Yeah. It's Andrea, Jim and Jason.

CONSTANTINE ALEXANDER: For all the rest of the
cases?

SISIA DAGLIAN: Mm-hm.

BRENDAN SULLIVAN: So Matina is --

CONSTANTINE ALEXANDER: Out.

BRENDAN SULLIVAN: -- calls it a night.

MATINA WILLIAMS: Goodnight. [Matina leaves]

1 BRENDAN SULLIVAN: Thank you, Matina.

2 COLLECTIVE: Goodnight, Matina.

3 SISIA DAGLIAN: Alison's gone.

4 CONSTANTINE ALEXANDER: Mr. Rafferty?

5 JAMES RAFFERTY: Yes, Mr. Chair. James Rafferty
6 appearing on behalf of the applicant. First, I want to
7 compliment the Board on how refreshing it is to see an
8 election occur without anyone alleging a theft, so my
9 congratulations --

10 COLLECTIVE: [Laughter]

11 JAMES RAFFERTY: -- Mr. Chair, and to his next
12 term.

13 CONSTANTINE ALEXANDER: You'll do anything just to
14 curry our support, Mr. Rafferty, but go ahead.

15 JAMES RAFFERTY: Why, Mr. Chair, I have never
16 heard of such an accusation.

17 CONSTANTINE ALEXANDER: [Laughter]

18 JAMES RAFFERTY: But your powers of perception
19 remain firmly in check.

20 SISIA DAGLIAN: So true.

21 JAMES RAFFERTY: And this is a case that's been
22 before the Board a few times over the years, and it's my

1 understanding that there was a review or inspection at the
2 site that determined that the sign was not in place for some
3 period of time.

4 I can personally attest to the fact that I
5 delivered the sign. I was present when the sign was
6 installed. I've been informed by my client that it came
7 down on two occasions, and each time they put the sign back
8 up.

9 But it's my understanding, Mr. Chairman, that at
10 some point the Chair went by and was not able to see the
11 sign. It was attached to the brick monument sign that has
12 the name of the business on it. And it's the sign that's
13 perpendicular to the street. It was on the brick face.

14 But I think the applicant did what's required when
15 it comes down. They're required to put it back up. But
16 apparently there must have been a period of time when it was
17 down and it was not up, based on your observation.

18 CONSTANTINE ALEXANDER: I can only say -- and I'm
19 not very good as looking for these signs -- but I went there
20 twice over the last two weeks, and both times there was no -
21 - I didn't see a sign. I would accept the representation
22 that there was a sign and that my eyesight is not what it

1 used to be, but I still have in our files a letter
2 requesting a continuance -- a letter from you, Mr. Rafferty.

3 So do you want to proceed tonight, or do you want
4 to continue the case tonight? I'm willing to -- as I said,
5 accept the representation that there is -- there was a sign,
6 and I just picked a bad time to go by, when the sign was
7 temporarily down.

8 So what would you wish to do?

9 JAMES RAFFERTY: Well, would the Board want to
10 hear from -- there is a representative from Valvoline here
11 that was personally involved in the posting of the sign?
12 Perhaps he can speak to it.

13 I certainly -- I mean, a two-week continuance here
14 is not particularly fatal, and I -- we were requested to
15 submit the continuance request, and I respect the policy of
16 putting the sign up. It just so happens in this case that I
17 believe there was an oversight -- I mean, an appropriate
18 oversight of the sign, but there was admittedly periods when
19 it was down.

20 So I don't wish to belabor the point that if the
21 Board thinks that -- but maybe Mr. Kazazian might just
22 briefly address the Board on the issue of the sign.

1 BRENDAN SULLIVAN: Yeah, this is Brendan Sullivan.
2 I think procedurally, once a request for a continuance has
3 been submitted and stamped in, that I think that sort of
4 seals the fate of it for this evening.

5 CONSTANTINE ALEXANDER: If we're going to continue
6 the case, Mr. Rafferty, I don't want to hear the
7 presentation. I just don't want to get into the --

8 JAMES RAFFERTY: No, I understand, I would --
9 right. I'm fine with that. I'm fine with that. We were --
10 it's not -- because earlier today I was resisting sending in
11 the continuance because I thought, "Well, I don't really
12 want a continuance." I'm told the case will not be heard.

13 But again, it's my understanding that it can be
14 heard in a relatively short time. It's a special permit
15 that's been up for renewal. It's one of the few special
16 permits that has a time on it.

17 So it is correct, we did submit a written request.
18 And perhaps some people who might have an interest in the
19 case were aware of that request. So I think it probably
20 makes sense to continue the case.

21 ANDREA HICKEY: Councillor, just to clarify, you
22 requested the continuance because you were told the case was

1 not going forward, not for any other reason?

2 JAMES RAFFERTY: I submitted the request because I
3 was informed that I needed to submit a request today.

4 ANDREA HICKEY: Understood. Understood. So you
5 don't really need a continuance because you're waiting for
6 something or not prepared?

7 JAMES RAFFERTY: That's correct.

8 ANDREA HICKEY: You are prepared.

9 JAMES RAFFERTY: And I think it might have
10 something to do with the advertising deadlines and all that.
11 We did receive a request and we always accommodated those
12 requests, and I just happen to think -- I just know in this
13 case there was attention paid to the sign issues.

14 In some cases, the attention isn't as diligent. I
15 just know in this case there was attention paid to the sign
16 issue. In some cases, the attention isn't as diligent. I
17 just know in this case it was.

18 But as noted by the Vice Chair, there is now a
19 letter in the file. I believe our office as a courtesy
20 informed a neighborhood community representative that we had
21 filed such a request, in which case I wouldn't want the
22 point to be made that we submitted a request and then the

1 hearing went ahead. So I understand the need for a
2 continuance at this point.

3 CONSTANTINE ALEXANDER: Okay. When would you like
4 the case to be continued to? And then let's see whether we
5 can -- we have room our agenda for that night? Sisia,
6 what's the first --

7 SISIA DAGLIAN: We have room on the twenty-fifth.
8 We have only one continued case that day.

9 CONSTANTINE ALEXANDER: I'm sorry?

10 SISIA DAGLIAN: We have only one continued case on
11 the twenty-fifth.

12 CONSTANTINE ALEXANDER: Twenty-fifth? Okay.

13 SISIA DAGLIAN: So we could do that.

14 CONSTANTINE ALEXANDER: Can you get the sign up
15 for the two weeks before the twenty-fifth, Mr. Rafferty? Or
16 maybe it's up right now.

17 JAMES RAFFERTY: It's up right now. We'll just
18 change the date on it.

19 CONSTANTINE ALEXANDER: That's fine. That's all
20 you need to. Okay. The Chair moves that we continue this
21 case as a case not heard until 7:00 p.m. -- no, 6:00 p.m. --
22 6:00 p.m. on February 25, subject to the following

1 conditions:

2 One, that the petitioner sign a waiver of time for
3 decision and you're familiar with that, Mr. Rafferty? And
4 that must be done in the next seven days.

5 Two, that a new or modified posting sign needs to
6 be maintained reflecting the new date, February 25, the new
7 time -- 7:00 p.m. -- and the sign must be maintained for the
8 14 days before the twenty-fifth of February, as required by
9 our zoning laws.

10 And lastly, to the extent that any new plans or
11 drawings or what have you are intended to be filed for the
12 continued case, that they must be in our files no later than
13 5:00 p.m. on the Monday before February 25.

14 Brendan?

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

17 CONSTANTINE ALEXANDER: Jim?

18 ANDREA HICKEY: Andrea Hickey yes to the
19 continuance.

20 JIM MONTEVERDE: And Jim Monteverde yes to the
21 continuance.

22 JASON MARSHALL: Jason Marshall yes to the

1 continuance.

2 CONSTANTINE ALEXANDER: And the Chair votes yes as
3 well.

4 [All vote YES]

5 So we'll see you or hear from you on the twenty-
6 fifth, Mr. Rafferty.

7 JAMES RAFFERTY: Thank you very much.

8 CONSTANTINE ALEXANDER: It's not quite 6:45, so
9 we'll just take a few minutes break and recess, and we'll
10 resume at 6:45 with the next case.

11 [BREAK]

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2 (6:45 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Andrea Hickey, Jim Monteverde, and Jason
5 Marshall

6 CONSTANTINE ALEXANDER: Okay. It is now 6:45, so
7 I will resume our schedule. And the next case I'm going to
8 call is Case Number 102119 -- 1 Cedar Street. Anyone here
9 wishing to be heard on this matter?

10 JAMES RAFFERTY: Yes, good evening Mr. Chair.
11 James Rafferty on behalf of the applicant, John Repucci. I
12 believe Mr. Repucci is signed up for this meeting, as is our
13 Project Architect, Tanya Carriere, C-a-r-r-i-e-r-e.

14 I see Ms. Carriere has signed up, and the
15 Commander of the UAV Post, Ralph Capodilupo, C-a-p-o-d-i-l-
16 u-p-o, is also, I'm informed, signed up for the hearing.

17 CONSTANTINE ALEXANDER: Okay. So you're seeking
18 two forms of relief, am I right? A special -- a variance
19 and a special permit?

20 JAMES RAFFERTY: That's correct, Mr. Chair.

21 CONSTANTINE ALEXANDER: All right. Why don't we
22 start with the variance?

1 JAMES RAFFERTY: Sure. This is an application to
2 authorize the construction of a mixed-use, multifamily
3 dwelling at 1 Cedar Street.

4 1 Cedar Street is at the very top of Cedar Street,
5 near the intersection of Massachusetts Avenue. It abuts a
6 portion of the linear path that goes via one side.

7 The building is a longtime home of the United
8 American Veterans House. It has been used by them since the
9 1940s. The Post, like many other similar establishments has
10 dealt with dwindling membership and activity over the years,
11 so the Post sought a sale of the property.

12 But in soliciting offers and evaluating them, one
13 of the conditions the Post wanted was the ability to
14 maintain a small presence in whatever new building was
15 constructed.

16 So they've entered into a contract with Mr.
17 Repucci, who is an experienced contractor and developer,
18 that will contain eight dwelling units, and a 1500 square
19 feet UAV Post, a successor to the much larger Post that is
20 listed there for quite some time.

21 The lot is -- and it's located in Business A 2
22 District, and also in the Massachusetts Avenue Overlay

1 District.

2 And due to that fact, there is a -- there is a
3 limitation on the side yard setback that appear when lots in
4 the Overlay District, in this zoning district, abut
5 residential districts. So the left side of the lot abuts a
6 lot that's in the adjoining residential district.

7 And so, while the base side yard setback
8 requirements are 10 feet, where lots abut a residential
9 district, that setback requirement increases to 20 feet.
10 That's the principal relief that's being sought here. From
11 a dimensional perspective, it's the only relief being
12 sought.

13 So the proposed setback here is 10 feet. It's
14 fairly consistent with the footprint of the existing
15 building, the long-standing building that has been on the
16 site.

17 But the project itself, it has a significant
18 constraint given the width of the lot. It's a long, narrow
19 lot, only not much more than 50 feet of width.

20 If the setback requirements were imposed with 10
21 feet on one side and 20 on the other, that would eat up 30
22 feet of the lot from a width perspective, and only yield a

1 building that could be 20 feet wide.

2 The building that's proposed is going to be eight
3 dwelling units. Mr. Repucci -- excuse me, Mr. -- my client,
4 Mr. --

5 CONSTANTINE ALEXANDER: [Laughter] -- Repucci, he
6 intends to develop the project as condominiums. They're all
7 two-bedroom condominiums. It's a product that he is
8 familiar with. They approximately -- and Tanya can give us
9 the square footage, but they're approximately 1200 on the
10 average -- 1200 square feet, and the issue here with regard
11 to the variance is the need for the setback relief on the
12 left side of the building.

13 The building complies with the FAR limitations.
14 It's a few units below the allowed density here, at eight
15 units. The lot would accommodate 12 units. But there are
16 other constraints on the site.

17 So the variance is directly related to the
18 hardship of the narrow nature of the lot and its elongated
19 side. The area where the setback relief is being sought
20 will serve as a driveway, as it has for the life of the
21 property. And we have filed this application seeking that
22 relief based on that hardship.

1 CONSTANTINE ALEXANDER: Talk to us about the
2 Veterans use of the lot, the non-condominium part. How many
3 members are there at the VFW at this point? How many cars
4 might we expect to be parked there?

5 JAMES RAFFERTY: Okay.

6 CONSTANTINE ALEXANDER: Even assuming all eight
7 spaces are occupied by the residents of the eight condo
8 units?

9 JAMES RAFFERTY: That is correct. I hadn't
10 addressed that, because my understanding is you wish me to
11 speak to the variance. But that is the special permit
12 portion.

13 CONSTANTINE ALEXANDER: I understand.

14 JAMES RAFFERTY: Yeah.

15 CONSTANTINE ALEXANDER: And I'm blurring the two,
16 you're correct.

17 JAMES RAFFERTY: But I mean I'm happy to do so,
18 because it -- you know, it doesn't make sense really to talk
19 about one without the other.

20 CONSTANTINE ALEXANDER: Exactly.

21 JAMES RAFFERTY: So -- and your assumption is
22 absolutely correct that the proposed parking, the eight

1 parking spaces, are intended for the use of the eight
2 dwelling units.

3 The club itself is being reduced in size
4 significantly. There are currently 96 members in the Post.
5 And the amount of active members is significantly less than
6 that. Mr. Capodilupo informs me that on average, there
7 would be about 20 people -- he would anticipate 20 people.

8 The club was actively involved in the function
9 business. They used to rent out space to a variety of
10 events. It was a source of needed revenue.

11 That will no longer be the case with the club.
12 They do not have any function space. It's essentially a
13 single room. It will serve more as a lounge. The
14 expectation is it will be open in the late afternoon and
15 closing in the evening.

16 It is intended to be a low-key club for a variety
17 of reasons, including the aging membership, and the fact
18 that the club is going to be located in an eight-unit
19 residential building.

20 So the conduct and intensity of that use needs to
21 be sufficiently compatible with people who are going to be
22 making investments to purchase these condominiums. And

1 that's understood by the club, and by the applicant that
2 this is a somewhat unique situation.

3 There will be no signage on the club, just a
4 limited amount of signs. The club is restricted to use by
5 members, not the general public. And if there are any
6 further questions, Mr. Capodilupo is here. He serves as the
7 Commander of the Post. This will put the Post on solid
8 financial footing.

9 There is considerable debt associated with the
10 existing property. It has been closed now for the duration
11 of the COVID pandemic. So nothing in the way of revenue has
12 been realized for nearly a year.

13 So nothing in the way of revenue has been realized
14 for nearly a year. So this allows the club to remain
15 active; a club that has a -- Mr. Capodilupo estimates 75
16 percent of the members come from the immediate North
17 Cambridge neighborhood, with a high percentage that walk to
18 the club.

19 And there is metered parking in the evening;
20 there's metered parking all day, but particularly along this
21 stretch of Massachusetts Avenue. The site is just in from
22 Massachusetts Ave, and there are opportunities with metered

1 parking on Mass Ave. There is active bus routes on Mass
2 Ave. I think that the access to public transportation is
3 consistent with the criteria for the Board's consideration
4 of a reduction in the required amount of parking.

5 The parking in the past was largely related to the
6 function activity, I'm informed. And with no function going
7 on -- they had everything from christenings and bridal
8 showers and any type of family events with as many as, I
9 think the capacity I was informed was at 99 or 100 -- that's
10 all going away. That's not going to be occurring anymore.

11 CONSTANTINE ALEXANDER: Okay. But if I did it
12 right, and I just -- I want to pursue this because you may
13 or may not be aware that there is a letter of objection to
14 granting the relief based on parking. And I'll get to that
15 a little bit later on.

16 JAMES RAFFERTY: I have seen the letter, and I
17 note that the letter seems to suggest that the parking
18 reduction would be affecting the residential dwelling units.
19 And that is not -- that is not accurate. The parking -- or
20 the dwelling units will need the one parking space per
21 dwelling unit requirement of the ordinance.

22 CONSTANTINE ALEXANDER: No question about that.

1 The question is when the VFW -- United American Veterans
2 have some sort of gathering, or just people come by to have
3 a drink and share experiences, where are they going to park?
4 Because they have to park. They can't walk.

5 And this neighbor would say, "You're going to take
6 up our parking spaces." So I just want to explore this a
7 little bit. Not to prejudge it, but I want to have an
8 understanding about the likely parking impact for the
9 commercial use -- nothing to do with the condos. They have
10 their own parking spaces, and I'm comfortable --

11 JAMES RAFFERTY: Right.

12 CONSTANTINE ALEXANDER: -- I am comfortable with
13 that.

14 JAMES RAFFERTY: Right.

15 CONSTANTINE ALEXANDER: But should we -- should
16 this Board be concerned about the public use, the multi- the
17 commercial use on the ground-floor when it comes to parking?

18 JAMES RAFFERTY: Well, of course, and the criteria
19 directs you in the ordinance to look at factors that would
20 contribute to that. Chief among them is opportunities for
21 on-street parking. This site is located nearly -- it's
22 adjacent to Massachusetts Avenue, and it happens to be the

1 case that along this stretch of Massachusetts Avenue, there
2 is a high number of commercial activities, including coffee
3 shops and restaurants, where parking is relied upon almost
4 exclusively at the meters along Massachusetts Avenue.

5 So this use would be consistent with some of the
6 existing parking patterns for the location. I can think of
7 a few places out on Massachusetts Avenue around the corner;
8 The Lion's Den, Joe Sent Me; a few other places. Everyone --
9 the Green tavern there, the Greek corner.

10 All of those establishments park at meters along
11 Massachusetts Avenue. And they do -- they do have
12 availability in the evenings, and that would be the area
13 where it would be anticipated members would mostly park --
14 those that are driving to the club.

15 CATHERINE PRESTON CONNOLLY: I just wonder whether
16 you make -- prove too much. If there is a lot commercial
17 activity, and there is, on Mass Avenue that requires, that
18 uses up a lot of the public parking on Massachusetts Avenue,
19 then we're going to add to that burden with the more
20 attractive commercial use for the members of the Society.

21 I just -- I'm a little troubled by that. It would
22 be nice if there were at least some parking spaces -- and

1 you can't change it -- if there were some parking spaces for
2 members who need to drive or desire to drive to the Lodge,
3 and there's no place to park. Or if there is, they pick a
4 parking space from one of the residents nearby. And that's
5 a little bit of a concern for me.

6 JAMES RAFFERTY: I understand that, and I think
7 the size of the club, the small amount of membership
8 activity, and I would say that the experience on
9 Massachusetts Avenue these days, it is -- regrettably, it is
10 far from an active retail corridor even in the best of times
11 there was -- some might suggest, not the highest level of
12 activity on this stretch of Massachusetts Avenue on both
13 sides of the street, but some members are residents.

14 The expectation is that residents who live in the
15 city of Cambridge and are members can park on the street
16 with their resident permits, as can Cambridge residents
17 throughout the city.

18 So to the extent that that opportunity presents
19 itself, I think it's not unreasonable to presume that that
20 would occur here as well.

21 CONSTANTINE ALEXANDER: Okay. I've gone as far as
22 I'm going to go with this.

1 BRENDAN SULLIVAN: This is Brendan Sullivan. Jim,
2 is the space used by the UAV -- is that a condo or is that a
3 lease of a condo association? What's the legal entity of
4 that space?

5 JAMES RAFFERTY: No, I don't represent them in the
6 transaction. But the space will be -- the space will be a
7 Condominium unit, so there will be eight residential units
8 and one commercial unit. The UAB will own the commercial
9 units.

10 BRENDAN SULLIVAN: Okay. So there's basically
11 going to be nine stakeholders? Eight plus the one, so that
12 should there be a problem with that one, that the Condo
13 Association has, obviously, authority and powers to address
14 that issue?

15 JAMES RAFFERTY: Correct. As long as there will
16 be bylaws.

17 BRENDAN SULLIVAN: Correct.

18 JAMES RAFFERTY: And condo documents that explain
19 the rights of the unit owners. But one could make the case
20 that the residential unit owners' interest will easily
21 outnumber the commercial unit owners' interests.

22 BRENDAN SULLIVAN: Yeah. So they can address the

1 deeds and the misdeeds?

2 JAMES RAFFERTY: Correct.

3 CONSTANTINE ALEXANDER: I would assume that we're
4 ahead of ourselves.

5 JAMES RAFFERTY: And I'm being -- I'm getting a
6 message from Mr. Capodilupo that there is a high percentage
7 of walk-in members that come to this club. And it's those
8 members that are likely going to continue to frequent the
9 club. It is very much a local, neighborhood establishment.

10 CONSTANTINE ALEXANDER: I would like to suggest --
11 but I'm not a part, I'm not going to make it part of any
12 relief we grant -- to suggest that the condo association, or
13 I should say the occupant/owners, if that's the right word -
14 - of the commercial property, post a sign saying the parking
15 spaces on the side of the building are for the residents
16 only, and may not be used by guests or invitees for the
17 activities of the -- commercial activities at the ground
18 level.

19 Because I can see someone coming in -- and I
20 explore a little bit with you about how many cars are going
21 to be coming here. These are older people. They're going
22 to get older. Whether or not they'll be there some night,

1 and they're going to want to drive in, and I don't want them
2 -- I don't think the developer wants them -- to be parking
3 in a then vacant space on the side of the building, which
4 prevents the owner of that space from using it.

5 So it would be good if there's some sort of
6 direction in the lobby or whatever that tells people, "Don't
7 park on the side of the building. It's not -- it's for the
8 exclusive use of the residents of the building."

9 JAMES RAFFERTY: Right. Well, Mr. Chair, that's
10 fine if the Board thinks that's necessary. I would only
11 note that these are Condominium units. It's not a rental
12 building. Each of the unit owners will own their space.

13 So I think there will be a lot of motivation on
14 the part of the residential unit owners to lease the type of
15 activity you're referring to -- whether or not such a
16 restriction exists in a zoning decision, they're going to be
17 very self-interested in ensuring that they have access along
18 the driveway and into their respective parking space.

19 CONSTANTINE ALEXANDER: I accept that. And I
20 wasn't suggesting there were any conditions to the zoning
21 relief we may grant, relating to what I just suggested. I
22 just think it would be a good practice for the well-being of

1 the building, for the owners of the building after some
2 effort by whoever, the governing Board of the condo, to make
3 -- give public notice that the parking spaces on the side of
4 the building are for the sole use of the owners of the units
5 of the condo and their invitees and guests and what have
6 you.

7 But no, I'm not in any way suggesting a condition.

8 JAMES RAFFERTY: Right.

9 BRENDAN SULLIVAN: Yeah, this is Brendan Sullivan.

10 I --

11 JAMES RAFFERTY: And it is good advice. But I
12 also think it's worth noting, these have private members of
13 a Club. So it's not like a commercial establishment where
14 the public is arriving without understanding the rules of
15 the road here.

16 So every member -- every person who is allowed in
17 the club is a member, and will be made familiar with the
18 rules associated with the operation of the club.

19 BRENDAN SULLIVAN: This is Brendan Sullivan. I
20 think my [also] experience has been that you look at the
21 French Club further down Massachusetts Avenue and some of
22 the other clubs around the neighborhood, that they are

1 serving neighborhood people..

2 And that a lot of these people who want to go and
3 spend two or three, four hours in the and playing card games
4 or whatever they want to play just kibbitzing, that they are
5 -- a lot of them are dropped off and then picked up, so that
6 they tend not to drive themselves.

7 But anyhow, that's just a comment.

8 CONSTANTINE ALEXANDER: Wait a minute. I'm --
9 there may not be a problem at all, but I think to forestall
10 a possible problem just a little bit of advice to members,
11 how it will be done, I'll leave it up to the owners of the
12 condo unit.

13 But I do think you want to avoid parking problems
14 down the road by people who just don't understand the way
15 this is proposed to work. And again, no suggestion of a
16 condition, just advice that I hope you would take.

17 All right, with that.

18 JAMES RAFFERTY: Most definitely will -- it's
19 sound advice, and I'm sure it will be followed in this case.

20 CONSTANTINE ALEXANDER: Thank you, Mr. Rafferty.
21 Any other members of the Board? I don't know if we need to
22 speak -- unless at this point, any other questions or

1 comments Board members want to make? Brendan?

2 BRENDAN SULLIVAN: I'm all set.

3 CONSTANTINE ALEXANDER: Jim?

4 JIM MONTEVERDE: Jim Monteverde, yeah. I have a
5 question. Sisia, can you bring a plan up? I think it's the
6 ground floor plan, wherever the club is.

7 SISIA DAGLIAN: Can you see it, Jim?

8 ANDREA HICKEY: That's --

9 JIM MONTEVERDE: Yep.

10 ANDREA HICKEY: -- That's not it.

11 JIM MONTEVERDE: That's not. It's actually the
12 lower level, I believe.

13 JAMES RAFFERTY: That's correct. That's the entry
14 to the club. And then there's a lulu elevator that goes
15 down to the club, and a set of stairs.

16 JIM MONTEVERDE: There we go. Yep, there we go.
17 Okay. Thank you. That answers that question. And then if
18 you go back to the ground floor or to the upper floor, Mr.
19 Rafferty, could you just explain if this diagram does it by
20 itself, where the relief is that you need?

21 JAMES RAFFERTY: Sure.

22 JIM MONTEVERDE: The setback -- that you showed on

1 the setback?

2 JAMES RAFFERTY: Right. It's the area between the
3 left wall and the dotted line. It's a driveway at 10 feet
4 in width.

5 JIM MONTEVERDE: Right.

6 JAMES RAFFERTY: But because of the abutting
7 residential district, there's a footnote in the Business A-2
8 setback requirements that that should be increased to 20
9 feet. So it's that area on the left wall of the building --

10 JIM MONTEVERDE: Right.

11 JAMES RAFFERTY: -- is --

12 JIM MONTEVERDE: -- the --

13 JAMES RAFFERTY: under the provisions of the
14 Overlay should be 20 feet from the residential district.

15 ANDREA HICKEY: Yeah. There is a plan that better
16 shows that that is dimensioned.

17 JAMES RAFFERTY: That's right.

18 JIM MONTEVERDE: Oh, there we go.

19 ANDREA HICKEY: Yeah.

20 JAMES RAFFERTY: Yeah.

21 JIM MONTEVERDE: Okay. All right. Thank you.

22 And one final question, the -- I wasn't familiar with the

1 organization, United American Veterans. And so, I Googled
2 it. And the only Google hit I got was a political action
3 committee out of Ohio. Is there a link to this group?

4 JAMES RAFFERTY: I would defer to the Post
5 Commander, Mr. Capodilupo, who is on the call. Perhaps he
6 could address that? Ralph, can you hear us? Ralph, you
7 might be muted. I saw your name up. But there are UABs.
8 around. I know there's a big one over in Nonantum in
9 Newton.

10 JIM MONTEVERDE: Joe: Yeah. All I was trying to
11 confirm is that in fact it was a club or veteran's
12 organization as opposed to --

13 JAMES RAFFERTY: Oh, it is very much --

14 JIM MONTEVERDE: -- you know, a single person --

15 JAMES RAFFERTY: -- an international chapter. It
16 has bylaws. It's -- this is a not-for-profit corporation
17 that enjoys a -- what's considered a Veteran's Club license,
18 which is a special category of --

19 JIM MONTEVERDE: Okay.

20 JAMES RAFFERTY: -- alcohol licenses --

21 JIM MONTEVERDE: Thank you. Yep.

22 JAMES RAFFERTY: -- authorized by the ABCC.

1 JIM MONTEVERDE: Yep. That was my question.

2 JAMES RAFFERTY: So it's very much a club in good
3 standing within the Veteran's organization.

4 JIM MONTEVERDE: All right. Thank you. That
5 answers my question. Thank you.

6 CONSTANTINE ALEXANDER: Let's see. Andrea, any
7 questions?

8 ANDREA HICKEY: No. I have no questions at the
9 moment.

10 CONSTANTINE ALEXANDER: Jason?

11 JASON MARSHALL: Mr. Chairman, Jason Marshall.
12 Yeah, just maybe a couple questions.

13 CONSTANTINE ALEXANDER: Yeah.

14 JASON MARSHALL: Sisia, can you pull up, it's a
15 view of -- it shows I think the entry. It shows the
16 driveway. It might be slide, like in the 36 -- PDF 36 range
17 or so. It's a good view of the abutting property as well.

18 [Pause]

19 No, that wouldn't be it. It's more of a -- yeah,
20 we're getting -- now we're getting closer, I think.

21 JAMES RAFFERTY: Yeah. If you go back one, Sisia,
22 if -- Mr. Marshall is inquiring, the earlier image shows the

1 wood frame two-family next door, the yellow building. Yeah,
2 there we go.

3 JASON MARSHALL: Yeah, that's good enough. First
4 of all, good drawings. I mean, it's really good renderings.
5 So I appreciate that.

6 And it does seem like there's a lot that you could
7 do with this space as-of-right. It seems like the height
8 and the number of units, that's something that you can do
9 as-of-right. Is that correct?

10 JASON MARSHALL: Yes, that is correct. I mean,
11 the only relief here is the setback, but the existing
12 building is -- if you look at the current site plan, the
13 existing building is 12 feet office setback. So it's had a
14 nonconforming setback for a decade.

15 So -- but the -- but in the Business A-2
16 Districts, there are a range of commercial and business uses
17 in addition. So this is a residential use which should
18 have a high level of compatibility with the residential
19 character of Cedar Street. It's across the street -- this
20 section of Cedar Street. There's the little shopping plaza
21 across the street, and then there's the -- there's a surface
22 parking lot that serves where the commercial building abuts.

1 So it's very much a hybrid corner here, and I
2 think the architect -- we did reach out to the North End
3 stabilization and presented the portion. And we did receive
4 a favorable comment on the design work, for which Ms.
5 Carriere deserves credit.

6 JASON MARSHALL: That's good to know, and I look
7 forward to the public comment and hearing any perspectives
8 that abutters might share. This abutter here is obviously
9 very close to the building and this, you know, narrower
10 driveway. Have you had any interactions with this abutter,
11 anything you can share?

12 JAMES RAFFERTY: I'm not aware of any, Mr.
13 Marshall, but perhaps -- I don't know if Mr. Bermis is on
14 the call, but perhaps -- I don't know if Mr. Bermis is on
15 the call. He's the local realtor. He was -- he's been
16 doing some outreach in the area with residents. I don't
17 hear him.

18 I should note that the plans were modified, and a
19 revised set was filed on Monday before 5:00 p.m. per the
20 guidelines, the requirements of the Board. And that change
21 reflects an enhanced front entry. Because one of the
22 comments we heard -- and it was somewhat inconsistent, there

1 were three to four people at the meeting -- a way to make
2 the front of the building look a little more prominent at
3 the front entry.

4 So I know the architect changed materials,
5 increased the landscaping, and the area over the door was
6 all enhanced to give it a little more presence on that
7 stretch of the street.

8 JASON MARSHALL: You anticipated my question.

9 JAMES RAFFERTY: When do you --

10 JASON MARSHALL: I was wondering what the changes
11 that were made.

12 JAMES RAFFERTY: Right.

13 JASON MARSHALL: So that -- I appreciate that.

14 JAMES RAFFERTY: Right. And that door -- that
15 door is actually, it's not a door into the building per se,
16 that's a door into a particular unit, the unit that you see
17 with the fenestration on the left.

18 So it's a bit of a balancing act. It's a direct
19 access unit, or a ground-floor unit, so the idea was not to
20 have it appear too much. And so, it's a main entry into the
21 building.

22 So the enhancement was trying to walk the line

1 between the fact that it's an entry to a single residence,
2 and also, give it some street presence.

3 JASON MARSHALL: That's all I have for now, Mr.
4 Chair.

5 CONSTANTINE ALEXANDER: Thank you.

6 ANDREA HICKEY: Mr. Chair, it's Andrea Hickey.

7 CONSTANTINE ALEXANDER: Yeah.

8 ANDREA HICKEY: I just had one question if we can
9 stay on this slide for a moment?

10 CONSTANTINE ALEXANDER: Go ahead.

11 ANDREA HICKEY: Councillor, I'm looking at this
12 picture -- the lower one. The bump out that appears on the
13 second floor along the driveway --

14 JAMES RAFFERTY: Yeah.

15 ANDREA HICKEY: There's no setback issue there
16 with that?

17 JAMES RAFFERTY: No, those are -- Ms. Hickey,
18 those are permitted projecting bays that can be placed. So
19 it projects three and a half feet. Now, we did seek the
20 relief, because we need the variance because the projecting
21 bay exceptions apply to conforming walls.

22 But -- so this section here is a projecting bay.

1 It will not impact -- it's 10 feet in height, it will not
2 affect the operation of the driveway, but it does follow the
3 allowance for projecting bays. But it still also meets the
4 variance.

5 ANDREA HICKEY: Right.

6 JAMES RAFFERTY: As the firewall.

7 ANDREA HICKEY: And on the window is not an issue
8 either on that same basis?

9 JAMES RAFFERTY: Well, the variance for the
10 setback would -- I believe -- based on our past experience
11 would address that issue. The wall would no longer be
12 nonconforming if the relief were granted.

13 ANDREA HICKEY: I'm going to think about that for
14 a minute. Thank you.

15 JAMES RAFFERTY: Okay. I believe the wall would
16 be noncompliant, pursuant to the variance, and not
17 nonconforming meaning it was lawfully conforming and now no
18 longer is.

19 ANDREA HICKEY: Now you've confused me more. Thank
20 you, Councillor. Thank you.

21 CONSTANTINE ALEXANDER: Thank you, Andrea. I just
22 want to confirm, Mr. Rafferty, that with regard to the

1 residential units and the parking, that the parking will
2 always be at least 10 feet from the side of the building
3 where the units are on? Am I correct? The problem we have
4 --

5 JAMES RAFFERTY: Well, the driveway there --

6 CONSTANTINE ALEXANDER: Yep.

7 JAMES RAFFERTY: -- needs to have a minimum width
8 of 10 feet, which it does here.

9 CONSTANTINE ALEXANDER: Okay.

10 JAMES RAFFERTY: Is that the question?

11 CONSTANTINE ALEXANDER: No, not quite. Let me put
12 it into context. We had a rather contentious case on a
13 different part of the city about parking within 10 feet. A
14 new condo was going to be built, and they were supposed to
15 be parking right against the side of the building where --
16 right below kitchen windows.

17 And then we had -- the Board had a concern that if
18 the parking was reduced to less than 10 feet, exhaust fumes,
19 what have you, might affect the ability of the owners or the
20 residents of the units from enjoying them.

21 And so, we imposed the condition with the consent
22 of the petitioner to require that the windows at the ground

1 level be not open -- cannot be opened, they have to be
2 bolted shut. So that the views -- the light would be
3 available, but not the potential for troublesome odors.

4 And I wanted to confirm that's essentially not --
5 that's not -- should not be a concern for us tonight?

6 JAMES RAFFERTY: Well.

7 CONSTANTINE ALEXANDER: Because the cars will be
8 at least 10 feet from the ground-floor window.

9 JAMES RAFFERTY: But Mr. Chair, I need to point
10 out if we could -- could we go to the image of the rear
11 parking? It's on the site plan. Because one of the requests
12 for the special permit on parking also applies to a
13 particular parking space, and thank you -- if you could
14 enhance it just a bit more?

15 So the parking space -- the parking space on the
16 far right in the first row -- I think it's entitled, it's
17 the space next to the area that's called, "Access aisle."
18 That space, there are no windows on that rear wall facing
19 the parking.

20 But it is the case that the unit that it most
21 closely abuts there on the corner does have a window on the
22 side. And that window is located within the area that the

1 Article 6 requires the separation.

2 If you look at our application, you will see that
3 we requested under Article 6.44.1(a) relief. And that
4 relief applies solely to that parking space. And it's not
5 facing a window, but the window on that wall facing the park
6 is within 10 feet of that parking space.

7 CONSTANTINE ALEXANDER: There's only one space
8 we're talking about.

9 JAMES RAFFERTY: That's correct. And it does not
10 face into the parking lot. It faces the side of the
11 building. By a straight 10-foot dimension, though, we
12 believe the window is within 10 feet of the parking space.

13 CONSTANTINE ALEXANDER: Okay.

14 JAMES RAFFERTY: I think the intent of the
15 regulation or the restriction is just as you described it,
16 to not have parking right up against operable windows. And
17 in this case, there is none.

18 CONSTANTINE ALEXANDER: Okay, you. You've
19 answered my question, and I'm no longer concerned about
20 whether we need a condition regarding this. But other
21 members of the Board may feel differently. But I'm okay.

22 Anything further? I think all the Board members

1 have asked their questions. I can open the matter up to
2 public testimony -- I will -- to public testimony.

3 So, any members of the public who wish to speak
4 should now click the icon at the bottom of your Zoom screen
5 that says, "Raise hand." If you're calling in by phone, you
6 can raise your hand by pressing *9 and unmute or mute by
7 pressing *6.

8 SISIA DAGLIAN: Natalie, you can go in and speak.
9 Natalie?

10 CONSTANTINE ALEXANDER: Natalie?

11 NATALIE RIBEIRO: Can you hear me now?

12 ANDREA HICKEY: Yes.

13 CONSTANTINE ALEXANDER: Yes.

14 NATALIE RIBEIRO: Okay, sorry. I'll have right
15 next door. And the linear Parkside.

16 CONSTANTINE ALEXANDER: Could you tell us --
17 excuse me, I'm sorry to interrupt you. But What's your
18 address, please?

19 NATALIE RIBEIRO: Sorry, 2440 Massachusetts
20 Avenue. It's the building on the linear Parkside of the
21 VFW.

22 CONSTANTINE ALEXANDER: Mr. Rafferty?

1 JAMES RAFFERTY: Yeah, just to Ms. Ribeiro's point
2 there, certainly

3 CONSTANTINE ALEXANDER: Okay, thank you.

4 THE REPORTER: And your name for the record?

5 NATALIE RIBEIRO: And I was a little -- first the
6 question, before my real question. When Mr. Rafferty was
7 talking about the left-hand side of the building, do you
8 mean left-hand facing it?

9 JAMES RAFFERTY: Yes.

10 NATALIE RIBEIRO: Thank you. So my concern living
11 next to it -- and I love living next to the VFW. My
12 daughter is a U.S. Veteran, so I've been lucky. It's been
13 more than 20 years of my life living next to a VFW, more
14 than one. So it just worked out that way.

15 My concern is, and I'm right next to them is --
16 and it looks nice, it looks, you know, it's a nice-looking
17 building and so on, I don't have any problem with that -- my
18 concern is that the proximity of the building to the trees.

19 So the oaks -- the way the trees are right now,
20 the mature, extremely beautiful trees and they're not -- the
21 leaves are not on the trees right now, so you can't even see
22 fully, even if you drove up there now or tomorrow in the

1 daylight, to see the overhang.

2 And I know the city always makes sure the tree is
3 not touching the building, but right now the trees have
4 grown in a way to complement the building, the existing
5 structure.

6 So they -- the branches have grown to careful --
7 you know, go over the roof of the building, but I'm
8 concerned when I look up and I imagine the building on the
9 rendering, I'm concerned that the construction seems I'm
10 going to run in -- you know, collide with the tree -- trees,
11 I should say -- there's at least three or four right along
12 the fences. So it's extremely close.

13 So my wish is to move it over a bit, because I've
14 already in the night accounted for the shape of the new
15 building, and I've stood and looked. And I don't see how it
16 can work. And I believe there's a tree ordinance. And so,
17 there's more to consider. I'm really concerned about the
18 trees, and I don't want to see them cut. They're
19 magnificent trees. That's all I have to say.

20 JAMES RAFFERTY: Mr. Chair, could I address that

21 --

22 THE REPORTER: Could you please give your last

1 name?

2 NATALIE RIBEIRO: Yes, Ribeiro. It's R-i-b as in
3 boy, e-i-r-o.

4 THE REPORTER: Thank you.

5 NATALIE RIBEIRO: You're welcome.

6 CONSTANTINE ALEXANDER: Mr. Rafferty?

7 JAMES RAFFERTY: Yeah. Just to Ms. Ribeiro's
8 point, they certainly are lovely trees, but I want to point
9 out if you look at the existing conditions, site plans, the
10 current building is off that side of the property line by
11 only three and a half feet at its closest point and eight
12 and a half feet in the rear.

13 Our entire building is going to be 10 feet off
14 that property. So in some cases, it'll be more than double
15 the distance from the current building to the trees when the
16 new building is constructed. They are mature trees, they
17 are city-owned trees.

18 The Linear Park is a great Cambridge resource, and
19 the city takes great care of it, and it's obviously going to
20 be an amenity for the residents who live in this building,
21 and one of the appealing features for buyers.

22 So there will be -- to the extent it's determined

1 that the private property owner needs do something to
2 protect the city's trees, I don't think the City of
3 Cambridge would have any hesitation in -- if they require a
4 tree protection plan -- usually those plans apply when the
5 trees are on the property being developed.

6 But if that is a concern, between the ISD and the
7 city arborist, I imagine there's adequate opportunities to
8 safeguard those trees.

9 NATALIE RIBEIRO: Okay, thank you.

10 CONSTANTINE ALEXANDER: Thank you, Miss Ribeiro.

11 SISIA DAGLIAN: Yes. CT, you may go ahead and
12 speak.

13 THE REPORTER: Just state your name and address
14 for the record, please.

15 CHARLES TEAGUE: Hello, this is Jim Rafferty's old
16 friend Charles Teague, 23 Edmond Street, which is across the
17 other side of the park. It's behind --

18 THE REPORTER: Can you spell your last name for
19 me, please?

20 CHARLES TEAGUE: T-e-a-g-u-e. And --

21 THE REPORTER: -- Thank you.

22 CHARLES TEAGUE: -- I live across the parking lot

1 from Linear Park. I'm here to advocate for trees, and
2 Linear Park in particular. As Jim sort of alluded to, but
3 sort of an understated way, Linear Park is the jewel of
4 North Cambridge. It's received five awards since it was
5 created in the '80s.

6 I've done a lot of, lot of work on Linear Park.
7 We got downzoning. I organized a group of people, we got
8 Peter Lee to redesign the landscaping of the Cambridge
9 Lumber (sic) Redevelopment in the Linear Park boundary and
10 it came out really, really well.

11 But Linear Park is not well maintained, as
12 Attorney Rafferty suggested. It was -- between that and
13 climate change and the droughts, we lost 100 -- I did an
14 inventory and we lost 101 of the 303 trees between Cedar and
15 Harvey Streets.

16 So we organized again and we got DPW to commit to
17 a restoration. And replanting started just this last fall.
18 There's supposedly a plan to redo the irrigation system, but
19 that's not expected anytime soon.

20 So the very short version is that this variance
21 basically enables a larger building, and everybody along the
22 park is building as close as they can, and this is more

1 particularly concerning because it's directly to the south,
2 and it's right where they're supposed to replant the grove
3 of cherry trees.

4 And it looks to me in the design, the plan,
5 they're very, very vague here. And it looks as if they're
6 using Linear Park as their entry plaza.

7 And there's no documentation as to the change in
8 grade, which will affect the existing trees, as everyone
9 knows. The drainage, which will affect the trees, and how
10 it -- and these are all things that compromise the trees
11 that are in sort of fragile condition.

12 So there's no proposal for mitigation. There's no
13 documentation of the impacts. And I don't see how you can
14 go forward with that. Because this is the best part of
15 North Cambridge. When I lived here, this is what I love.

16 And so, just even further, one of the results of
17 this is that there's the citywide tree canopy is declining.
18 And so, that's -- so the city created the Tree Task Force,
19 and then we changed the laws to require a permit to cut down
20 trees on private property.

21 And so I look at this, and I look at the hardship
22 on the variance, and I -- and it doesn't, it doesn't -- it

1 just is inconceivable.

2 A lot is -- much of this is wider than the minimum
3 lot size in Residence B. BA-2 has no minimum lot -- no
4 minimum lot width, I'm sorry. And the lot's nearly
5 perfectly rectangular.

6 You know, for that -- so you don't have a
7 hardship, and there's just undocumented impact on our public
8 park. So, you know, I think you have to go back to the
9 drawing board. Thank you.

10 CONSTANTINE ALEXANDER: Thank you, sir. Anyone
11 else, Sisia?

12 SISIA DAGLIAN: I don't see anyone else.

13 CONSTANTINE ALEXANDER: Okay.

14 SISIA DAGLIAN: Oh, wait, one more.

15 CONSTANTINE ALEXANDER: One more?

16 SISIA DAGLIAN: Michael Brandon.

17 CONSTANTINE ALEXANDER: Mr. Brandon?

18 MICHAEL BRANDON: Hello. I think I'm unmuted.

19 It's Michael Brandon, B-r-a-n-d-o-n for the
20 transcriptionist. I live at 27 Seven Pines Avenue. I'm the
21 clerk for the North Cambridge Stabilization Committee. Mr.
22 Rafferty and the architect did attend a neighborhood forum

1 that we had and presented the plan.

2 And they have been now, as you learned, adjusted
3 to improve the Cedar Street elevation to make it look a
4 little more prominent that a principal entrance -- faces the
5 street, even though it's not actually the principal entrance
6 to the building.

7 A concern that we have is we did ask Mr. Rafferty
8 to postpone this hearing until the Planning Board can review
9 this project and make recommendations to the BZA for
10 improving it.

11 It's actually a major project in that location --
12 eight units if it were directly on Mass Ave might not seem
13 so significant, but given that it's not directly on the
14 avenue, I believe it is.

15 Also in terms of the setback, the 20-foot setback
16 that is required, the reason that's there is because the
17 City Council in its wisdom created a larger setback than
18 would normally be required if this were in the residential
19 zone, but it's not. It's in the Business A-2 zone, a
20 commercial zone, and that's why there's a required wider
21 setback to the residential community.

22 By the way, I didn't think we heard an answer to

1 the question of whether the current owners and occupants of
2 the yellow house on the residence B side that's in the west
3 in the rendering that we're looking at now, whether they
4 have been consulted, and whether they have any thoughts
5 about what's being proposed?

6 But I would suggest that -- also following up on
7 something Mr. Teague said, that I don't understand where the
8 hardship is. The fact that the lot width is 50 feet -- many
9 of the houses in the area and properties only have 50 feet.
10 They can even have less. That doesn't constitute a
11 hardship, because the owners of this property aren't happy
12 with what the current zoning is.

13 Another major point is this property lies in the
14 Massachusetts Avenue Overlay District. That was created
15 when the BA-2 zone along Mass Ave was created, and it was
16 designated an area of special planning concern that requires
17 a review by the Planning Board.

18 So it would make no sense to have that kind of a
19 review after the BZA decides whether to grant a variance.

20 I'm sorry I'm a little under the weather, lost my
21 notes of misplaced them, so I can't give you the exact
22 citation. But I'm fairly certain that there is a

1 requirement in the Mass Ave Overlay District Design
2 requirements that the Planning Board conduct what's called
3 a, "large project review" before this project can proceed.

4 I don't want to go far beyond my allotted three
5 minutes.

6 CONSTANTINE ALEXANDER: Thank you, Mr. Brandon.

7 MICHAEL DOLAN: Thank you. I'll stop there.

8 There are other issues I would raise, but those are the main
9 ones. Thank you.

10 CONSTANTINE ALEXANDER: Mr. Rafferty, do you have
11 any comment on Mr. Brandon's point about the need to go to
12 the Planning Board before seeing our Board?

13 JAMES RAFFERTY: Yes. I am familiar with the Mass
14 Ave Overlay District. I am -- there is not a requirement.
15 I'm looking at the entire section right now. If you -- and
16 certain provisions of this you -- certain areas of the
17 subdistrict you can do that. This is not one of them.

18 I would note that, as I indicated at the
19 Neighborhood Association -- and by the way we contacted Mr.
20 Brandon, and he graciously arranged COSA -- I was asked to
21 make it a point to draw the Community Development's
22 attention to this application.

1 I'm sure Board members know the Planning Board as
2 a regular course of business receives the BZA agenda. And
3 if there are cases on the BZA agenda that the Board has
4 views on or we wish to express comments, they do so.

5 I contacted CDD, I made them aware of that, and I
6 asked them if they could inform me. I heard back from CDD
7 that the Planning Board chose to have no comment on the
8 case. I imagine the communication to that effect is in your
9 files.

10 So if the Planning Board believes they have
11 jurisdiction over this, they certainly didn't indicate that
12 when they reviewed them.

13 CONSTANTINE ALEXANDER: Thank you, Mr. Rafferty.
14 Anyone else wishes to be heard?

15 SISIA DAGLIAN: Yes. one more; phone number
16 ending 8311.

17 HEATHER HOFFMAN: Hello. It's Heather Hoffman,
18 213 Hurley Street. I would like to put in another plug for
19 Linear Park. That particular stretch of Linear Park is a
20 place that I used to go pretty frequently in years past,
21 because I had a destination very close to there, and when I
22 took the T, I would go to Davis Square and then walk.

1 One of the things that we have learned in my
2 neighborhood of East Cambridge is how vulnerable big,
3 beautiful trees can be to construction nearby. And I don't
4 claim to have any idea whether this construction would
5 endanger those trees, but I think it's incredibly important
6 to make sure of that.

7 There's too many trees that we have lost. We lost
8 a 100-year-old pin oak in my neighborhood because of a slip
9 by a contractor. And the city in its infinite wisdom ground
10 a 100-year-old oak tree into mulch. So I don't want to see
11 that happen to Linear Park. Thank you.

12 CONSTANTINE ALEXANDER: Thank you. I have to
13 point out, which I'm sure Ms. Hoffman knows, is that we --
14 our -- some of the zoning, we don't -- we're not arborists.
15 Our zoning code doesn't deal with tree. We try to be
16 responsible about them, but there's no mechanism.

17 Now at the end, if there were serious problems, I
18 think other city officials would have surfaced them and
19 brought it to the attention of our Board and to the
20 petitioner, for sure.

21 And I can only report that we have had no such --
22 I don't know what we do with that concern, other than rely

1 upon the developer to pay close attention to the trees and
2 to their survival, and to their thriving.

3 But I don't see a basis for denying zoning relief
4 on the basis of speculation that some trees might be injured
5 by virtue of this project proceeding.

6 Anyone else?

7 SISIA DAGLIAN: Yes. Craig Murphy?

8 CRAIG MURPHY: Yes, hi. My name is Craig Murphy.
9 I'm the Assistant Quartermaster for the United American
10 Veterans. And I'm speaking in favor of this project. And
11 what I can tell you from the United American Veterans point
12 of view, we're extremely excited for this project.

13 I mean, we're going to -- first of all, you look
14 at the building. I mean, a lot of people are talking about
15 the parking, but look at the current building versus the new
16 building, the new building's going to look a lot prettier
17 for people walking by.

18 But just in terms of -- just speaking about the
19 United American Veterans, we've had many, many conversations
20 about trying to become -- trying to do even more than what
21 we did. We recorded some recent things that are happening
22 in this city with the veterans -- there was a gentleman that

1 was killed in the Korean War, and he came home and it was a
2 big procession down Mass Ave and other parts of the city.
3 We're a huge part of providing signs and things of that --
4 that really made that event what it was.

5 And it really brought some excitement of things
6 like that that we should be doing more of. And we just
7 simply couldn't. With this new financial footing that we're
8 going to have, I think the United American Veterans will be
9 a much bigger pride for the City of Cambridge and the
10 veterans that they serve and that we want to serve even
11 more.

12 So we're excited about this, and we're kind of
13 bringing -- and yeah, I just hope that everybody sees the
14 greater good not only for the building, for the community,
15 but for the veterans, for our organization and for everybody
16 -- for the whole world. I'll just go there. Almost
17 finished. But thank you very much, Mr. Chair, for my time.

18 CONSTANTINE ALEXANDER: Thank you, sir. Anyone
19 else?

20 SISIA DAGLIAN: The direct abutter now. Can she
21 speak again?

22 CONSTANTINE ALEXANDER: Yes. And Natalie, you

1 want to speak again?

2 SISIA DAGLIAN: Natalie, go ahead.

3 NATALIE RIBEIRO: I'm mute. Sorry. Can you hear
4 me now?

5 CONSTANTINE ALEXANDER: Yes.

6 NATALIE RIBEIRO: So I heard what you just said
7 about, you know, how much you consider you're the Zoning
8 Board and so forth. Can we be sure that the arborist is
9 being informed and had a chance to review these plans? It
10 seems like everyone that's attended this meeting from the
11 community is really concerned about the trees.

12 And I had even forgotten some of the points that
13 Mr. Teague mentioned, which is really important. And how
14 the rebuilding with the light affects these trees. So it's
15 really, really important. Can we get the arborist involved
16 before you make your final decision?

17 CONSTANTINE ALEXANDER: Well, we make our
18 decisions tonight, usually. We don't like to continue the
19 case.

20 NATALIE RIBEIRO: Yeah.

21 CONSTANTINE ALEXANDER: I'm not -- I'm sorry, but
22 I'm not sure. Maybe I'm just slow, and I probably am. I

1 don't know what an arborist would bring to the table with
2 regard to a zoning question; particularly we're talking
3 about trees on a neighboring property. We have a legal
4 stand --

5 NATALIE RIBEIRO: They --

6 CONSTANTINE ALEXANDER: -- we have, excuse me, we
7 have a legal standard that we have to apply by state law; we
8 do our best to apply it. And the preservation of trees is
9 not part of that. Maybe it should, but it's not.

10 So no, I don't think we're going to continue the
11 case tonight to get an opinion of the arborist. I would
12 urge that the -- those of you who are concerned about the
13 trees to reach out to the arborist yourselves --

14 NATALIE RIBEIRO: Mm-hm.

15 CONSTANTINE ALEXANDER: -- and have the arborist
16 work with the developer to pay attention to and to try to
17 preserve the trees. But that's the best I would do. Other
18 members of the Board feel otherwise, let me know. Let
19 everyone know.

20 JASON MARSHALL: Mr. Chairman, Jason Marshall. I
21 just want to say that I'm going to echo what you said. And,
22 you know, I thank the public for their comments and raising

1 issues about the trees, but as you know, what's before us
2 it's a narrower issue.

3 What we do here, my understanding is any action we
4 take with respect to zoning doesn't override city
5 regulations with respect to any tree issues; that's just
6 simply not before this Board tonight.

7 So to be said there aren't any concerns, it's not
8 within the legal standard that this Board applies to delve
9 into these issues. So we are, in short, constrained in
10 doing that. We are considering zoning questions, and that's
11 it.

12 CONSTANTINE ALEXANDER: Thank you, Jason. You
13 said it better than I could have said it. So I appreciate
14 the comment. Anyone else?

15 SISIA DAGLIAN: Charlie came back.

16 CONSTANTINE ALEXANDER: Who?

17 SISIA DAGLIAN: Charlie Teague.

18 CONSTANTINE ALEXANDER: Who's --

19 SISIA DAGLIAN: Charlie Teague.

20 CONSTANTINE ALEXANDER: Oh, Mr. -- no, okay, I'm
21 going to close public testimony. I would report that we
22 have two written communications in our files. One is what I

1 would describe as a petition from the Office -- the
2 managers, members, presumably users of the United American
3 Veterans facility.

4 And I will read the letter. It's generally in
5 support for granting the relief, given the conditions of the
6 current premises.

7 And then we have a second letter that I am going
8 to read into the file. It's from a neighbor Gwen Beaven, B-
9 e-a-v-e-n, who resides at 11 Cedar Street.

10 "I'm opposed to permitting a redundant in the
11 number of parking spaces. Cedar Street on-street parking is
12 just at capacity now. There's little room for more cars.

13 "On street cleaning days, it's quite a challenge
14 to find a place to park in the neighborhood. On snow
15 emergency days, Cedar Street is a no-parking zone during
16 snow emergencies. It's also challenging to find alternative
17 nearby parking. Most of the residents on Cedar Street do
18 not have off-street parking options.

19 "I also notice people parking and then walking to
20 residences on Mass Ave. More resident parking on the street
21 will cause tensions among otherwise friendly neighbors, and
22 detract from the quality of our neighborhood.

1 "Lack of on-street parking will make our
2 neighborhood less handicapped accessible, and difficult for
3 older residents, who count on finding a spot near their
4 homes.

5 "Any new residences in our neighborhood should be
6 required to provide sufficient parking without exception. I
7 live at 11 Cedar Street, Cambridge, where on-street parking
8 begins closest to 1 Cedar Street. I expect to be direct
9 impacted by parking overflow."

10 And then she has a second point in her letter
11 which I won't read; it's short, but it's dealing with rats
12 around the property and a request that the proper
13 mitigations and monitoring our place when the current
14 building is demolishing, and which presumably could cause a
15 surge in activity and rats.

16 To the parking issue, I have to point out to the -
17 - Ms. Beaven -- that there are going to be on-street
18 parking. Eight units, eight parking spaces. Now, if the
19 unit -- if the occupant of the unit, it has two cars; a
20 couple or what have you, there won't be sufficient off-
21 street parking.

22 But our zoning doesn't demand that. Our zoning

1 generally demands -- and subject to relief -- one parking
2 space for every residential unit. And they will have that.

3 So I think the concerns -- if there are any
4 concerns regarding off-street parking, it's going to come
5 from the Lodge, the United American Veterans' use of the
6 ground floor. And we have explored that already in our
7 hearing. Mr. Rafferty has responded to at least my concerns
8 regarding it. I think at least I'm satisfied with what I've
9 heard.

10 So with that, I think I'm going to now close all
11 public testimony. Board members, are you ready for a vote,
12 discussion? What would you like to do?

13 BRENDAN SULLIVAN: Brendan Sullivan, ready for a
14 vote.

15 CONSTANTINE ALEXANDER: Let's try it another way.
16 Any members of the Board want a discussion, or is everybody
17 ready for a vote?

18 JIM MONTEVERDE: Ready for a vote.

19 CONSTANTINE ALEXANDER: Okay. Actually, we're
20 going to have two votes; a vote on a variance to demolish
21 the current structure, in view of the setback issues. And
22 then the second one is to a reduction in the required amount

1 of parking spaces and the location within 10 feet of the
2 building in certain places, containing windows in habitable
3 rooms located on the ground floor.

4 So with regard to the variance, the Chair moves
5 that we make the following findings:

6 That a literal enforcement of the provisions of
7 the ordinance would involve a substantial hardship, such
8 hardship being that this is a building, and it's a very old
9 building. It's outlived its useful life. There is a need
10 to construct a new building, and as a bonus, create
11 additional housing for residents or would-be residents of
12 the city.

13 The hardship is owing to the -- basically the
14 shape of the lot and its location next to -- no, that's
15 regard to parking, skip that. It's the shape of the lot.
16 It's odd-shaped, and that causes zoning issues that are
17 being addressed by the variance request tonight.

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. In this regard, the city will gain needed
22 housing units. It'll have an upgraded and a better facility

1 to veterans, so they can better have a community space for
2 themselves.

3 And, as I said, there is -- the parking issues to
4 my mind at least, are not as great as maybe people think
5 they are, given the fact that there will be one parking
6 space for each residential unit.

7 So on the basis of all these findings, the Chair
8 moves that we grant the variance requested on the condition
9 that the work proceeds in accordance with plans prepared by
10 Khalsa Design -- K-h-a-l-s-a, and they're dated February 8,
11 2021, the cover page of which has been initialed by the
12 Chair.

13 Brendan, how do you vote?

14 BRENDAN SULLIVAN: Brendan Sullivan yes to
15 granting the variance.

16 CONSTANTINE ALEXANDER: Jim?

17 JIM MONTEVERDE: Jim Monteverde yes to granting
18 the variance.

19 CONSTANTINE ALEXANDER: Andrea?

20 ANDREA HICKEY: Andrea Hickey yes to granting the
21 variance.

22 CONSTANTINE ALEXANDER: And Jason?

1 JASON MARSHALL: Jason Marshal yes to granting the
2 variance.

3 [All vote YES]

4 CONSTANTINE ALEXANDER: The Chairman votes yes as
5 well, so the variance is granted. Let's turn to the special
6 permit. The special permit is to allow a reduction in the
7 required amount of parking spaces, but not for the
8 residential units, as I've indicated, and to allow parking
9 spaces within 10 feet of the building walls containing
10 windows at one small portion of the building.

11 So the Chair moves with regard the special permit,
12 we make the following findings: That the requirements of
13 the ordinance cannot be met unless we grant the special
14 permit being requested.

15 That traffic generated or patterns of access or
16 egress resulting from this project will not cause
17 congestion, hazard, or substantial change in established
18 neighborhood character.

19 In this regard, the Chair would note that the
20 location is also one side of a residential district or in
21 between the residential districts on either side, but
22 there's substantial distance between them, at least with

1 regard to one side.

2 And there's no indication that there would be any
3 -- the public use for the Lodge should be not that
4 substantial in nature, and it's been represented to us that
5 many of the people who will be using those public uses will
6 be walking, are in walking distance of 1 Cedar Street.

7 That the continued operation of or development of
8 adjacent uses, as permitted in the zoning ordinance, will
9 not be adversely affected by the nature of the proposed use.

10 Again, the parking -- off-street parking helps,
11 and further -- for the residential units -- and further,
12 there have been issues raised, legitimate issues, regarding
13 arboring (sic) of -- issues regarding the trees that are
14 nearby the property.

15 That's not a matter for this Board to deal with,
16 especially since it's speculative in nature. And I -- at
17 least I am confident that the City of Cambridge steward's
18 arborist will work with the developer to minimize the risk
19 of any damage to the trees.

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

1 And generally, what is being proposed will not
2 impair the integrity of the district or adjoining district,
3 or otherwise derogate from the intent and purpose of this
4 ordinance.

5 In this regard, the Chair would note that the
6 integrity of the district will be improved. There will be
7 new additional dwelling units erected, and a new facility
8 for the United American Veterans, better than what is there
9 right now.

10 So on the basis of all these findings, the Chair
11 moves that we grant the special permit requested on the
12 condition that the work proceed in accordance with that
13 plans that we just referred to with regard to the granting
14 of the variance.

15 BRENDAN SULLIVAN: Brendan Sullivan --

16 CONSTANTINE ALEXANDER: Brendan?

17 BRENDAN SULLIVAN: -- yes to granting the special
18 permit.

19 CONSTANTINE ALEXANDER: Jim?

20 JIM MONTEVERDE: And Jim Monteverde, yes to
21 granting the special permit.

22 CONSTANTINE ALEXANDER: Andrea?

1 ANDREA HICKEY: Andrea, yes to granting the
2 special permit.

3 CONSTANTINE ALEXANDER: Jason?

4 JASON MARSHALL: Jason Marshall, yes to granting
5 the special permit.

6 CONSTANTINE ALEXANDER: And the Chair votes yes as
7 well, so the special permit is granted.

8 [All vote YES]

9 CONSTANTINE ALEXANDER: The case is over. Thank
10 you.

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

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2 (7:52 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Andrea Hickey, Jim Monteverde, and Jason
5 Marshall

6 CONSTANTINE ALEXANDER: The Chair will now call
7 Case Number 93975 -- 151 Appleton Street. Anyone here
8 wishing to be heard on this matter?

9 [Pause]

10 Maybe the petitioner has not unmuted himself? I
11 hear nothing.

12 [Pause]

13 Okay.

14 [Pause]

15 STEVEN KENNEDY: Hello. Can I be heard?

16 CONSTANTINE ALEXANDER: I can hear you.

17 STEVEN KENNEDY: Oh, okay, cool. Thank you.
18 Awesome. I don't know what happened. It just kind of
19 restarted, that's kind of weird. But anyway, good evening
20 Mr. Chairman and members of the Board.

21 I'm Steve Kennedy. I own the property at 151
22 Appleton Street. I do want to inform you, I'm just a

1 private citizen, I'm not an attorney, I'm not a builder or
2 developer, so I'm going to do the best I can.

3 The property has been my primary residence since
4 2013. I live in the house full-time, except when traveling
5 for work or to take care of my Mom, who's trapped in
6 Arizona, which is really one of the major reasons I'm doing
7 the project.

8 I live in the first-floor apartment. I rent the
9 second floor. And really since the loss of my sister and my
10 father and my partner of eight years, I've really had a
11 tough time dealing with my Mom's situation.

12 And the rents have helped to allow me to pay the
13 mortgage and care for her, and ultimately still be able to
14 have use of the house for myself, for family and friends.

15 As I mentioned, really the drivers for the project
16 are really twofold. My Mom is trapped in a sketchy assisted
17 living situation in Phoenix. I'm sure you all have heard in
18 the news how things are going there with COVID.

19 But it's really more than that. At the end of the
20 day, we want to be together for her kind of last remaining
21 years. And so, the project would allow us to do that. The
22 way the house is currently configured, that's just simply

1 not possible.

2 The other issue that I have is that during the
3 Alewife Sewer Separation project that -- the Huron B part of
4 it, think I have that right -- my foundation of the house is
5 severely compromised and it needs to be repaired.

6 When I purchased the home, the basement was
7 partially finished, and as a part of that project not only
8 was the foundation damaged, but the original plaster ceiling
9 has almost all come down at this point and collapsed.

10 If I hadn't said: I mean I love Cambridge. I
11 think I've had a great relationship with the city. I've
12 tried to invest heavily into the house to improve its value
13 and to make the neighborhood better for everybody.

14 As part of that Huron project, they pulled up my
15 driveway and installed a snowmelt system around the house,
16 which I think will benefit everybody, including myself. I'm
17 not originally from here -- my family is, but I'm not. I'm
18 not used to scraping snow, so that's been pretty awesome.

19 I do want to say that I mean in the last year I
20 didn't really realize how long the permitting process takes.
21 My property fell into disrepair for it. I emptied out the
22 basement, pulled everything out and was, you know, thought

1 that a dumpster would arrive any day, and it turned out it's
2 now been a year.

3 So there have been times when my driveway
4 especially has been a mess. And it's stressed me out. I
5 can tell from the notes, I spoke to attorneys, who submitted
6 a letter as part of the file as well that, you know, it's
7 created kind of a stressful situation.

8 I have since cleaned up that driveway as much as
9 humanly possible. I do still have cobbles from the drive
10 that are stacked aside. And I can't really lay it back
11 down, because you need to dig and excavate as part of this
12 project in order to fix the foundation issues and kind of
13 underpin everything.

14 So that having been said, you know, I'd like to
15 continue ahead and so we can get on with my life move my Mom
16 in, and I do plan on -- I do want to apologize to the
17 neighbors. As part of this project there's absolutely a
18 plan to landscape the property.

19 But I can't do that -- there's no point in doing
20 that if we're digging it up anyway. And so, that's why I
21 haven't done it to this point.

22 So anyway, I mentioned I spoke to Ted and Mary. I

1 know that's one of the primary concerns. I'll ask if anyone
2 wants to address that. I think that's one of the other
3 concerns of the neighborhood as well.

4 So at the moment, I think I'll -- I'm going to
5 transition to my architects, so Jeff and Joe. I do want to
6 mention that I had mentioned that Eric would be presenting
7 today as part of this, but Eric has come down with a pretty
8 bad case of COVID-19, so he's unable to make it. But we are
9 ready, and Jeff and Joe and myself are here to answer any
10 questions you may have.

11 So with that, I want to toss it over to Jeff, if I
12 may.

13 JEFF MERRILL: Thank you, Steve. Hi, everyone.
14 I'm Jeff Merrill. And I'm one of the architects working on
15 the project with Joe. So I think just, Steve, you put it
16 very well with how you intend to use the space and the whole
17 driving factor behind the project. And I think that, you
18 know, we're very well positioned to make this a beneficial
19 part to the home.

20 So just some key points that I wanted to go over
21 first, just to sort of round out the project is that we are
22 -- it is a full basement renovation to make it a livable

1 space. We are not expanding the footprint in (sic) any
2 means. We are making the access point to the basement,
3 which is now currently either from inside the house or from
4 an exterior bulkhead.

5 We are making it safer by a concrete stair outside
6 it to access the basement. And we are also proposing two
7 egress window wells in the basement as well to make safe
8 egress from the basement area a little bit more of a better
9 situation.

10 So those are really sort of the key points. He's
11 just making the whole space safer. We are going to be
12 excavating an underpinning to get a taller ceiling height in
13 there, but that also helps repair the structural integrity
14 of the house that had been previously, you know, eroded by
15 the Huron Street project work.

16 So also contributing to the long-term longevity of
17 the property itself, but converting that basement space to a
18 more livable area for Steve.

19 CONSTANTINE ALEXANDER: Thank you. Mr. Kennedy,
20 can you walk through the requirements for the accessory
21 apartment, which is what you're applying for, and why you
22 satisfy them? Just for the record.

1 STEVEN KENNEDY: Yeah. That might actually take
2 Jeff. I can say that I --

3 CONSTANTINE ALEXANDER: It is Jeff, some windows.

4 STEVEN KENNEDY: Yeah, I know that the primary use
5 -- at least my understanding of the primary issue is that
6 the wells on the north side of my house which borders the
7 Tierneys (sic) that are required for egress in case there's
8 like a fire emergency or something will be over the build
9 envelope. I've discussed that with the Tierneys.

10 It's still quite a distance from the fence, but
11 apparently, it's within the -- and I don't know the
12 terminology, the setback or whatever is required. And
13 that's what my understanding is the driver of the request
14 for the variance. Jeff, is that --

15 CONSTANTINE ALEXANDER: You're not seeking a
16 variance, sir. You're seeking a special permit.

17 STEVEN KENNEDY: Special permit for the --

18 JEFF MERRILL: Okay, I apologize. I --

19 CONSTANTINE ALEXANDER: Yeah, it's actually an
20 apartment. In the ordinance, in Section I think it's 4.22,
21 ticks off the factors you have to satisfy to get that
22 special permit. Why don't you -- you did it in your written

1 material, but for the record -- your own record, why don't
2 you walk through them and why you -- explain why you meet
3 those requirements?

4 JEFF MERRILL: Yeah, absolutely. So one of the
5 requirements of the building is either a single or family
6 dwelling. So the current structure is a two-family
7 dwelling. The building containing the accessory apartment
8 has been in existence since or before February 1, 2019. Our
9 structure was built in 1890.

10 In the case of an accessory apartment within a
11 single-family or two-family dwelling prior to the alteration
12 of the dwelling contains at least 1800 square feet of gross
13 floor area. Our existing gross floor area is 4184.

14 In the case of an accessory apartment within a
15 single-family or a two-family dwelling, such accessory
16 apartment shall not occupy more than 900 square feet or 35
17 percent of the gross floor area in the principal dwelling.
18 Our proposed gross floor area is 855, which is less than
19 that 900.

20 No more than one accessory apartment shall be
21 allowed on any lot. So there's no -- not currently any
22 accessory apartment, so we will be satisfying that

1 condition.

2 The Board may relax FAR or GFA limitations to the
3 extent necessary to enable the creation of an accessory
4 apartment within the envelope, so there's no dwelling
5 outside of our existing building, as I mentioned before.

6 And then the last part was dealing with the
7 applicable side yard setback or height limitation, so we do
8 encroach on that side yard setback. But as you can see from
9 the drawing that's being presented now, the existing
10 structure is existing, nonconforming. So that's 7'6 setback
11 on the northern side.

12 But those egress window wells, they're not --
13 they're not tall at all, they're going to be just slightly
14 above grade. They are (sic) flood conditions.

15 And then as Steve said, there will be a plan in
16 place for additional planting and everything, so those will
17 be properly concealed and not a nuisance to the neighbors.
18 And they will also have the necessary fall protection for
19 safety of the people walking past as well.

20 CONSTANTINE ALEXANDER: Thank you. It's important
21 for us to get that into the -- for you, to get this into the
22 record.

1 Are you finished with your presentation?

2 JEFF MERRILL: Yes.

3 CONSTANTINE ALEXANDER: Okay. Brendan? Any
4 comments?

5 BRENDAN SULLIVAN: Brendan Sullivan, no questions.

6 CONSTANTINE ALEXANDER: Jim? Jim?

7 JIM MONTEVERDE: Jim Monteverde, no questions.

8 CONSTANTINE ALEXANDER: Andrea?

9 ANDREA HICKEY: Andrea Hickey, no questions.

10 CONSTANTINE ALEXANDER: Jason?

11 JASON MARSHALL: Jason Marshall, no questions at
12 this time.

13 CONSTANTINE ALEXANDER: The Chair has no questions
14 as well. So I'm going to close public testimony.

15 BRENDAN SULLIVAN: Open.

16 CONSTANTINE ALEXANDER: Sorry?

17 BRENDAN SULLIVAN: Open public testimony.

18 CONSTANTINE ALEXANDER: Yeah, I'm going to -- and
19 we're going to open -- open, I'm sorry, we're going to open
20 the matter to public testimony. [I said close; thank you,
21 Brendan.]

22 Any members of the public who wish to speak should

1 now click the icon at the bottom of your Zoom screen that
2 says, "Raise hand." If you're calling in by phone, you can
3 raise your hand by pressing *9 and unmute or mute by
4 pressing *6.

5 SISIA DAGLIAN: Carolyn O'Brien.

6 CAROLYN O'BRIEN: Hi there.

7 CONSTANTINE ALEXANDER: Hello.

8 CAROLYN O'BRIEN: My name is Carolyn O'Brien. I
9 live at 241 Huron Avenue, which is about two doors away from
10 151 Appleton Street. And as very close neighbors to this
11 property, we are opposed to this proposal for a handful of
12 reasons.

13 The first is that Mr. Kennedy has operated an
14 extremely busy, high-volume Airbnb out of his property for
15 the past several years. And in general, this is a very
16 residential neighborhood, with long-standing families with
17 small children.

18 CONSTANTINE ALEXANDER: Let me -- I'm sorry, I
19 don't mean to interrupt you, but I want to take your points
20 one at a time.

21 CAROLYN O'BRIEN: Okay.

22 CONSTANTINE ALEXANDER: Airbnb, as you know, I

1 believe you know, is permitted in Cambridge, subject to
2 compliance with the provisions of an Airbnb bylaw or
3 whatever it is. And --

4 CAROLYN O'BRIEN: I understand that.

5 CONSTANTINE ALEXANDER: -- and okay. And as far
6 as I'm aware --

7 CAROLYN O'BRIEN: Yeah.

8 CONSTANTINE ALEXANDER: -- let me finish -- as far
9 as I'm aware, there has been no violation of these
10 regulations, and if there is, or if you or anyone else
11 believes there is, the recourse is not through the Zoning
12 Board, but -- Airbnb is another zoning issue -- anymore, the
13 recourse is to the Building Department, which administers
14 our Airbnb laws.

15 So I'm not sure the relevance of the fact that
16 this is being used as an Airbnb in the past.

17 CAROLYN O'BRIEN: Do you mind if I --

18 CONSTANTINE ALEXANDER: No, I'm sorry. I'm
19 finished. Go ahead. You can respond or further on with
20 your comments.

21 CAROLYN O'BRIEN: Thank you. So as an active
22 Airbnb, the property is already impacted the neighborhood

1 with a steady stream of Ubers, speeding people, increasing
2 the density of the area -- not, in addition the removal of
3 the things apparently from Mr. Kennedy's basement, the
4 property has deteriorated rapidly in the last several years.

5 So we are concerned about a large investment in
6 accessory apartment when the property hasn't been
7 maintained, notwithstanding the significant -- Airbnb
8 visitors.

9 In addition, Mr. Kennedy did not indicate that
10 this accessory unit is for and will be lived in by a family
11 member. Rather, he shared the circumstances of his family
12 member. So we would like that clarified.

13 Another point is that this already is in a very
14 dense neighborhood, and tripling the size of the units in
15 this building would only exacerbate that in an area. This
16 building is on the corner of Vassal Lane and Appleton,
17 although one small bike rental place away from Huron Avenue.

18 There are no adjacent curbs for which there is
19 parking for this building. So the Airbnb that Mr. Kennedy
20 operates already has a significant impact on the parking
21 situation. And asking a third unit to this building would
22 further exacerbate.

1 CONSTANTINE ALEXANDER: Again, I would suggest
2 that your concerns relating to the Airbnb be raised with the
3 Building Department, and see if there's any violations of
4 our Airbnb bylaw. And if there is, the building officials
5 will take responsible action with regard to those
6 violations.

7 If there is not, the city has accepted the fact
8 that Airbnbs are going to be permitted, with restrictions,
9 in the city of Cambridge. And it's not a zoning issue,
10 again.

11 Similarly, with regard to accessory apartments,
12 the City Council has determined that the accessory
13 apartments should be permitted in housing that otherwise
14 we're not accept -- would not comply with the apartment
15 regulations of our city, subject to rather modest
16 restrictions; all of which I've had Mr. Kennedy walk
17 through, and he's explained it, and it would appear to be
18 the case that they meet all of those conditions.

19 Again, if you believe they do not, you should take
20 it to the Building Department and get a determination. And
21 we'll take it from there.

22 CAROLYN O'BRIEN: So can you, as another layperson

1 like Mr. Kennedy, could you please help us understand in
2 more detail what are these conditions for an accessory
3 apartment that Mr. Kennedy has met? And I gather the fact
4 that he may be operating this accessory apartment as a
5 commercial need --

6 CONSTANTINE ALEXANDER: He went through them just
7 a few minutes ago.

8 STEVEN KENNEDY: It's definitely not.

9 CONSTANTINE ALEXANDER: He went through them.

10 STEVEN KENNEDY: Yeah. My mother will be living
11 in the accessory apartment. There is no intent to Airbnb,
12 and I can't anyway. Under the regulations, I can only
13 Airbnb one unit.

14 And actually the unit that I do typically Airbnb
15 is upstairs. I do use it for family and friends. That's
16 one of the reasons that I Airbnb it. But currently it's
17 actually not being rented as an Airbnb. I have a long-term
18 renter that's in there.

19 And then on the parking front, I understand the
20 parking situation. I have off-street parking. Airbnb
21 guests particularly only typically have one car. I have two
22 spots reasonably available, and folks do park there.

1 If they park on the street, I warn people not to
2 park on the street. I live right across from Formaggio and
3 Fishmonger, so this is -- there is a commercial activity
4 here. I recognize the challenges with parking for folks who
5 don't have off-street parking.

6 But I do make it very, very clear to people that
7 stay that they're not to park on the street in any way. I
8 do not give out my business permits to guests at all; I use
9 them for myself or my family and friends. But other than
10 that I don't use them.

11 So there should be no street impact at all from
12 the Airbnb itself. I rightfully ask Airbnb isn't a topic
13 here, but I just wanted to address that. I do work very
14 hard to try to be a good neighbor.

15 CAROLYN O'BRIEN: So and I gather as part of that,
16 you anticipate making the driveway available for Airbnb and/
17 or your own use in the future? Because we've lived here for
18 about 15 years and have not observed the use of the driveway
19 during that time.

20 STEVEN KENNEDY: The driveway is used extensively
21 by Airbnb guests as well as my long-term renter. I don't
22 personally own a car and neither does my Mom, so that's not

1 really a factor. But the -- in terms of parking, most
2 people would rather park off the street than on has been my
3 experience.

4 I have had issues in the past. When people first
5 come, they'll park in front and then unload their car and
6 things like that, but the vast majority of parking issues in
7 the area -- I have a neighbor who informs me any time
8 anybody parks on the street that doesn't have a resident
9 permit, whether they have anything to do with me or not.

10 The vast majority of time when I dig into it, that
11 they're not actually people staying with me or I don't have
12 guests at all.

13 So I recognize the perception that the Airbnb is
14 adding to it, but in my experience it really isn't. and if
15 it is, there's laws and stuff in place, and I make it very
16 clear I myself have called the Parking Division to ask them
17 to be towed or ticketed.

18 So -- and I think that's the appropriate action.

19 CONSTANTINE ALEXANDER: Anything further, Ms.
20 O'Brien?

21 CAROLYN O'BRIEN: No. Thank you.

22 CONSTANTINE ALEXANDER: Thank you. Anyone else,

1 Sisia?

2 SISIA DAGLIAN: Yeah. Chris Bradford?

3 [Pause]

4 SISIA DAGLIAN: Chris Bradford, can you speak up,
5 please. We can't hear you.

6 CHRIS BRADFORD: I'm sorry. I think I'm muted,
7 so.

8 SISIA DAGLIAN: It sounds very --

9 CONSTANTINE ALEXANDER: Yeah, I'm having trouble
10 --

11 SISIA DAGLIAN: -- we can hear you, but it's
12 really muffled.

13 CONSTANTINE ALEXANDER: -- hearing you, sir. So
14 it doesn't do any good to make a presentation that we can't
15 hear.

16 CHRIS BRADFORD: Is that better?

17 SISIA DAGLIAN: No.

18 CONSTANTINE ALEXANDER: Not really.

19 CHRIS BRADFORD: Okay. Is this any better?

20 COLLECTIVE: [Laughter]

21 CONSTANTINE ALEXANDER: A little bit.

22 CHRIS BRADFORD: Okay. I will try to speak up. Is

1 this -- I'm a resident of 158 Appleton Street. I've
2 observed the -- of Ms. O'Brien's talking about the active
3 use of the Airbnb, and I realize that's not the issue here,
4 but the -- Mr. Kennedy's description of using only one unit
5 for the Airbnb, which is the only permitted way to use the
6 property: He has two Airbnb listings for two different
7 residences for the property, with a total of up to 15.

8 CONSTANTINE ALEXANDER: Excuse me, sir, excuse me,
9 sir.

10 CHRIS BRADFORD: Yes.

11 CONSTANTINE ALEXANDER: We're getting back to --
12 if I can understand what you're saying, because you're very
13 muted, but -- we're getting back to Airbnb issues. One more
14 time.

15 CHRIS BRADFORD: No, sir, I understand that.

16 CONSTANTINE ALEXANDER: Okay.

17 CHRIS BRADFORD: I understand what you're about to
18 say and I respect it, I'm just saying in terms of livability
19 as to what he's saying his intended purpose of this
20 accessory apartment is, I don't think he has the
21 credibility.

22 And I will say that the parking issue that Ms.

1 O'Brien raised has been a serious one, and it has been
2 Airbnb people. You look out on the porch, and you can see
3 the cars come, park in a house. They've parked in front of
4 our -- it's like blocked our driveway, we've had to call the
5 police.

6 But to the point of the accessory apartment and
7 the variations -- the variance he says he required because
8 he doesn't use the setup, the architect described how it
9 would be the window exits, which I understand are for
10 emergency purposes -- it evacuates apparently an elderly
11 woman -- would be covered by planting. So it defeats the
12 purpose of the emergency exit. And therefore, I don't see
13 how it could realistically be used as such.

14 And so, what's going to happen is either it's
15 going to be cleared, in which case it interferes with the
16 Tierney's use of their property, and would therefore -- it
17 just, we question whether this is the actual use by his
18 mother, if he's going to use it so he can rent out both
19 properties. That's our concern. And that's one of my
20 concerns.

21 And the fact it violates the setup, then I think
22 it gives -- it's not producing -- the reason for this, the

1 whole point is to -- for the large, single-family and double
2 and two-family homes would be underutilized. This house
3 already is being underutilized as it is, and it's not going
4 to be improved by adding an accessory apartment. That's all
5 I have to say.

6 CONSTANTINE ALEXANDER: Thank you.

7 STEVEN KENNEDY: And I'm -- I mean, related to
8 that, I mean, the -- my -- I haven't rented my first-floor
9 unit out in almost a year and a half now.

10 I do occasionally if -- my Mom is in Arizona, if
11 I'm going to stay there for an extended time -- there was a
12 period of time where I was spending a lot of the summers
13 there -- not the whole summer but a lot of the summer there
14 and winters here, because my business is primarily here in
15 the winters -- I would on occasion rent my place out. I'm
16 able to do that under the law and the ordinances within the
17 city. And so, I'm compliant.

18 But I have -- I can't list the accessory unit as
19 an Airbnb under the rules; that's not going to happen. And
20 as I said I haven't been Airbnb'ing the house. I have long-
21 term renters in there, along with me at the current time.

22 CONSTANTINE ALEXANDER: Sisia?

1 SISIA DAGLIAN: Yes. The next speaker is Phyllis
2 Simpkins. Phyllis, can you unmute, please?

3 PHYLLIS SIMPKINS: Can you hear me now?

4 SISIA DAGLIAN: Yeah, we can hear you.

5 CONSTANTINE ALEXANDER: We can hear you, certainly
6 can.

7 PHYLLIS SIMPKINS: Okay. I'm Phyllis Simpkins. I
8 live at 249 Huron Avenue, Apartment 4, the corner of
9 Appleton and Huron. So I have sent an e-mail to both Maria
10 Pacheco as well as Sisia, and I have also sent photographs
11 that I've taken since December of 2019.

12 So I wanted to talk about four things. One, my
13 understanding -- and it is because I happened to talk to
14 them -- is that today, sitting here today this is not an
15 Airbnb; this is student housing for four Harvard students
16 between now and the end of the semester, which is May.

17 And I'm not sure I understand. Is the zoning the
18 same for Airbnb, which I understand is short-term rental,
19 and renting to four students for four months?

20 CONSTANTINE ALEXANDER: I'm sorry, I can't -- I'm
21 not about to address that question. What I would suggest is
22 you contact the Inspectional Services Department and raise

1 that issue with them. And if there's an issue, a problem,
2 they will take the initial action, with the right of anybody
3 to appeal to our Board.

4 But if -- I don't think I'm in a position, or we
5 should be a position for giving that kind of advice right
6 now. We don't have all of the facts, and the Building
7 Department is much more expert on these areas at a ground
8 level than we are.

9 PHYLLIS SIMPKINS: Okay.

10 CONSTANTINE ALEXANDER: But continue.

11 PHYLLIS SIMPKINS: Two, there is no room in that
12 driveway for two cars.

13 CONSTANTINE ALEXANDER: Ma'am, that's not an issue
14 before us tonight. Again, move on.

15 PHYLLIS SIMPKINS: Well, sir --

16 CONSTANTINE ALEXANDER: Other issues -- I don't
17 mean to minimize what you're saying, but you're preaching to
18 the wrong choir. Contact the Building Department, raise
19 these issues with them, and if there is a problem, the
20 Building Department will take action, and there will be
21 recourse by you or any citizen and the petitioner to this
22 Board.

1 But it's not a thing that we're going to answer
2 tonight.

3 PHYLLIS SIMPKINS: Well, I understand that a
4 housing inspector was sent out. I guess I'm a little
5 confused. I thought there was a difference in zoning, and I
6 thought this was the Zoning Board, no? between Airbnb and
7 four-month student rentals.

8 ANDREA HICKEY: Ma'am, if I could just step in for
9 a moment, this is Andrea Hickey, I'm one of the Board
10 members. So the very narrow issue that is before us this
11 evening relates to a petitioner's ability to construct an
12 accessory apartment in this dwelling.

13 What is not before us tonight is his rental
14 history, his Airbnb history, how many people have
15 historically parked in his driveway. Respectfully, those
16 are not issues that we even have authority to address.

17 The narrow focus of this hearing is whether this
18 petitioner should be allowed the accessory apartment. Does
19 that clarify things?

20 PHYLLIS SIMPKINS: Well, it may clarify things,
21 but I am sitting here listening to driveway cleanup, renting
22 to Airbnb, keeping my property looking nice -- I am hearing

1 all kinds of things which unfortunately I haven't
2 experienced. And I guess it's a little hard to sit here and
3 listen to someone talk about their property in terms that
4 the neighborhood just doesn't see.

5 I don't -- there's an extension cord that's
6 wrapped around the house that's been like that. I don't
7 think this property is safe, I don't think it's sanitary,
8 and I'm not sure I understand why this is just looking at an
9 accessory apartment, where we know because we know from the
10 previous owner of this property that the basement was a
11 problem. This basement problem didn't happen yesterday. So
12 --

13 ANDREA HICKEY: Ma'am, when you say, "basement
14 problem" I'm not sure I understand what you mean.

15 PHYLLIS SIMPKINS: Well, because that seemed to be
16 the excuse for why everything was moved out of the basement
17 for the past year and two months. This basement had a
18 problem before the water/sewer project.

19 STEVEN KENNEDY: No, I witnessed the damage while
20 I was here. I even had video of pieces of plaster falling
21 off the ceiling and cups with water spilling out of it,
22 pictures falling off the wall. We've experienced extensive

1 damage. I contacted the city about it. I don't even think
2 that's really the purpose of this meeting.

3 ANDREA HICKEY: Yeah, you're absolutely right. I
4 think we really need to redirect and focus back on what the
5 purpose of this meeting is, and that is for requests for
6 consideration for an accessory apartment. So --

7 STEVEN KENNEDY: Thank you. I do want to fix up
8 the property, and there's no doubt about it. And
9 additionally in the time we lived here, Phyllis hasn't been
10 a super fan of us since the day we moved in, but the reality
11 of it is when we pulled up the door, we put the cobbles --
12 the bricks -- all off to the side. It displaced the entire
13 property.

14 I am reluctant to invest more into the landscape
15 for things like that when there is this substantive work
16 that needs to be done, only to rip it all apart again.

17 I'm not endlessly made of money. So I'm trying to
18 do it in a very stepwise, orderly way. And I do commit to
19 getting the house into order and so that it's nice and
20 beautiful as part of this project.

21 But if I'm going to have to trench all the way
22 around the property; if I'm going to have to run new conduit

1 and do stuff under the driveway, there's just -- there's no
2 -- there's not a huge incentive for doing that.

3 I don't like the way it looks. I'm particular not
4 happy with the way it is living here -- I've been working on
5 permits and what not for well over a year, almost two years
6 at this point. And I'm stuck in a holding pattern that I'm
7 very, very frustrated with.

8 I'm not blaming the city, I'm not blaming anyone
9 else, I just went into this not knowing -- this takes a
10 really long, frigging time. I'm trying to address that, and
11 earnestly.

12 I need to deal with my mother's situation because
13 I'm terrified for her health situation. I think that like
14 the Tierneys and folks know that I've had problems for years
15 with that -- especially since a bunch of family members
16 passed away. I am doing the best that I can to try to
17 address the issues.

18 The driveway right now is completely empty and has
19 been for a long period of time. Yes, it did go through
20 periods -- and keep in mind we're in a pandemic where I was
21 emptying out the basement and it was a mess, I get it. And
22 during that time period, though, I wasn't renting the house

1 in any way. So there really wouldn't have been a need for
2 parking.

3 So, once again, I want to refocus back on what
4 we're trying to do here. I have an issue where the egress
5 wells are over the building envelope or step back or
6 whatever the thing is called, and the house itself is
7 already over the distance limit or whatever it is, and I'm
8 simply trying to deal with that.

9 If it wasn't for that issue, we wouldn't be here;
10 we would have been long done with the permits long ago.

11 So --

12 CONSTANTINE ALEXANDER: Thank you, Mr. Kennedy.
13 Again, let's -- we've heard enough about the driveway, the
14 Airbnb, the condition of the premises. That's -- as
15 Andrea's very succinctly pointed out, that's not what this
16 case is about. That's not things that we as a Zoning Board
17 can deal with, so let's please move on.

18 SISIA DAGLIAN: Nick Herbold is the next speaker.

19 NICK HERBOLD: Hi. Thanks so much for your time.
20 My name is Nick Herbold, I'm a direct abutter at 11 Vassal
21 Lane, and please let me know if this is not an appropriate
22 question for the Zoning Committee.

1 There have been building materials and debris in
2 the driveway that breaches the fence into our property.
3 What's the expectation that building materials for this new
4 project are not going to exacerbate the issue?

5 The reason why I bring it up is this breach has
6 been raised to my wife and I as a safety concern for
7 children by the state of Massachusetts. So if this isn't a
8 zoning issue, we would love some information to direct us to
9 the right department.

10 CONSTANTINE ALEXANDER: This is not a zoning
11 issue, but that doesn't mean it's not an issue, it's an
12 issue that if you're concerned about the location of
13 building materials on your property or obstructing your
14 property, bring it to the attention of the Building
15 Department. They're the folks who deal with it.

16 And there's only an appeal to this Board under
17 limited circumstances if you're not satisfied, or if the
18 petitioner is not satisfied with the outcome.

19 NICK HERBOLD: Thank you for that direction.

20 CONSTANTINE ALEXANDER: Thank you.

21 SISIA DAGLIAN: That's it.

22 NICK HERBOLD: That's it.

1 CONSTANTINE ALEXANDER: Okay. We have a number of
2 written communications in our files, most of which have been
3 touched upon by the speakers; some of the materials are from
4 people who also have spoken this evening.

5 And again, they mostly do not relate to the zoning
6 issue before us, but important issues to the neighborhood
7 about trash removal, impact of Airbnb, et cetera.

8 SISIA DAGLIAN: one more person raised their hand.

9 CONSTANTINE ALEXANDER: Okay. One more person
10 wants to speak. Go right ahead.

11 SISIA DAGLIAN: Jason Wasfy?

12 JASON WASFY: Oh, hi, good evening.

13 SISIA DAGLIAN: Very hard to hear.

14 CONSTANTINE ALEXANDER: Yes, you can.

15 THE REPORTER: I'm sorry, I cannot hear him. This
16 is the transcriptionist. I can't hear him at all.

17 JASON WASFY: Can you hear me better now?

18 THE REPORTER: Yeah, that's better.

19 CONSTANTINE ALEXANDER: I can.

20 JASON WASFY: Can you hear me better now?

21 CONSTANTINE ALEXANDER: Yes.

22 THE REPORTER: That's great. Can you state your

1 name and address?

2 JASON WASFY: Sure. It's Jason Wasfy, 157
3 Appleton Street. So I'm two houses down. You know, I guess
4 I would just -- you know, open it as others have said. You
5 know, I'm a layperson and I'm not, you know, a compliance
6 expert.

7 But I guess the issue -- you know, there's a lot
8 of concern, and I know that you very clearly articulated
9 that some of it's not in the jurisdiction of this piece
10 Board in this particular hearing.

11 But I guess the broader issue -- and I think
12 you've heard this from the community at this point -- is
13 that the state of disrepair of the property sort of raises
14 the question of what the intent of this specific petition
15 is, right?

16 If there are resources to sort of expand the
17 property in this way, and do this renovation of the
18 basement, to have the accessory dwelling unit raises a
19 question of -- and the petitioner has raised these issues
20 about resources -- about why those resources are being
21 directed in that way versus, sort of other things that the
22 property needs.

1 And I haven't met the petitioner, I look forward
2 to -- you know, obviously as a neighbor I look forward to
3 getting to know him better, I haven't run into him, but he
4 certainly articulated a lot of compelling personal
5 circumstances.

6 But just so -- to understand a little bit more in
7 detail about why that -- you know, he's brought up these
8 personal circumstances. So to just understand a little bit
9 more in detail about why those are salient to this
10 particular zoning petition.

11 STEVEN KENNEDY: I mean, I'll very quickly say --
12 I mean I -- first of all, I thought the committee -- I mean,
13 I've been working with Jeff and Joe now for probably two and
14 a half years with the architecture and all that kind of
15 stuff.

16 You know, I'm used to these processes going much
17 quicker. I really personally thought that I would have the
18 permits, everything in about four to six weeks. It turns
19 out that this is a multi-year process.

20 I'm very reluctant to invest additional money into
21 some of the other things that need to be done only to tear
22 it apart again. And that's really the primary driver.

1 In terms of the building materials that were
2 stacked against the fence -- I know this came up with
3 another caller -- that was stacked by a friend of mine and
4 I.

5 We [2:37:21 audio unclear] my friend; there's no
6 ill intent, but it did end up kind of spilling over and I
7 don't actually think it damaged the plants on your house,
8 Nick. I think that was kind of there to begin with, but it
9 definitely is an issue. I have somebody in there that is
10 working to clear that out now. I know the Tierneys want to
11 replace the fence. I asked the same person as soon as he
12 steps away from that.

13 So I'm trying to do the best I can, but as I said
14 I don't want to spend a ton of money and my aim is to paint
15 the house, and I'm shocked at how much it would cost to do
16 that -- you know, just to start ripping it apparent again.

17 And that's really why, you know -- the house was
18 for many, many years we've lived here has looked just fine
19 and has been very beautiful, but at the point that we had
20 committed to doing this, I've been waiting. I've just been
21 in a holding pattern trying to turn around and get this
22 thing done.

1 CONSTANTINE ALEXANDER: Thank you. Sisia?

2 Anybody else?

3 SISIA DAGLIAN: Yeah.

4 CONSTANTINE ALEXANDER: Sure. Louis Jordando?

5 LOUIS JORDANDO: Yes, hello. Thank you very much.

6 I'm asking the Zoning Board if --

7 THE REPORTER: Could you state your name and
8 address for the record, please?

9 LOUIS JORDANDO: -- difference between the letter
10 and spirit of these ordinances. To Mr. Bradford's point,
11 there's a lack of credibility here regarding the stated
12 purpose and the actual usage of this dwelling. There's --
13 you know, been citings of student housing, all these other
14 kinds of things. I know that's not the purview of this
15 Zoning Board.

16 But, you know, Mr. Kennedy has stated the home
17 already has an Airbnb. He supposedly lives on the first
18 floor, though he's admitted that he's often not here. There
19 is some consideration as to students living there. Now
20 we're going to have another unit in the basement. So does
21 the Zoning Board have any consideration for the actual usage
22 versus just the stated uses?

1 Because there is, to Mr. Bradford's point, a
2 credibility gap which all of the neighbors surrounding this
3 property are saying the same thing; this property is not
4 what it appears to be; is in a state of woeful disrepair --
5 the actual building itself, not just the landscaping.

6 The driveway is completely inaccessible, and I
7 understand the Zoning Board can't address all of these
8 things, nor should you. I just want to know, you know, does
9 an Airbnb count as an accessory apartment?

10 CONSTANTINE ALEXANDER: No.

11 LOUIS JORDANDO: Can you writ the accessory
12 apartment to be only for noncommercial use? So if some day
13 for whatever reason Mr. Kennedy's mother should not live in
14 that basement, does that become a rentable unit? Or what
15 happens to it then?

16 So these are some of the concerns. I respect the
17 Board's decision and consideration of these issues.

18 CONSTANTINE ALEXANDER: I'm going to try one more
19 time. Whether that accessory apartment can be used or
20 qualifies for Airbnb use is the subject of the Airbnb
21 ordinance. There are requirements in there, and if this --
22 what we're calling, "accessory apartment" for the time being

1 meets those, it can be used for Airbnb purposes.

2 If it does not, then I believe there's no use of
3 the Airbnb purposes. It can, of course, be used, as the
4 petitioner has said, as a regular [-- regular -] regular
5 apartment for a family member or a nonfamily member.

6 LOUIS JORDANDO: Respectfully, I'm asking if
7 credibility is within your purview to consider?

8 CONSTANTINE ALEXANDER: We don't get into
9 credibility. I'm sorry, sir. We have no way of
10 appreciating this. We're not a court of law. We have a
11 presentation made to us by the petitioners. We have
12 neighbors like yourself give us your views or comments, and
13 we have the Building Department folks weigh in if there's
14 something they can weigh in on.

15 But we're not going to make a determination as to
16 credibility, sorry.

17 STEVEN KENNEDY: And just as an aside, I don't
18 know when people saw my driveway. But I mean, this is my
19 driveway. And it's largely looked like this for the last
20 month.

21 JASON WASFY: Oh, God. Totally disagree. I took
22 this photo today.

1 STEVEN KENNEDY: Well, it's not going to --

2 CONSTANTINE ALEXANDER: Sorry, let me stop. The
3 condition of that garage per the photo is not very
4 satisfactory, I understand that.

5 JASON WASFY: I agree.

6 CONSTANTINE ALEXANDER: But that's not a zoning
7 issue. If it's any issue, it's a Building Department issue.
8 Complain to the Building Department, but I can tell you
9 throughout the city there are many garages and other
10 accessory buildings that look like that.

11 And if that's what petitioners want to do or
12 that's all they can do from a financial point of view,
13 that's the way it is.

14 The city of Cambridge is a diverse place. It's
15 not all -- we're not a Westin, where everybody looks very
16 nice, all the buildings look very, very pretty.

17 LOUIS JORDANDO: That's why we live here. I
18 respectfully appreciate that. You know, I do disagree that
19 the property has not looked like that for most of the past
20 20 years that I've lived here. It's handy that it looks
21 like that today.

22 But that aside, you know, I appreciate -- I think

1 the larger point here, sir, is there's clearly a lot of
2 Boards that have to be involved in approving and overseeing
3 and use of different dwellings. But it's the citizens who
4 live around this property that ultimately live with the day-
5 to-day realities.

6 And we're asking the Zoning Board to please
7 consider the reality of how this property is being used and
8 not maintained, as opposed to just the letter of the law.
9 You know, is this 855 square feet versus 900 square feet?

10 Because that very narrow view diminishes the
11 quality of life in the neighborhood when people take
12 advantage of the system this way.

13 CONSTANTINE ALEXANDER: Okay. We will take -- we
14 will apply, we'll get, exercise our discretion. We'll take
15 this into account to the extent we believe it's relevant and
16 meaningful for the decision we're being asked to make.

17 LOUIS J. BACCI, JR.: Thank you.

18 CONSTANTINE ALEXANDER: Thank you.

19 SISIA DAGLIAN: [I think so]

20 CONSTANTINE ALEXANDER: I think we're finished
21 with public testimony, as I may have indicated a long time
22 ago.

1 But we haven't -- we're in receipt of a number of
2 letters, e-mails, what have you regarding the petition.
3 Most of them are in opposition, and most of them address
4 issues like the people who have spoken tonight that are not
5 zoning issues are not relevant to what we're determining
6 that we have to make a determination of.

7 So I don't propose to read them into the record.
8 With that, I will close public testimony. Discussion?
9 Members of the Board?

10 BRENDAN SULLIVAN: Brendan Sullivan. I have no
11 questions and nothing -- no comments.

12 CONSTANTINE ALEXANDER: Nothing to add? Jim
13 Monteverde? Anything you wanted to say or discuss? I'll
14 just -- after that, and everybody else has had an
15 opportunity, I'll make a motion and we'll take a vote, and
16 we'll see whether it's up or down. Jim?

17 [Pause]

18 Jim? Are you on mute?

19 SISIA DAGLIAN: Um -- I don't know, he might have
20 stepped away.

21 CONSTANTINE ALEXANDER: All right, let's move on.
22 Andrea?

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

2 CONSTANTINE ALEXANDER: Okay. Jason?

3 JASON MARSHALL: [Jason Marshal]: Mr. Chair I
4 have nothing further to add to what you already said. I
5 think you covered all the relevant points along the way.

6 CONSTANTINE ALEXANDER: Thank you. Back to Jim?

7 [Pause]

8 Jim? We need him for the vote.

9 SISIA DAGLIAN: I wonder if he got bumped off.

10 CONSTANTINE ALEXANDER: Probably reach him by
11 phone. We're having trouble plugging in our fifth Board
12 members, so bear with us.

13 JIM MONTEVERDE: Sorry, [Jim Monteverde.] I'm
14 here.

15 CONSTANTINE ALEXANDER: All right. Jim's here.
16 Okay. I'm sorry, Jim. No questions?

17 JIM MONTEVERDE: No, no questions.

18 CONSTANTINE ALEXANDER: Okay. I'm going to make a
19 motion, so we can move this case to a resolution. The Chair
20 moves that we make the following findings with regard to the
21 special permit that's being sought:

22 That the requirements of the ordinance cannot be

1 met unless we grant the special permit.

2 That traffic generated or patterns of access or
3 egress resulting from what is proposed will not cause
4 congestion, hazard, or substantial change in established
5 neighborhood character. Again, the question before us is an
6 accessory apartment in this structure. It's not about
7 Airbnb.

8 That the continued operation of or development of
9 adjacent uses, as permitted in the zoning ordinance, will
10 not be adversely affected by what is being proposed.

11 And we have seen no -- I have seen no evidence, at
12 least that creating an accessory apartment in this structure
13 will adversely affect the neighborhood -- talking about the
14 accessory apartment, again.

15 No nuisance or hazard will be created to the
16 detriment of the health, safety and/or welfare of the
17 occupant of the proposed use, or the citizens of the city.

18 And again, I would remind folks that the notion of
19 accessory apartment has been put into our ordinance by the
20 City Council in order to facilitate maximum use of
21 residential housing by creating additional apartments that
22 otherwise would not meet the requirements of our ordinance.

1 And that generally, what is being proposed will
2 not impair the integrity of the district or adjoining
3 district, or otherwise derogate from the intent and purpose
4 of this ordinance.

5 So on the basis of all of these findings, the
6 Chair moves that we grant the special permit being requested
7 on the condition that the work proceed in accordance with
8 plans submitted -- prepared by Joe the architect. I don't
9 see a date on here, but I'm probably missing it. Anyway,
10 the first page of which has been initialed by the Chair.
11 Brendan, how do you vote?

12 BRENDAN SULLIVAN: Brendan Sullivan yes to
13 granting the special permit. I would say -- and again, to
14 the people listening in that Article 4.22 has a number of
15 conditions that allows us to grant or that the petitioner
16 must meet in order for us to grant the special permit. And
17 I feel that he has met all of those conditions under that
18 article to grant the special permit.

19 So I would vote yes.

20 CONSTANTINE ALEXANDER: Thank you. Jim?

21 JIM MONTEVERDE: [Jim Monteverde], I vote yes.

22 CONSTANTINE ALEXANDER: Andrea?

1 ANDREA HICKEY: [Andrea Hickey], I vote yes.

2 CONSTANTINE ALEXANDER: Jason?

3 JASON MARSHALL: [Jason Marshall], yes in favor of
4 the special permit.

5 CONSTANTINE ALEXANDER: Fine. The Chair votes yes
6 as well.

7 [All vote YES]

8 The special permit is granted. Thank you.

9 STEVEN KENNEDY: Thank you Mr. Chairman and Board.
10 Thank you very much.

11 CONSTANTINE ALEXANDER: I'm going to propose we
12 take a 10-minute recess and reconvene at 10 minutes of the
13 hour.

14 [BREAK]

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(8:50 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Andrea Hickey, Jim Monteverde, and Jason
Marshall

CONSTANTINE ALEXANDER: Okay, the Chair will now
reconvene our meeting of the Zoning Board of Appeals. And
I'm going to call Case Number 101628 -- 213 Third Street.
Anyone here wishing to be heard on this matter?

SARAH RHATIGAN: Yes, good evening.

CONSTANTINE ALEXANDER: Good evening.

SARAH RHATIGAN: This is Sarah Rhatigan from
Trilogy Law, LLC.

CONSTANTINE ALEXANDER: We've seen you before.

SARAH RHATIGAN: I assume that the Chair can hear
me?

CONSTANTINE ALEXANDER: Yes. We've seen you
before, I said. [Laughter]

SARAH RHATIGAN: Yes, you have. Thank you. Good
evening. And I thank the Chair and the Board for hearing
this case this evening, and thank you also for the minibreak
before we started. It was appreciated.

1 With me today is my client, Scott Kenton
2 (phonetic) although I'm not sure if he's here on video, or
3 just here on audio. But Scott is here with me today. And
4 Sisia, would you mind having the slides available for
5 discussion? I just put together a few slides. It's just a
6 compilation of materials that we filed in this case.

7 I will try to be brief in the description of this
8 case. I don't want to get too detailed, unless the Board
9 asks for me to do that.

10 I will say that the case in some ways has become a
11 little hopefully easier for the Board to digest, because we
12 were pleased to see that there was a letter that arrived
13 from Attorney Kevin Crane -- I believe today, which may be
14 in the file -- which is helpful in that the neighboring lot
15 owner has expressed support for the application.

16 So I just would point that out to you in case that
17 -- that was a late arrival.

18 But let me step back and explain the case. So
19 this is a variance application. And the purpose of our
20 variance here is requesting that the Board grant a variance
21 to subdivide our lot from its neighbor lot. Our lot is 213
22 Third Street.

1 And we were merged for zoning purposes only on our
2 neighboring lot on account of the fact that there was a
3 period of time back in the late '70s when this lot, 213
4 Third Street, and its neighbor, which is known as 201 Third
5 Street, were owned in common -- same owner.

6 It was for a short period of time, for six years,
7 when the property was owned by Mr. and Mrs. Adario.

8 And unbeknownst to the people of the modern times,
9 this was a period of ownership where I'm certain that the --
10 certain members of the Board are very common with this --
11 are very familiar with this concept, but because of a
12 common-law doctrine of merger, because of the common
13 ownership of these two lots, which are undersized lots under
14 the modern zoning, they've become merged for zoning purposes
15 into one.

16 I'm just going to go -- again briefly through the
17 history of the two lots. But from the Cambridge historical
18 records, this was first a separate -- the 213 Third Street
19 lot was first a land lot and a house lot back in the early
20 1820s.

21 And so, you can see the records here. There was a
22 house that was constructed there. The size of the house

1 looked like it expanded to fill the entire block.

2 Sisia, do you mind moving to the next slide?

3 SISIA DAGLIAN: And then some old photos. I tried
4 to identify to show you where the old house was located.
5 You can see I point the arrow there. The house is on the
6 right. In this picture, the neighboring house is the one
7 closer to us. It's on the corner of Third Street and
8 Charles Street.

9 So the neighboring house that we are talking about
10 is 201 Third Street, it's the corner house. So this
11 structure was referred to as a tenement building, and it
12 extended the whole -- it essentially extended all the way to
13 the Front Street line, and it probably took up the entire
14 lot size.

15 Next slide, please?

16 This is a photo taken from the opposite direction,
17 as you can see. And just another -- I think this picture
18 was taken a few years later in 1945. And you can see in
19 this photo -- I'm pretty sure that this photo is showing
20 that the building has suffered some fire damage.

21 Next photo, please?

22 This is just showing the -- this is the 1900

1 Sanborn atlas. This is showing -- the blue arrow is showing
2 you the evidence that this is referred to as a, "tenement
3 building." This is when I think that there were probably
4 three units of housing there.

5 Next slide, please?

6 This is I believe the 1930 atlas. So again, where
7 it says, "E. Lipkins," this is again -- this is still
8 showing that there's a building there located."

9 And then next slide, Sisia?

10 This is the card that shows in 1947 that there was
11 a permit to raze the building. I'm sorry, I don't mean to
12 belabor these facts, but just to give a history.

13 So the building had been there for about 120
14 years. Then it was razed because of a fire. And then it
15 sat for all of these years since 1940s as -- and on an
16 improved lot, although there is paving there. And it
17 appears that the history has been that the family who's
18 owned it has used it for parking of their personal vehicles.

19 It's since -- it's unimproved, and this is how it
20 looks essentially today.

21 Next slide, please?

22 So I mentioned the merger. So the merger period

1 of time was between 1976 and 1982. So I just want to be
2 clear about one thing. One would never -- it's still
3 unclear to us how anyone would have figured out that there
4 was ever a merger. Because the period of time was so short.

5 And in fact, I'm looking back at these deeds. The
6 first name of Mr. Adario was the difference between those
7 two deeds. I think he had sort of -- I don't know, but I
8 think it was Emilio was how he was originally named, and
9 then William was how -- I think it was his Americanized
10 name. Mary was the wife's name.

11 But it was a very short period of time. And what
12 happened is that the Adarios first purchased the corner lot,
13 which was -- had a commercial use of the first floor, and
14 then it had two residents above, I believe. And they owned
15 that from I think 1960 to the 1970s.

16 Then they bought lot next door, which is our
17 property, the 213 Third Street lot. And then a few years
18 later in 1982, they sold the corner lot, the pizza -- oh,
19 I'm sorry, it wasn't a pizza shop yet -- they sold the
20 corner property to another owner, the Solaris.

21 And then the corner property ended up changing
22 hands a few times, until the 1980s, when it became owned by

1 the Malakas (phonetic) family, who currently owns the
2 property today.

3 So the slide that I'm showing you right now is I
4 just wanted to -- I wanted the Board to see what the corner
5 property looks like, so it's just on the right-hand side, as
6 I'm showing you what the Assessor map shows for the corner
7 property.

8 And then on the left-hand side of the screen, what
9 I'm showing you is that in 19 -- I believe this is 1986 or
10 '88 -- Cambridge, the Malakas family applied to the Board of
11 Zoning Appeals for a variance to ask for an addition to be
12 built to the first-floor kitchen of the pizza shop to allow
13 for expansion of the building.

14 And this is really critical in our minds to the
15 subdivision case, because at this point in time in the late
16 '80s, the merger -- the common-law doctrine merger had
17 already occurred. So the laws had already been in common
18 ownership. And the city was already aware of that.

19 And yet, and -- but at this moment in time, the
20 Malakases owned corner lot, and there was a separate owner
21 who owned 213Third Street. And yet in 1986 or '88 -- I'm
22 sorry -- I don't have this, I can't read the screen there --

1 in this year of this variance, the city granted a variance
2 to the Malakas family to allow them to build the addition,
3 and at that time that they did that, the application clearly
4 treated this property as a separate lot.

5 So they effectively subdivided the lot. Now, they
6 didn't say that they did that, but when you look at the
7 underlying application, the dimensional standards, they
8 looked at this lot as a 3600 square feet lot. They did not
9 look at it as the larger size lot.

10 And all the dimensional information applied to the
11 smaller lot. Even the testimonies referred to the
12 neighboring lot as a separate lot.

13 And so, if there had been a merger, a common-law
14 merger, this variance is evidence of the city effectively
15 unmerged the lot is how we would describe it, either by
16 their actions, or secondly because as a practical matter,
17 what's happened ever since is that the corner property has
18 been able to operate and use the land and its building, you
19 know, effectively without issue.

20 Now, the 213 Third Street Lot, on the other hand,
21 has not or is not, being able to be used.

22 So the issue for us, the hardship for my client,

1 is as follows: So next slide Sisia?

2 So in the next slide -- I'm sorry, this is just I
3 was -- this was my letter where I submitted some deeds to
4 the Board just to make sure that you had the evidence of the
5 merger period of time. The next slide I think shows the
6 subdivision.

7 So the owner prior to Mr. Kenton approximately six
8 years ago had sought to build a single-family home on the
9 lot, conforming in all of the other respects, and no idea
10 that there was a merger issue.

11 And the Building Department said, "I think you
12 need to do title work; we think there might be a merger
13 issue." Which is what triggered a bunch of research to
14 investigate, do full titles on all of these parcels
15 surrounding this one, which is what uncovered this merger.
16 Okay?

17 And throughout this time, there has been no
18 ability to build or -- you know, develop in any way. So Mr.
19 Kenton was stuck in the position of being a mortgage holder
20 with, you know, with no -- essentially losing money and no
21 ability to do anything to, you know, recoup losses and so,
22 you know, stepped into the position of trying to rescue his

1 investment in order to bring this case to trial to subdivide
2 the lot and to be able to create, you know, a buildable
3 asset here.

4 The lot -- the plans that have been filed with
5 this Board are for a conforming, single-family property. It
6 is obviously much less dense than the historical, you know,
7 property that was there for 120 years.

8 It's -- it would be relatively, you know, quite
9 small property; a small structure, because the lot is small.
10 And it does have the assent of its neighbor.

11 And the -- you know, without the ability to
12 subdivide these lots, the hardship to really 213 Third
13 Street and frankly to its neighbor is that the city would
14 essentially be forcing two owners into an untenable
15 situation where they would be essentially sort of forced
16 partners that would be unable to independently make
17 decisions on their own about the future use of their
18 property.

19 So, you know, we hope that you agree that this is
20 a really solid case for a subdivision variance. I know that
21 this Board has granted them a few times in the past. There
22 are a few representative cases that I have been involved

1 with, which I could mention to you if you need those cases
2 cited, although I'm sure -- I know at least a few of the
3 Board members have been on those cases, so you probably
4 recall them. But do let me know if you'd like to see those
5 sites.

6 And I would say I want to rest and allow you to
7 ask any questions or make any comments.

8 CONSTANTINE ALEXANDER: Thank you, Ms. Rhatigan.
9 Brendan, do you have any questions?

10 BRENDAN SULLIVAN: No questions at this time.

11 CONSTANTINE ALEXANDER: Jim?

12 JIM MONTEVERDE: [Jim Monteverde], no questions.

13 CONSTANTINE ALEXANDER: Andrea? Sorry.

14 ANDREA HICKEY: Yes. I just had a couple of
15 questions. So Counselor, the intended building for this lot
16 you say is a single-family that will conform, correct?
17 There's no intention to come back to us with some other
18 request for a building that does not conform?

19 SARAH RHATIGAN: That's correct. There is
20 absolutely no intention of coming back to the Board for any
21 relief. Because I'm not sure I could support that. I think
22 that you did an excellent job sort of laying out what I

1 would see as really an Estoppel theory as to why the city,
2 once they approve a building permit on the neighbor's lot,
3 how could we say that the subdivision didn't de facto take
4 place at that time?

5 So I think you did a great job -- at least for me,
6 in laying that out. And I feel pretty strongly on that
7 Estoppel theory that I would support the subdivision at this
8 point. Thank you.

9 CONSTANTINE ALEXANDER: Andrea, you anticipated my
10 question as well, I might add. I wanted some assurances
11 that this is not a salami (sic) case where we're going to
12 hear another case down the road about a variance to build a
13 structure. And we've been told that it's not going to
14 happen. So I'm happy about that.

15 Jason? Any questions?

16 JASON MARSHALL: Jason Marshall. I like that
17 term, "salami case." I don't have any further questions.
18 Andrea had a very helpful line of questioning and comments,
19 thank you.

20 CONSTANTINE ALEXANDER: Okay. The Chair will now
21 open the matter up to public testimony. If anyone wishes to
22 speak or comment, they should now click the icon at the

1 bottom of your Zoom screen that says, "Raise hand." If
2 you're calling in by phone, you can raise your hand by
3 pressing *9 and unmute or mute by pressing *6. We'll wait
4 for a second to see if anybody wishes to speak.

5 [Pause]

6 Apparently not. And then, the only elements we
7 have left are we have a letter in our files as Ms. Rhatigan
8 --

9 SISIA DAGLIAN: Sorry, one person wants to speak.

10 CONSTANTINE ALEXANDER: Oh, I'm sorry. Someone
11 does want to speak. I apologize.

12 SISIA DAGLIAN: 8311. Sorry, 8311?

13 HEATHER HOFFMAN: Hi, this is Heather Hoffman, 213
14 Hurley Street. I have been known to get mail for 213 Third
15 Street, which I kind of giggled when I saw this went on the
16 agenda.

17 I wanted to speak because I first wanted to dispel
18 one misconception. There's no Estoppel that operates
19 against the city, because the city is not -- is not some
20 separate entity, it's us. And the city can't give away the
21 rights of the public to having the law enforced.

22 So that being said, I think that I am the reason

1 that the city became attuned to the idea of merger. I'm
2 still one of the leading cases on merger in the
3 Commonwealth, and this case, unlike the one where -- that I
4 litigated, feels like an appropriate case for a subdivision.

5 And so, I wouldn't oppose it. I agree with the
6 members of the Board who wanted to be sure that this wasn't
7 just step one of asking for something big. But as someone
8 who lives very nearby, I would like to see something nice
9 there. It has been an eyesore for a long time.

10 I would be interested in knowing how -- if -- if
11 this were to still be considered a merged lot, like how much
12 more does Mr. Kenton propose to do than he could do under
13 existing zoning? But assuming that it's not a whole ton,
14 I'd support granting the variance. Thank you.

15 CONSTANTINE ALEXANDER: Thank you, Ms. Hoffman.
16 Is that it now?

17 SISIA DAGLIAN: Yeah.

18 CONSTANTINE ALEXANDER: Okay. There's no further
19 public commentary. We do have a letter in the file, as
20 referenced by Ms. Rhatigan, from basically the owner of the
21 neighboring property. And this person is in full support of
22 the requested subdivision. So with that, I will close all

1 public testimony. Discussion by the Board, or you want me
2 to make the motion?

3 ANDREA HICKEY: Motion.

4 CONSTANTINE ALEXANDER: [Laughter] Thank you,
5 Andrea. Anyone disagree with Andrea?

6 JIM MONTEVERDE: Nope, agreed.

7 CONSTANTINE ALEXANDER: Okay. All right. Let me
8 get my papers out here. The Chair moves that we make the
9 following findings with regard to the variance being sought:

10 That a literal enforcement of the provisions of
11 the ordinance would involve a substantial hardship, such
12 hardship being is that a lot that was for many years a
13 buildable lot that had a building on it through basically
14 inadvertence became part of a bigger lot through the common-
15 law doctrine of merger.

16 This is a problem this Board has seen before.
17 It's a trap for the unwary -- unwary attorney, when you buy
18 a neighboring piece of property that you may create zoning
19 problems down the road because of a merger.

20 That the hardship is owing to the fact that this
21 is an inadvertent merger that basically took away from the
22 city a separate building lot, and what is intended here is

1 to restore that separate building lot. And so, that's it.

2 And that relief may be granted without substantial
3 detriment to the public good, or nullifying or substantially
4 derogating from the intent or purpose of this ordinance.

5 Again, the city will gain another building,
6 another residential structure, and a lot that's right now or
7 area which is rather unattractive will become a more -- part
8 of the city than it is right now.

9 So I don't think there's anything to tie this to.
10 It's -- wait, I'm sorry. Talking to myself, pardon me.

11 The Chair moves that we grant the variance being
12 sought on the condition that the petitioner comply with the
13 plans -- the permit set -- that was submitted with its
14 application. I cannot read the name of the architectural
15 firm, but I've initialed the first page of these plans.

16 Brendan, how do you vote?

17 BRENDAN SULLIVAN: [Brendan Sullivan], yes to
18 granting the relief. My only question would be should a
19 solidified plot plan, proposed subdivision be in the record?

20 CONSTANTINE ALEXANDER: Be in what?

21 BRENDAN SULLIVAN: Be in the record? In other
22 words, we are granting the ability of them to subdivide the

1 lot, two separate owners, basically having each lot standing
2 in its own shoes.

3 But should that for future reference with the
4 metes and bounds and specific dimensions be submitted as
5 part of the record? We don't have that now.

6 CONSTANTINE ALEXANDER: Now, we don't have that
7 now.

8 BRENDAN SULLIVAN: In other words, the document
9 that's going to be recorded at the Registry of Deeds --

10 CONSTANTINE ALEXANDER: Right.

11 BRENDAN SULLIVAN: -- on this particular lot, that
12 -- I believe a copy of that should then be in the files to
13 forever tie our actions to that.

14 CONSTANTINE ALEXANDER: Makes sense, although I
15 don't think we've had that in other merger cases.

16 BRENDAN SULLIVAN: Correct.

17 CONSTANTINE ALEXANDER: But it's probably a good
18 practice. Ms. Hoffman, I'm sure, would agree.

19 BRENDAN SULLIVAN: Future -- you know, going down
20 the road, should each -- either building want to do
21 something, then there is a document --

22 CONSTANTINE ALEXANDER: Right.

1 BRENDAN SULLIVAN: -- to tie that proposal to what
2 we are granting tonight.

3 SARAH RHATIGAN: Could I -- could I maybe --

4 BRENDAN SULLIVAN: Yeah.

5 CONSTANTINE ALEXANDER: Go ahead.

6 SARAH RHATIGAN: -- maybe partially answer that
7 one? So part of our submission was a survey that surveyed
8 both lots. And the survey was based on the deed
9 descriptions of both lots. And so, the deeds to each of the
10 properties were -- are -- you know, legal, historical deed
11 descriptions.

12 BRENDAN SULLIVAN: But that's not sufficient to
13 submit to the Registry of Deeds, or is it?

14 SARAH RHATIGAN: Ah -- so I guess I'm, there's
15 sort of a -- there's a zoning issue. Are you suggesting
16 that we would have to report a new plan at the Registry of
17 Deeds? No.

18 CONSTANTINE ALEXANDER: I don't think what Brendan
19 is suggesting is a zoning issue. I think it's a practice
20 issue. Might it be better --

21 SARAH RHATIGAN: okay.

22 CONSTANTINE ALEXANDER: -- if we had something in

1 the files, and that could be used to prove what the
2 dimensions of a new lot are. I think that's your point.

3 BRENDAN SULLIVAN: Well, yes. In other words the
4 document that you would have to submit to the Registry of
5 Deeds, I understand it's a description, but do you not also
6 have to do an actual --

7 SARAH RHATIGAN: We're not creating --

8 BRENDAN SULLIVAN: -- certified plot plan?
9 Don't you have to do a certified --

10 SARAH RHATIGAN: -- yeah, we're not creating -- we
11 don't, because we're referring to --

12 BRENDAN SULLIVAN: Sarah, hold on for a minute --

13 SARAH RHATIGAN: -- property that we --

14 BRENDAN SULLIVAN: Heather, are you still on the
15 line? Heather Hoffman?

16 JIM MONTEVERDE: No, she's not.

17 BRENDAN SULLIVAN: No?

18 SARAH RHATIGAN: Well --

19 BRENDAN SULLIVAN: Okay.

20 SISIA DAGLIAN: I can unmute her if she's here,
21 yes.

22 SARAH RHATIGAN: Mr. --

1 JIM MONTEVERDE: Oh.

2 SISIA DAGLIAN: Heather, you've --

3 SARAH RHATIGAN: I was going to respond by saying
4 that the deed to our property refers to a plan from 1893.
5 That's the legal description of our property.

6 So if there were anything that were to be recorded
7 at the Registry, we would have to make sure that we were
8 recording something -- that we're not causing a title issue.

9 BRENDAN SULLIVAN: That would be -- that would be
10 consistent with that.

11 SARAH RHATIGAN: Right.

12 BRENDAN SULLIVAN: And Andrea, can you chime in on
13 his comment?

14 ANDREA HICKEY: Yeah. So Counselor, is the plan
15 from 18 -- I forget the year you just said, 18 --

16 SARAH RHATIGAN: 93. Yeah.

17 ANDREA HICKEY: -- 93, so is your -- the current
18 configuration that you're requesting in the subdivision
19 reflected on that old plan?

20 SARAH RHATIGAN: Our surveyor I'm sure would say
21 yes.

22 BRENDAN SULLIVAN: I think we have --

1 SARAH RHATIGAN: So --

2 ANDREA HICKEY: And the abutting lot, the lot with
3 which the merger occurred, have there been any changes to
4 the lot line for that lot?

5 SARAH RHATIGAN: I believe there were some
6 subdivision plans recorded that put together two different
7 parcels to create -- to create the property next door. But
8 one thing that -- just to simplify, we -- I mean, we have
9 both in -- we have in our possession both a plot plan that
10 shows the dimensions of just our property, and it's just
11 certifying the property as described in our deed, which we
12 can file with the Building Department just to clarify what
13 our property consists of.

14 And then again filed with our application is the
15 subdivision plan that's shown to you, which shows both our
16 lot and then separated from the neighbors' lot.

17 BRENDAN SULLIVAN: All right, maybe I'm making --

18 ANDREA HICKEY: Could I ask Sisia to bring that up
19 on the screen for a second?

20 SISIA DAGLIAN: Yep.

21 SARAH RHATIGAN: It should be the last page of
22 that PDF.

1 BRENDAN SULLIVAN: Maybe that may be sufficient.

2 SCOTT KENTON: There is a separate plot plan just
3 for the one lot at 213 that was done by Otte & Dwyer. It is
4 a survey plan. It's not included here; we do have it. It
5 was done recently, within three or four years. And that
6 could be recorded.

7 BRENDAN SULLIVAN: All right. Maybe I'm making
8 more of an issue out of it. So all right, let me just
9 strike my comment.

10 ANDREA HICKEY: Well, I actually think it's a
11 valid point. We need to know what we're subdividing.

12 BRENDAN SULLIVAN: Well, I'm just thinking future
13 down the road, there has to be some numbers that are tied to
14 all of this, so that should either house need to come down
15 before the Board -- any Board, whatever it may be -- that
16 there is a document in place basically memorializing what we
17 are granting tonight. And those are numbers.

18 SARAH RHATIGAN: Mr. Sullivan, could I suggest
19 that this plan that we're looking at right here, which is a
20 part of our application set, just as the initial -- just as
21 the Chair initialed the plan, the house plan set, he will
22 initial this survey and make it a part of the record, and

1 that perhaps a duplicate copy should be put in the files for
2 the 207 --

3 BRENDAN SULLIVAN: All right. Yeah, that --

4 SARAH RHATIGAN: -- 201 Third Street. Right? Is
5 that --

6 BRENDAN SULLIVAN: And that's 2000 --

7 SARAH RHATIGAN: Is that -- is that --

8 BRENDAN SULLIVAN: That may do it. So it's 2016
9 --

10 SARAH RHATIGAN: -- documents, so it's somewhat
11 recent. Okay. Now, maybe that will do it.

12 SARAH RHATIGAN: And that would essentially --
13 that would be the document, you know, within the Building
14 Department, as opposed to trying to record things with the
15 Registry of Deeds which could, you know, become a problem.
16 I mean, it might be okay, but I don't know that it would --

17 BRENDAN SULLIVAN: Okay.

18 ANDREA HICKEY: Yeah, I just want to clarify as I
19 review this plan. This is not a subdivision plan, as I know
20 them to be.

21 SARAH RHATIGAN: Well, a sub in the sense of --
22 and, you know, Cambridge hasn't accepted the Subdivision

1 Control Act. So it's not purporting to show any parcels in
2 the plans.

3 ANDREA HICKEY: Right, I just wanted to clarify
4 that for my fellow Board members.

5 SARAH RHATIGAN: Right.

6 ANDREA HICKEY: That this is not what I --

7 SARAH RHATIGAN: Right.

8 ANDREA HICKEY: -- consider an official
9 subdivision plan. It's represented to be an accurate, you
10 know, depiction of what you're requesting the layout of the
11 lots to be.

12 SARAH RHATIGAN: Correct, thank you.

13 ANDREA HICKEY: Yeah. I think for our purpose,
14 this is sufficient.

15 BRENDAN SULLIVAN: Thank you, Andrea.

16 CONSTANTINE ALEXANDER: Thank you, Andrea.

17 BRENDAN SULLIVAN: Thank you, Sarah.

18 CONSTANTINE ALEXANDER: Jim, how do you vote?

19 BRENDAN SULLIVAN: I'm thinking my answer is yes,
20 typically.

21 JIM MONTEVERDE: Yeah. [Jim Monteverde], I vote
22 in favor of the raze.

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CONSTANTINE ALEXANDER: Andrea?

ANDREA HICKEY: I vote in favor.

CONSTANTINE ALEXANDER: Jason?

JASON MARSHALL: [Jason Marshall], yes in favor of relief.

CONSTANTINE ALEXANDER: The Chair votes yes as well.

[All vote YES]

So motion -- I mean relief granted. Thank you.

COLLECTIVE: Thank you.

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(9:21 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Andrea Hickey, Jim Monteverde, and Jason
Marshall

CONSTANTINE ALEXANDER: The Chair will now call --

BRENDAN SULLIVAN: I need the file.

CONSTANTINE ALEXANDER: -- call Case Number 103355
-- 1221 Cambridge Street. Anyone here wishing to be heard
on this matter?

[Pause]

Is there anyone out there on this case?

ADAM BRAILLARD: Hello, Mr. Chair, members of the
Board. Sorry about that. Adam Brailard here. I'm with
the applicant here at T-Mobile.

On the meeting here is Gerry Squires. He's with
Jay, Lincoln Selfing. They are a representative of the T-
Mobile site acquisition team. So we're here to present the
proposal and to answer any questions that the Board may
have.

This is a request for a special permit and finding
eligible places to look for for the applicant T-Mobile under

1 Section 6409 of the Spectrum Act to modify its existing
2 wireless communications facility on the building located at
3 1 -- sorry, 1221 Cambridge Street within the Business A - BA
4 Zoning District.

5 The proposal is to -- so what's existing on the
6 building now in connection with T-Mobile's facility are
7 three sets of three-panel antennas and ancillary equipment
8 and radiofrequency and -- I'm sorry, cabinet -- equipment
9 cabinets.

10 The proposal is to replace one antenna per sector,
11 so three antennas all together with one antenna per sector
12 or three new antennas that are actually smaller in size to
13 the existing antennas that -- that will replace those new
14 antennas that are façade mounted on the penthouse and on the
15 building will be painted the master color of the building of
16 the other equipment.

17 The other, or the -- in addition to that, the
18 applicant proposes to replace one of the cabinets that is
19 located next to the penthouse with the smaller cabinet,
20 radio cabinet, and also, a battery backup cabinet.

21 There are also smaller remote radio heads, and
22 TMAs or Tower Mounted Antennas that will be replaced, but

1 there will be no additional antennas.

2 There will be an addition of three and 2 and
3 three-eighths power cables to connect new antennas, but all
4 in all, a total of nine panel antennas that are existing and
5 nine will remain. Just three of those will be replaced.

6 CONSTANTINE ALEXANDER: Adam, are you aware of a
7 memo that was sent to our Board from Community Development
8 with some suggestions by the Planning Board?

9 ADAM BRAILLARD: I am --

10 CONSTANTINE ALEXANDER: I'm sorry?

11 ADAM BRAILLARD: I am. We met with the Planning
12 Board on Tuesday nights, and we discussed that.

13 CONSTANTINE ALEXANDER: Well, I'll just read the
14 relevant part, to see if you have any comments.

15 "While there are no substantial changes proposed,
16 there is a lot of existing rooftop equipment in place.
17 Staff, therefore, offer the following suggestions to improve
18 the overall appearance of the insulation.

19 "One, the smallest mounting brackets available
20 should be utilized so that the antennas can be mounted as
21 close to the surface of the building as possible.

22 "Two, roof-mounted radios should be set back as

1 far as possible on the principal façade.

2 "And three, all visually exposed materials,
3 cabling, façade brackets and cabinets should be painted to
4 reach -- [I'm sorry, painted to match] the brick building
5 façade with a consistent matte finish."

6 Have you got any comments on that? Is there any
7 reason why you cannot comply with those, or your client
8 cannot comply with these suggestions?

9 ADAM BRAILLARD: No, we certainly can. We've been
10 through the process here in Cambridge a number of times,
11 trying to [3:29:15 indiscernible] the façade as best as we
12 can, and still keeping the integrity of the azimuth.

13 And we [can] certainly paint the antennas to
14 match. No question came up as to whether or not to paint
15 the equipment -- I'm sorry, the antennas -- paint to match
16 the color and texture. I know that both Boards I think
17 prefer to paint the one solid color, that's a matte color
18 and that's what we've done in the past and that's what we'll
19 do here as well.

20 CONSTANTINE ALEXANDER: Okay. Then I will
21 incorporate this as part of our discussion, but not as an
22 absolutely mandatory equipment. Put that as your client

1 used good faith efforts to satisfy these comments. If
2 that's sufficient with you?

3 ADAM BRAILLARD: Of course.

4 CONSTANTINE ALEXANDER: Okay. Comments from
5 members of the Board?

6 BRENDAN SULLIVAN: Brendan Sullivan, no questions
7 or comments.

8 CONSTANTINE ALEXANDER: Jim?

9 JIM MONTEVERDE: [Jim Monteverde], no comments, no
10 questions.

11 CONSTANTINE ALEXANDER: Andrea?

12 ANDREA HICKEY: [Andrea Hickey], no questions.

13 CONSTANTINE ALEXANDER: And the Chair has none as
14 well, other than the comment I just made. I'll open the
15 matter up to public testimony. Anyone -- any members of the
16 public who wish to speak should now click the icon at the
17 bottom of your Zoom screen that says, "Raise hand." If
18 you're calling in by phone, you can raise your hand by
19 pressing *9 and unmute or mute by pressing *6.

20 No one wishes to speak? We have no written
21 commentary in our files other than that memo from the
22 Community Development Department, which I've already read

1 into the record. So I will close public testimony. Members
2 want to discuss, or are we ready for a vote?

3 BRENDAN SULLIVAN: Ready for a vote.

4 ANDREA HICKEY: Ready.

5 JIM MONTEVERDE: Ready for a vote.

6 CONSTANTINE ALEXANDER: The vote takes longer than
7 the presentation, unfortunately. But okay. This is a
8 special permit, so you have to meet first of all the
9 requirements for special permits generally. So the Chair
10 moves that we make the following findings:

11 That the requirements of the ordinance cannot be
12 met without the special permit being sought tonight.

13 That traffic generated or patterns of access or
14 egress resulting from what is proposed will not cause
15 congestion, hazard, or substantial change in established
16 neighborhood character, as indicated and particularly with
17 compliance with the suggestions from the Community
18 Development Board.

19 And there are very little. You almost cannot
20 notice the changes that are going to be made to the
21 structure.

22 And there are just really technical nature in

1 terms of improving the telecommunications facility on the
2 building.

3 That the continued operation of or development of
4 adjacent uses, as permitted in the zoning ordinance, will
5 not be adversely affected by the nature of what is proposed.
6 And this will be subject to something -- further conditions
7 that I'll present shortly. But with compliance with those,
8 I believe this condition is satisfied.

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

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

16 In addition, the Board also finds that the
17 modification of the existing telecommunication facility at
18 the site proposed by the petitioner does not substantially
19 change the physical dimensions of the existing wireless
20 tower or base station at the facility within the meaning of
21 Section 6409(a) of the Middle Class Tax Relief and Job
22 Creation Act of 2012, also known as the Spectrum Act.

1 Based on these findings, the Chair moves that the
2 petitioner be granted the special permit it is seeking,
3 subject to the following conditions:

4 One, that the work proceed in accordance with the
5 plans submitted by the petitioner and initialed by the
6 Chair, which I have done.

7 Two, that upon completion of the work, the
8 physical appearance and visual impact to the proposed work
9 will be consistent with the photo simulations submitted by
10 the petitioner, and initialed by the Chair, which I have
11 done.

12 Three, that the petitioner shall at all times
13 maintain the proposed work, so that its physical appearance
14 and visual impact will remain consistent with the photo
15 simulations previously referred.

16 Fourth, that should the petitioner cease to
17 utilize the equipment approved tonight for a continuous
18 period of six months or more, it shall promptly thereafter
19 remove such equipment and restore the building on which it
20 is located to its prior condition and appearance, to the
21 extent reasonably practicable.

22 Five, that the petitioner is in compliance with

1 and will continue to comply with in all respects the
2 conditions imposed by this Board with regard to previous
3 special permits granted to the petitioner with regard to the
4 site in question.

5 Now there's a long statement that we make, Mr.
6 Braillard. You're familiar with it. Could I have your
7 approval to just incorporate the same language we've used in
8 prior cases in which you've been involved and spare me and
9 you and all the other Board members my reading this?

10 ADAM BRAILLARD: Yes, Mr. Chair, thank you.

11 CONSTANTINE ALEXANDER: Okay. So on the basis of
12 all of these findings, the Chair moves that we grant the
13 special permit requested. Brendan?

14 BRENDAN SULLIVAN: [Brendan Sullivan], yes to
15 granting the comprehensive permit.

16 JIM MONTEVERDE: [Jim Monteverde], yes to granting
17 the special permit.

18 ANDREA HICKEY: [Andrea Hickey], yes to granting
19 the special permit.

20 JASON MARSHALL: [Jason Marshall], yes to granting
21 the special permit.

22 CONSTANTINE ALEXANDER: And the Chair votes yes as

1 well.

2 [All vote YES]

3 Special permit granted. Thank you.

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(9:32 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Andrea Hickey, Jim Monteverde, and Jason
Marshall

CONSTANTINE ALEXANDER: The Chair will now call
Case Number 103558 -- 19 Brown Street. Anyone here wishing
to be heard on this matter?

[Pause]

Hello?

CONSTANTINE ALEXANDER: We think you're on. Do
you want to speak to us, so we can make sure?

RAND WENTWORTH: This is Rand Wentworth. And let
me see if I can -- there we go. All right. Sorry about
that. We just --

CONSTANTINE ALEXANDER: No problem.

RAND WENTWORTH: Hi. My name is rand Wentworth --
legal name is Randolph Wentworth, and this is my wife Sue.
We're owners of the home at 19 Brown Street. And I'd also
like to introduce Maggie Booz, our architect, who's also
with us tonight.

You may recognize that this case; we've been

1 before you in July of 2019 when you approved a small mudroom
2 addition to our home at 19 Brown Street, a 75 square foot
3 addition.

4 And at that time, you said if we made any changes,
5 we needed to come back to you. And we listened, and here we
6 are.

7 Over the time since that time, we've changed
8 architects and changed some of our design thinking, and
9 we've been through a pandemic that's delayed the start of
10 our construction. But in that delay, a friend of ours who
11 works with people who are getting older think about aging in
12 place, and she walked around our house and said, "You know,
13 the day is going to come where you can't navigate stairs. If
14 you want to stay here, you should have a full bathroom on
15 the first floor."

16 This house only has one full bath and it's
17 upstairs, and it's a very narrow house on a very narrow lot,
18 and our proposal is to put a very small, modest extension on
19 the back of the house that would allow us to put a full bath
20 on the first floor, that 47.5 square feet.

21 We're also asking for a special use permit to move
22 one of the windows that this BZA had approved, making it

1 smaller and moving it about five feet to accommodate a
2 galley kitchen.

3 So we have -- we think the hardship is that it's a
4 small house on a small lot, and the only way we or future
5 owners could have a bathroom on the first floor is to extend
6 it out back.

7 We've sat with all of our adjoining property
8 owners. We've shared the plans, we -- I think have broad
9 support. The addition is not visible from Brown Street, not
10 visible from Foster Street. Some of it is visible from
11 Foster Place, which is a Private Way.

12 And we now have presented this to the Half-Crown
13 Marsh Historic District. They've approved the changes. And
14 we also have eight letters that have been submitted as part
15 of the proposal from our neighbors, all in favor; no letters
16 in opposition.

17 So I'd like to ask our architect, Maggie Booz, if
18 she might just present the technical changes.

19 MAGGIE BOOZ: Yeah, of course. Maggie Booz, B-o-
20 o-z, 27 Long Street in Cambridge. The project is -- really
21 came after this consultation with this person who advises
22 people on how they can stay in their houses.

1 And we have an extremely narrow house on an
2 extremely narrow lot in an A-2 District. I mean, it's
3 really almost a zoning anomaly that the houses in the Marsh
4 District are part of the A-2 Zoning District, given its
5 requirements of 6000 square feet minimum lot size and et
6 cetera.

7 The -- you know, the 60 -- whatever it is, what is
8 it? 65-foot, linear foot minimum lot width. This lot is
9 about a third the size of an A-2 requirement.

10 So we have this narrow building, and one of the
11 problems that we're trying to solve inside is is the fact
12 that when you walk down the basement stairs right now, you
13 come to the bottom, your headroom is about six feet, maybe
14 slightly less. It's very, very low.

15 There's a deeper part of the back of the building,
16 a deeper basement that was dug out at some point in time,
17 and we're trying to get the stair back into that area so
18 that when you descend the stair, you have headroom at the
19 bottom of the stairs to properly walk down the stairs and
20 into the basement.

21 So in order to do that, we're trying to not cut
22 through all the floor joists which run parallel to Brown

1 Street, and instead put in our new stair in alignment with
2 the floor joist, which makes things much easier
3 structurally.

4 And in doing so, we kind of bisect the middle of
5 the building, which is a -- you know, dividing the living
6 room and the rear part, which is the kitchen and dining
7 room.

8 So we were struggling to get a powder room into
9 the plans. And then when this -- when the idea of having a
10 full bathroom came up and this advice, we saw the best
11 solution as off of the back of what would pretty obviously
12 be a bedroom, if someone were to use the first floor as a
13 place to live when they're older.

14 So we employed a really common technique in old
15 antique houses, which is a sort of telescoping addition off
16 the back, designed a 5-foot-by-9-and-a-half-foot bathroom.
17 And that's what we've come here to request permission to
18 build.

19 As Rand said, it's 47 and a half square feet. It
20 brings us to 11.6 feet; to within 11.6 feet of the rear yard
21 property line. The house abutting to the rear of that
22 property line is about -- its rear part of that house is

1 about three feet away from the property line, so there is --
2 I mean, and I'm sure you're all familiar with the Marsh
3 District, it's extremely dense. Houses are -- do have this
4 relationship.

5 We tried to design it so that there would still be
6 open space on both sides of that addition that is off back
7 of the living part of the house and off the end of the
8 driveway and side of the house, the south side of the house.

9 And we're hoping that in -- yeah, these are views
10 of the rear of the house, where that -- where those paint
11 samples are on the -- on what would pretty obviously be a
12 bedroom, were the Wentworths just deciding to live on the
13 first floor. That bathroom would come off the rear of that
14 gable.

15 And you can go to the next slide, Sisia, if you
16 would, please?

17 The plot plan, the existing plot plan showing the
18 -- excuse me, the proposed plot plan showing the bathroom
19 off of the rear of the house and the deck on the side.
20 We're proposing to reduce the deck a little bit in size.
21 Right now it wraps around the back of that rear L.

22 You can go to the next slide.

1 That shows you the foundation of the bathroom that
2 we're proposing at the top of your scree off the rear of the
3 house.

4 As Rand said, the Wentworths were before you
5 before asking for permission to build the mudroom. The --
6 which is on the south side of the house towards the front,
7 and they were granted permission to build that. And I don't
8 know if I should be making special permit, if I should
9 comment on special permit issues right now as well?

10 CONSTANTINE ALEXANDER: Why not? Go ahead. Go
11 ahead.

12 MAGGIE BOOZ: Okay. They had two windows in that
13 plan that they decided to -- on the first floor, which is
14 the next slide, actually -- that are going into that south
15 side of the house, which is very close to the property line
16 that they had been granted as part of their variance before.

17 Now, we're asking -- I think we are asking for a
18 special permit in order to change their location slightly
19 and make one of them slightly smaller than it was before,
20 because it's over a kitchen counter.

21 This plan shows you the bathroom in the back, the
22 stair bisecting the first-floor plan. You know, another

1 thing about this house is that the entry used to be on Brown
2 Street.

3 And at some point in time, it was changed to the
4 side of the house, the south side of the house, which means
5 that now that front room on Brown Street, which we've
6 labeled, "The Library" is really kind of a pass-through
7 room. Because you have to go through that room to get to
8 the stair that takes up the second floor.

9 And so it goes -- yeah, it's hard to fit anything
10 else into the plan in terms of a full bathroom.

11 You can continue down to the elevations, Sisia. I
12 think that probably is the most relevant thing. These are
13 the existing front and rear elevations -- existing south
14 side, the north side. And then proposed front with the
15 mudroom, the new mudroom door over to the left, proposed
16 rear with what I described as a telescoping bathroom off of
17 the back of that L.

18 And then the windows shown in their new proposed
19 location on the south side of the building.

20 The -- as you can see, the telescoping part of the
21 proposed new bathroom at the rear, which is on the far left
22 of your screen, doesn't have a window in that direction.

1 And that -- I think that about explains it.

2 CONSTANTINE ALEXANDER: Thank you. Questions from
3 members of the Board at this point? Brendan?

4 BRENDAN SULLIVAN: Brendan Sullivan, no questions.

5 JIM MONTEVERDE: Jim Monteverde, no questions.

6 CONSTANTINE ALEXANDER: Andrea?

7 ANDREA HICKEY: Andrea, no questions.

8 CONSTANTINE ALEXANDER: Jason?

9 JASON MARSHALL: Jason Marshall, no questions.

10 CONSTANTINE ALEXANDER: And the Chair has no
11 questions as well. So I will now open the matter up to
12 public testimony. If any members of the public wish to
13 speak, they should now click the icon at the bottom of your
14 Zoom screen that says, "Raise hand." If you're calling in
15 by phone, you can raise your hand by pressing *9 and unmute
16 or mute by pressing *6.

17 I'll take a second to see if anyone wishes to call
18 in to speak. No. No one wishes to speak.

19 We are in receipt of numerous written
20 communications, and as the petitioner has indicated, all of
21 them are in support of the relief being sought. I see no
22 need to go through them and read them into the public

1 record. The record will show that there was strong,
2 unanimous support for the relief being sought.

3 So I will close public testimony. Are we ready
4 for a vote?

5 BRENDAN SULLIVAN: Ready.

6 CONSTANTINE ALEXANDER: We should be ready for a
7 vote?

8 ANDREA HICKEY: Ready.

9 JIM MONTEVERDE: Ready.

10 CONSTANTINE ALEXANDER: Okay. First the variance.
11 The Chair moves that we make the following findings with
12 regard to the variance being sought:

13 That a literal enforcement of the provisions of
14 the ordinance would involve a substantial hardship, such
15 hardship being that this is an older structure on an oddly-
16 shaped lot in terms of width.

17 And that there is a need for a downstairs bathroom
18 in the structure, which is not there now, and that leads to
19 the need for zoning relief.

20 The hardship is owing to the shape of the lot. As
21 I've indicated, it's quite narrow and results in many
22 modifications to the structure requiring zoning relief.

1 And that relief may be granted without substantial
2 detriment to the public good, or nullifying or substantially
3 derogating from the intent or purpose of this ordinance. In
4 this regard, the Chair would note the relief is modest in
5 nature, and it has unanimous neighborhood support.

6 So on the basis of all of these findings, the
7 Chair moves that we grant the variance requested on the
8 condition that the work proceed in accordance with plans
9 prepared by Smart Architecture, the first page of which has
10 been initialed by the Chair.

11 Brendan, how do you vote?

12 BRENDAN SULLIVAN: Brendan yes -- Sullivan yes to
13 granting the variance.

14 CONSTANTINE ALEXANDER: Jim?

15 JIM MONTEVERDE: Jim Monteverde yes for the
16 variance.

17 ALISON HAMMER: Andrea Hickey yes for the
18 variance.

19 JASON MARSHALL: Jason Marshall yes in favor of
20 the variance.

21 CONSTANTINE ALEXANDER: The Chair votes in favor
22 of the variance as well.

1 [All vote YES]

2 So variance granted.

3 So let's move to the special permit. This relates
4 to the relocation of the windows.

5 That the requirements of the ordinance -- the
6 Chair moves that we make the following findings: That the
7 requirements of the ordinance cannot be met unless we grant
8 the special permit.

9 That traffic generated or patterns of access or
10 egress resulting from what is being proposed regarding the
11 windows will not cause congestion, hazard, or substantial
12 change in established neighborhood character, the narrowness
13 of the lot notwithstanding and particularly in light of the
14 fact that the neighbors affected by these changes are in
15 support of the relief being sought.

16 That the continued operation of or development of
17 adjacent uses, as permitted in the zoning ordinance, will
18 not be adversely affected by the nature of what is proposed.
19 Again, the relief is modest in nature, it's mostly internal,
20 and it also has the window changes, which is going to cause
21 problems for the abutting neighbors.

22 That no nuisance or hazard will be created to the

1 detriment of the health, safety and/or welfare of the
2 occupant of the proposed use, or the citizens of the city.
3 And generally, what is being proposed will not impair the
4 integrity of the district or adjoining district, or
5 otherwise derogate from the intent and purpose of this
6 ordinance.

7 So on the basis of all of these findings, the
8 Chair moves that we grant the special permit requested on
9 the condition that the work proceed in accordance with plan
10 referred to with respect to the variance we've just granted.
11 Brendan?

12 BRENDAN SULLIVAN: Brendan Sullivan yes to
13 granting the special permit.

14 JIM MONTEVERDE: And Jim Monteverde yes for
15 granting the special permit.

16 ANDREA HICKEY: Andrea Hickey yes for granting the
17 special permit.

18 JASON MARSHALL: Jason Marshall yes in favor of
19 the special permit.

20 CONSTANTINE ALEXANDER: The Chair votes in favor
21 as well.

22 [All vote YES]

1 The special permit is granted. Good luck, folks.

2 MAGGIE BOOZ: Thank you so much.

3 COLLECTIVE: Thank you.

4 CONSTANTINE ALEXANDER: Okay. We have one more

5 case.

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(9:49 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Andrea Hickey, Jim Monteverde, and Jason
Marshall

CONSTANTINE ALEXANDER: The Chair will now call
Case Number 104567 -- 215 First Street. Anyone here wishing
to be heard on this matter?

[Pause]

Tim Green, you're muted.

CONSTANTINE ALEXANDER: Hello?

SISIA DAGLIAN: Tim, if you're having technical
difficulties, you can always call in to the Zoom meeting.
The numbers available are in the advertisement as well as
the e-mail you got when you registered.

CONSTANTINE ALEXANDER: If he can't get on, we'll
have to continue the case for the night, which wouldn't
break my heart right now.

SISIA DAGLIAN: It's unmuted, I don't know why --
here he is.

BRENDAN SULLIVAN: Here he is.

CONSTANTINE ALEXANDER: He's on your screen?

1 SISIA DAGLIAN: He's on the screen. I don't know
2 why he's --

3 JIM MONTEVERDE: He's there, he's just --

4 SISIA DAGLIAN: -- he's not saying anything.

5 JIM MONTEVERDE: He's muted.

6 CONSTANTINE ALEXANDER: Yeah, but he should be
7 told.

8 JIM MONTEVERDE: Oh no, there he is. He should be
9 good.

10 SISIA DAGLIAN: He's not muted, but --

11 JIM MONTEVERDE: No, he's not muted.

12 SISIA DAGLIAN: We can't hear him.

13 JASON MARSHALL: He's just really faint. We can
14 hear you a little bit, but it's very, very faint.

15 CONSTANTINE ALEXANDER: I can't hear anything at
16 all.

17 THE REPORTER: I can't hear anything.

18 BRENDAN SULLIVAN: I'm not sure if he can hear us.

19 CONSTANTINE ALEXANDER: I've got a picture on the
20 screen.

21 THE REPORTER: You could try to leave the meeting
22 and come back?

1 TIMOTHY GREENE: Is that -- how's that, right
2 there?

3 COLLECTIVE: There you go.

4 TIMOTHY GREENE: I am so sorry about that. I
5 deserve 100 lashes. That was horrible.

6 CONSTANTINE ALEXANDER: We'll just deny relief, so
7 Don't worry about it.

8 TIMOTHY GREENE: I No. No, that shouldn't happen.
9 But I've had it off because I've been the last one, and then
10 when I went to go put it on, the USB wouldn't go in, and it
11 was a nightmare. Anyway, I'm here to talk about a lovely
12 AT&T installation on 215 First Street.

13 That site's been there for 25 years. As is the
14 case, and as you heard before on another case, we're
15 constantly upgrading the sites, and this one is no
16 different; replacing antennas, upgrading equipment.

17 In order to do this one, since this site is so
18 old, it's 25 years old, the mounts are going to be replaced.
19 They're going to look identical, but they'll all be
20 replaced.

21 And the only other change on it, there's a sector
22 near First Street that is going to move off the roof and

1 onto the side of the building due to structural issues
2 solely on the building itself.

3 The building is old. It has wood beams, wooden
4 paths from a structural standpoint keeping it up on the
5 roof, so we moved it to the façade of the penthouse.

6 It does move approximately three feet closer to
7 First Street, but the way this site is set up, it's
8 approximately 98 feet from the roof edge to begin with.
9 There's really no way to see this installation, other than
10 on about 300 feet away on Land Boulevard. If you were
11 driving, if you looked up, you could see one sector of the
12 antennas. The other two are off the back, you can't see
13 them at all.

14 So that's pretty much it. We went to the Planning
15 Board on Tuesday night. There was a recommendation to make
16 the antennas darker. Don't have a problem with that at all
17 -- make them more of a neutral gray than they show in the
18 Use Analysis, and we have no problem making that a
19 condition.

20 CONSTANTINE ALEXANDER: Okay, so we can -- as part
21 of our decision, should we grant you relief is that we can
22 make it subject to compliance with the recommendations from

1 the Staff or the Planning Board. Is that correct?

2 TIMOTHY GREENE: As far as the design, yes. I
3 don't know -- they mentioned a couple things. I tried to
4 explain about why we --

5 CONSTANTINE ALEXANDER: Let me read to you what
6 they wrote to our Board.

7 MAGGIE BOOZ: Okay.

8 CONSTANTINE ALEXANDER: See if you have a problem.

9 TIMOTHY GREENE: So --

10 CONSTANTINE ALEXANDER: I'm just trying to get --
11 I want to skip the stuff that's not -- you don't need to
12 hear.

13 CONSTANTINE ALEXANDER: The Staff -- the Community
14 Development Staff offer the following suggestions to improve
15 the overall appearance of the installation. One, the Beta
16 sector antennas should be set back as far as possible from
17 First Street and Edwin H. Land Boulevard.

18 And two, and you've touched on this already -- a
19 darker gray antenna case should be considered to better
20 blend with the visual backdrop. Any problems with those?

21 TIMOTHY GREENE: I don't have a problem with that.
22 The first one's more of a -- it is being set back as far as

1 possible. And the second one is one that we can actually --
2 you know, is a result of granting the approval of painting
3 the antennas a darker gray. So yes.

4 CONSTANTINE ALEXANDER: So yes to both of them?

5 TIMOTHY GREENE: yes.

6 CONSTANTINE ALEXANDER: Okay, thank you.

7 Questions from members of the Board?

8 BRENDAN SULLIVAN: Brendan Sullivan, no questions,
9 no comments.

10 CONSTANTINE ALEXANDER: Jim?

11 JIM MONTEVERDE: [Jim Monteverde], no questions.

12 ANDREA HICKEY: [Andrea Hickey], no questions.

13 JASON MARSHALL: [Jason Marshall], no questions.

14 CONSTANTINE ALEXANDER: Okay. And the Chair has
15 no questions as well. I'll open the matter up to public
16 testimony. If anyone wishes to speak, you now need to click
17 the icon at the bottom of your Zoom screen that says, "Raise
18 hand." If you're calling in by phone, you can raise your
19 hand by pressing *9 and unmute or mute by pressing *6.

20 I'll pause for a second to see if there's anyone
21 calling in.

22 SISIA DAGLIAN: Michael Brandon.

1 CONSTANTINE ALEXANDER: Mr. Brandon?

2 MICHAEL BRANDON: Hi. I'm sorry, I couldn't get
3 your attention before, but I wanted to give the Board the
4 citation that I mentioned. It's 20.111 that requires a
5 large Project Review for 1 Cedar Street. I'm sorry the
6 Board didn't think that was worth checking. Mr. Rafferty's
7 comments were --

8 CONSTANTINE ALEXANDER: Mr. Brandon, that case is
9 over. I'm sorry, that case is over. We want to move on
10 with the case we have before us right now. Thank you for
11 taking the time.

12 MICHAEL BRANDON: Thank you.

13 CONSTANTINE ALEXANDER: Anyone else?

14 SISIA DAGLIAN: No.

15 CONSTANTINE ALEXANDER: No? And as I've
16 indicated, the only written communication we've received is
17 the memo from the Staff -- the Community Development Staff.
18 And the petitioner's representative has indicated compliance
19 with the suggested changes -- or not changes -- is
20 suggested, are acceptable to the petitioner.

21 Ready for a vote?

22 BRENDAN SULLIVAN: Yes.

1 CONSTANTINE ALEXANDER: Brendan?

2 JIM MONTEVERDE: Yes.

3 CONSTANTINE ALEXANDER: Jim has already voted yes.

4 JIM MONTEVERDE: Yep.

5 CONSTANTINE ALEXANDER: Brendan voted yes.

6 Andrea?

7 ANDREA HICKEY: Yes. Is this the vote, or are you
8 asking are we ready for a vote?

9 CONSTANTINE ALEXANDER: Whatever, whatever you
10 want.

11 JIM MONTEVERDE: Both.

12 ANDREA HICKEY: Yes and --

13 CONSTANTINE ALEXANDER: But you were voting on the
14 merits.

15 ANDREA HICKEY: Yes, and yes. Yes, and yes.

16 CONSTANTINE ALEXANDER: Okay. Well, I haven't
17 made the motion yet, you're right. But I'll -- if you just
18 give me a yes tentatively, I'll make the motion, and then
19 unless you -- if anybody has a problem with it -- usual
20 stuff -- then I will make the change.

21 So why don't we get the vote out of the way, and
22 then we'll go to the actual text of the vote?

1 Jason?

2 JASON MARSHALL: I am open to your approach, Mr.
3 Chairman. I am inclined to vote yes. I'll wait for the
4 motion.

5 CONSTANTINE ALEXANDER: Okay. All right. Here's
6 the motion. The Chair moves that we the Board make the
7 following findings:

8 That the requirements of the ordinance cannot be
9 met without the special permit being sought.

10 That traffic generated or patterns of access or
11 egress resulting from what is proposed will not cause
12 congestion, hazard, or substantial change in established
13 neighborhood character. We're talking about antennas and
14 the like on the roof of the building, apart from the
15 building.

16 That the continued operation of or development of
17 adjacent uses, as permitted in the zoning ordinance, will
18 not be adversely affected by what is being proposed.

19 That no nuisance or hazard will be created to the
20 detriment of the health, safety and/or welfare of the
21 occupant of the proposed use, or the citizens of the city.
22 And this is all subject to further conditions that I will

1 get to in a short while.

2 And that generally, what is being proposed will
3 not impair the integrity of the district or adjoining
4 district, or otherwise derogate from the intent and purpose
5 of this ordinance.

6 And lastly, The Board also finds that the
7 modification of its existing telecommunications facility at
8 the site proposed by the petitioner does not substantially
9 change the physical dimensions of the existing wireless
10 tower or base station at such facility within the meaning of
11 Section 6409(a) of the Middle Class Tax Relief and Job
12 Creation Act of 2012, also known as the Spectrum Act.

13 Based on these findings, the Chair moves that the
14 petitioner be granted the special permit it is seeking,
15 subject to the following conditions:

16 One, that the work proceed in accordance with the
17 plans submitted by the petitioner and initialed by the
18 Chair; the first page of which has been initialed by the
19 Chair.

20 Two, that upon completion of the work, the
21 physical appearance and visual impact of the proposed work
22 will be consistent with the photo simulations submitted by

1 the petitioner and initialed by the Chair, and consistent
2 with the suggestions from the Staff -- Community Development
3 Staff of the Planning Board with regard to the gray color,
4 or gray antenna.

5 Three, that the petitioner shall at all times
6 maintain the proposed work, so that its physical appearance
7 and visual impact will remain consistent with the photo
8 simulations previously referred to, as well as the changes
9 in response to the Community Development Staff's memo as
10 well.

11 Four, that should the petitioner cease to utilize
12 the equipment approved tonight for a continuous period of
13 six months or more, it shall promptly thereafter remove such
14 equipment and restore the building on which it is located to
15 its prior condition and appearance, to the extent reasonably
16 practicable.

17 Five, that the petitioner is in compliance with
18 and will continue to comply with in all respects the
19 conditions imposed by this Board with regard to previous
20 special permits granted to the petitioner, with regard to
21 the site in question.

22 Continuing, in as much as the health effects of

1 the transmission of electromagnetic energy waves is a matter
2 of ongoing societal concern and scientific study, the
3 special permit is also subject to the following conditions:

4 a) That the petitioner shall file with the
5 Inspectional Services Department each report it files with
6 the federal authorities regarding electromagnetic energy
7 waves emissions emitting from all of the petitioner's
8 equipment on the site.

9 Each such report shall be filed with the
10 Inspectional Services Department no later than 10 business
11 days after the report has been filed with federal
12 authorities.

13 Failure to timely file any such reports with the
14 Inspectional Services Department shall ipso facto terminate
15 the special permit granted tonight.

16 b) That in the event that at any time the federal
17 authorities notify the petitioner that its equipment on the
18 site, including but not limited to the special permit
19 granted tonight, fails to comply with the requirements of
20 law, or governmental regulations -- whether with regard to
21 the emissions of electromagnetic energy waves or otherwise -
22 - the petitioner within 10 business days of receipt of such

1 notification of such failure, shall file with the
2 Inspectional Services Department a report disclosing in
3 reasonable detail that such failure has occurred, and the
4 basis for such claimed failure.

5 The special permit granted shall ipso facto
6 terminate if any of the petitioner's federal licenses is or
7 are suspended, revoked or terminated.

8 c) That in the event that a special permit has
9 terminated, pursuant to the foregoing paragraphs a) and b),
10 the petitioner may apply to this Board for a new special
11 permit, provided that the public notice concerning such
12 application discloses in reasonable detail that the
13 application has been filed because of the termination of the
14 special permit pursuant to paragraph a) and b) referenced
15 above.

16 Any such new application shall not be deemed a
17 repetitive petition, and therefore will not be subject to
18 the two-year period during which repetitive petitions may
19 not be filed.

20 d) That within 10 business days after receipt of a
21 building permit for the installation of the equipment
22 subject to this petition, the petitioner shall file with the

1 Inspectional Services Department a sworn affidavit of the
2 person in charge of the installation of equipment by the
3 petitioner of the geographical area that includes Cambridge
4 stating that:

5 a) he or she has such responsibility, and

6 b) that all -- that the equipment being installed
7 pursuant to the special permit we are granting tonight will
8 comply with all federal safety rules, and will be situated
9 and maintained in locations with appropriate barricades and
10 other protections, such that individuals, including nearby
11 residents and occupants of nearby structures will be
12 sufficiently protected from excessive radiofrequency
13 radiation under federal law.

14 That's the motion. Anybody want to change their
15 vote?

16 BRENDAN SULLIVAN: Nope. Brendan Sullivan yes to

17 --

18 JIM MONTEVERDE: Nope.

19 BRENDAN SULLIVAN: -- granting the relief.

20 CONSTANTINE ALEXANDER: Okay. Special permit
21 granted, subject to these conditions. Thank you very much,
22 everyone.

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COLLECTIVE: Thank you, goodnight.

[10:06 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.

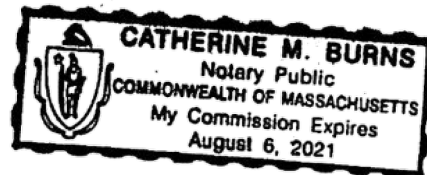
In witness whereof, I have hereunto set my hand this 24th day of February, 2021.



Notary Public

My commission expires:

August 6, 2021



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